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Legal Cases Points at Political Motives

by LADB Staff

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Ever since the two major political parties agreed in a formal pact to divide power in the judicial system (see NotiCen, 1999-12-31), the courts have shown an increasing tendency to act on political motives. Several recent court cases have shown inconsistencies in applying the law, and observers say the reason is mainly the political manipulations of President Arnaldo Aleman. Popular candidate kept out of mayoral race Pedro Solorzano, president of the Partido Conservador (PC), has been in a struggle with the administration since before the November 2000 local elections. The political aspects took on judicial coloring in September 2000.

The Consejo Supremo Electoral (CSE), whose membership was carefully apportioned according to terms of the pact between the governing Partido Liberal Constitucionalista (PLC) and the Frente Sandinista de Liberacion Nacional (FSLN), disqualified Solorzano from running in the Managua mayoral race on a technical detail involving his residency (see NotiCen, 2000-10-19). At the time, Solorzano was the leading mayoral candidate. To many observers, the CSE acted to narrow the field and give the PLC a better chance to win in the capital. The race was eventually won by the FSLN's Herty Lewites.

On Jan. 12, the comptroller general's office (Contraloria General de la Republic, CGR) opened an investigation of Solorzano and outgoing Managua mayor Roberto Cedeno concerning 22 contracts the city signed with Solectra Industrial, of which Solorzano was a partner. Cedeno had been suspected for some time of misappropriating public funds while mayor of Managua.

In 1999, the daily El Nuevo Diario published an expose of bloated salaries and expense accounts in city government while the city budget was in an austerity mode. Among other things, Cedeno paid his personal utility bills with city funds, said the newspaper a charge he did not deny. He explained, however, that his US\$4,000 per month salary was insufficient to cover expenses. Solorzano viewed the CGR investigation as just another move by Aleman to keep him out of the presidential election in November. Some observers said Aleman asked for the arrest of Solorzano as punishment for his refusal to run for mayor last year as a PLC candidate and his refusal this year to agree to a PLC-PC alliance in the presidential race.

Aleman supported his former vice president Enrique Bolanos as the party's candidate. Bolanos was nominated in January (see NotiCen, 2000-01-25). Solorzano said Aleman was persecuting him and wanted to blackmail the PC into an electoral alliance. Solorzano predicted that the legal maneuvers against him would unite the opposition and throw the presidency to FSLN secretary general Daniel Ortega.

On Feb. 11, Judge Ileana Perez ordered the arrest of Cedeno and Solorzano on charges of fraud, embezzlement, and improper use of public funds. But police did not arrest either of them. Former telephone company officers charged, not arrested Included in Judge Perez's arrest order were

Jorge Solis and Gabriel Levy, former directors of the Empresa Nicaraguense de Telecomunicaciones, ENITEL. Levy and Solis were charged with bribery and fraud in a contract dispute with a US-based telecommunications firm. Ricardo Mas Canosa, head of Elite Telecommunications of Miami, had accused Solis and others of demanding a US\$40,000 monthly payoff for giving him a contract to participate in international telephone operations. Mas Canosa is the brother of the late Jorge Mas Canosa, founder of the Miami-based Cuban American National Foundation (CANF).

In mid-February, Solis fled the country, allegedly with help from Aleman. A source told *El Nuevo Diario* that Aleman helped Solis avoid arrest because Solis "knew many things." Levy is also unlikely to be arrested as he remains interim ambassador to Israel. Law selectively applied in bank cases In another high-profile case, Francisco Mayorga, former president of the Banco Central and former director of the Banco del Cafe (BANCAFE), was arrested Feb. 13 in connection with the collapse of BANCAFE. Mayorga faces numerous criminal charges and civil suits brought by investors and depositors. BANCAFE failed last November after losing US\$50 million because of improperly secured loans and other acts of mismanagement (see *NotiCen*, 2000-12-21). In the group of sensational cases, Mayorga is the only prominent figure who was actually arrested.

Furthermore, the judicial authorities seem determined to prosecute. In late February, Judge Juana Mendez charged Mayorga and six other former BANCAFE officers with defrauding the bank. The seven face up to six years in prison if found guilty. Although several other banks have collapsed in recent years, this is the first time that any bank officers have been charged and imprisoned. Saul and Alex Centeno Roque, who faced five criminal charges stemming from questionable loans they received from the Banco Intercontinental (INTERBANK) which also collapsed were mysteriously absolved of any wrongdoing (see *NotiCen*, 2000-09-28). Alvarado case splits Supreme Court The most explosive case for the judiciary was that of former defense minister Jose Antonio Alvarado.

In May 2000, Interior Minister Rene Herrera canceled Alvarado's citizenship, preventing him from seeking the presidency. Herrera said that he would rescind the decision if Alvarado could show that he had renounced his US citizenship, which he acquired during a 10-year exile in the 1980s. Herrera also claimed Alvarado's 1990 application to regain Nicaraguan citizenship was flawed. However, the order stood, even after the US consul in Managua certified that Alvarado's renunciation of US citizenship had been registered with the State Department in 1990, and immigration officials verified that Alvarado's application to regain Nicaraguan citizenship was in order.

Alvarado, a co-founder and secretary general of the PLC, resigned his Cabinet post and the PLC in July 2000 and prepared for a run for the presidency this year. He announced the formation of a party for disgruntled Liberals called *Movimiento Liberales por el Cambio*. Meanwhile, Benjamin Perez Fonseca, the human rights prosecutor, upheld Alvarado's claim to Nicaraguan citizenship. Citing the Constitution, he said nationality could not be revoked even if a person acquires citizenship in another country.

The CSE also supported Alvarado as did an Appeals Court. But the five PLC magistrates of the constitutional section (Sala Constitucional) of the Corte Supremo de Justicia (CSJ) reversed the Appeals Court and supported the original Interior Ministry ruling against Alvarado. The CSJ's decision widened the court's internal political split. The three Sandinista magistrates of the Sala

Constitucional handed Alvarado a political victory by making public their minority opinion. They said that the court's five PLC magistrates had violated the law governing the judiciary because of irregular procedures in hearing the case. They said the majority also violated provisions in the Constitution and the Universal Declaration of Human Rights against arbitrary revocation of citizenship.

On Feb. 10, the Appeals Court took the unprecedented step of setting aside the Sala Constitucional's ruling and reasserted its original decision that Alvarado could not be deprived of his Nicaraguan citizenship. El Nuevo Diario cited a CSJ source who said the Appeals Court decision was a "hard blow" to the court and could deepen the split between the two factions. The newspaper concluded that the CSJ was in "a profound moral crisis." But CSJ president Francisco Plata Lopez, a PLC appointee, tried to minimize the importance of the fissures within the court, though he acknowledged that the Alvarado case had, for the first time, provoked a direct confrontation between factions on the court. The judicial system is not only divided on particular cases but is divided against itself.

CSJ Magistrate Arturo Cuadra Ortega, a Liberal, railed against the entire judiciary for permitting Solorzano, Cedeno, Solis, and Levy to remain free. "Those who have money pay for a good lawyer...and those without resources, God defends," he said. Last year, the CSJ was forced to admit it did not know whether a controversial judge (Julio Cesar Arias Roque) was qualified to be a judge. Magistrates said their busy schedule prevented them from closely examining all the appointments they made. This raised questions as to the validity of the judge's rulings. Despite demands for his removal, the court said the judge would stay on as long as he was not convicted of a crime. The Asociacion de Juristas Democraticos de Nicaragua (AJDN) and the Legislative Assembly's Justice Committee issued a joint statement blaming the CSJ for the disarray in the system and calling the judiciary "obsolete and in a permanent credibility crisis."

Last November, Noel Ramirez, president of the Banco Central, said publicly that the judiciary was corrupt. While admitting corruption in the system, the CSJ promptly took the unusual step of calling him before court to explain his remarks. The CSJ in turn blamed the judicial system's failing on politics. CSJ magistrate Fernando Zelaya Rojas said last September that conflicts between the PLC and FSLN were holding up the appointment of judges and clogging the courts with a huge backlog of cases. At the time, there were 36 unfilled places on the bench. A bill to reform the penal code that went to the Assembly in February is directed at solving some of the problems in the judicial system.

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