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Nicaraguan Supreme Court Rules on Presidential Elections

by LADB Staff

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International observers and local newspaper editorials congratulated Nicaragua on running an orderly election in November. But within days after the official results were announced, the opposition Frente Sandinista de Liberacion Nacional (FSLN) charged that the electoral authority (Consejo Supremo Electoral, CSE) was manipulating the results to give President Arnoldo Aleman's governing Partido Liberal Constitucionalista (PLC) a big majority in the National Assembly.

Foreign ministers meeting during the XI Ibero-American Summit in November (see NotiCen, 2001-12-13) described the Peruvian and Nicaraguan presidential elections as "impeccable." The final declaration congratulated the two countries for their "demonstration of civics and democratic vocation." But in the aftermath of the relatively quiet and orderly Nov. 4 elections in Nicaragua, the major opposition party Frente Sandinista de Liberacion Nacional (FSLN) declared political war on the CSE, challenged the right of the minor Partido Conservador (PC) to have the Assembly seat it won, threatened various lawsuits, and forced the decision on the outcome of the legislative races into the Corte Suprema de Justicia (CSJ).

Former Vice President Enrique Bolanos beat FSLN candidate Daniel Ortega in the presidential race by a decisive margin of 56% to 42% (see NotiCen, 2001-11-08). The FSLN did not challenge the vote but rebelled against the CSE count that gave the PLC 53 seats in the National Assembly, only 38 to the FSLN, and one seat to the PC. The Assembly will have 92 deputies, including unelected deputies Aleman and Ortega. Reforms passed in 1999 give unelected seats to the outgoing president and the runner-up in the presidential election (see NotiCen, 1999-12-23).

FSLN challenges legitimacy of electoral council

The CSE's early tally indicated that the FSLN would win at least 41 Assembly seats, which coincided with the FSLN's unofficial count. When the CSE certified the final count, Ortega promptly challenged it and accused CSE president Roberto Rivas and Aleman of manipulating the results. Rivas, he said, was dependent on Aleman, who, in a post-election conspiracy, had instructed Rivas on how to distribute Assembly seats. Ortega noted that before the CSE certification, Aleman announced his party had won 53 seats, the FSLN 37 and the PC 2. "The president is deciding how the votes should be counted...which is a violation of the law," Ortega said.

The FSLN also insisted that the PC had lost its status as a recognized party and was not entitled to any seats in the Assembly. The electoral law requires that a party win at least 4% of the vote in the presidential contest to keep its status. PC presidential candidate Alberto Saborio won only 1.38%. Later, however, Ortega withdrew the demand, citing a need for pluralism in government.

Aleman calls for state of emergency

During the post-election count, Aleman attempted to convince the country that he should declare a state of emergency because of supposed conspiracies to start violent street protests and even to assassinate him and Bolanos. Aleman held a high-level meeting with military and police commanders to discuss the rumors. CSE president Rivas later said he asked for the meeting to report to the president on the progress of the vote count and on some rumors that disturbances might occur when the CSE announced the final vote tabulation. But he said he knew of no plots or threats of violence.

Aleman said the threats were real and for that reason he had postponed a planned trip to El Salvador. But later, he called the threats "speculations of the media" and sharply attacked the media for exaggerating rumors. He said the media were bolstered by the "unrestricted freedom of expression in Nicaragua," which they have carried to the extremes of "licentiousness" and "slander." FSLN leaders pounced upon Aleman's contradictory statements to accuse him and Rivas of inventing the rumors.

The daily El Nuevo Diario said it had information that the two plotted to create a tense situation by convincing the public that the FSLN was about to start a bloody confrontation over the election outcome, which in turn would justify calling out the military. The newspaper said some analysts thought Aleman wanted to divert attention away from the avalanche of accusations of corruption directed against him. Others said the scare was aimed at forcing the FSLN to back down in the argument about Assembly seats.

Aleman's claims to information about plots led Vilma Nunez, director of the Centro Nicaraguense de Derechos Humanos (CENIDH), to wonder if the president had his own intelligence network that the rest of his government did not know about. She said Aleman had balked at declaring a state of emergency after natural disasters but insisted on doing so after a quiet election, subjecting the country to "psychological terrorism." In the end, Aleman had little support. Rivas said he saw no threats of riots.

Orestes Romero, secretary of the business association Consejo Superior de la Empresa Privada (COSEP), said that disturbances like Aleman was predicting were a thing of the past and that spreading rumors was a brake on investment. "No one should go around talking about riots," Romero said.

On Nov. 20, the daily La Prensa reported that "Aleman's balloon has deflated." Interior, defense, and foreign relations ministers said there were no indications of impending riots or violence. Foreign Minister Francisco Aguirre said, "There are no threats that we or the president know of."

FSLN electoral magistrates walk out

On Nov. 21, the FSLN formally challenged the legitimacy of the CSE's certification after three Sandinista magistrates Emmett Lang, Jose Cordova, and Jose Luis Villavicencio walked out of a CSE session to protest the alleged irregularities. The three magistrates and Ortega insisted that the final count was invalid since the walkout broke the quorum required by law. The four who signed the certification papers were the Liberal magistrates. Rivas explained that, in an earlier session, the

magistrates had agreed not to break the quorum, which meant four members could decide the issue and the absence of the three Sandinistas would be recorded as abstentions.

On Nov. 30, the FSLN asked the CSJ for an injunction suspending the election results. Ortega said the four Liberal magistrates on the CSE should be dismissed in the next legislative session of the Assembly. Besides the count for Assembly seats, the Sandinistas objected to the CSE's validation of outgoing Vice President Leopoldo Navarro as Aleman's alternate in the Assembly. Navarro was appointed last year to replace Bolanos when he resigned to campaign for president. Since Navarro was not elected to the post, he would normally not be eligible to act as an alternate. But Rivas said he imagined that the legislators who wrote the law assumed that whoever substituted for the vice president would acquire the status of an elected official. Navarro ended the controversy by declining the alternate seat. He announced on Nov. 26 that he would withdraw because of the controversy the CSE decision had created.

The next day in his regular radio program

The President Talks with his People Aleman announced that his daughter, Maria Dolores Aleman, would take Navarro's place as alternate. He said that when he is called away to his duties as a member of Parlamento Centroamericano (PARLACEN), she would take his place. She is already an alternate for Deputy Jose Castillo Osejo, and if he should take a job in the Bolanos administration, Maria Dolores Aleman would replace him permanently. In that case, said, Aleman would be assigned another alternate according to a complex rotation called for by law.

Court upholds electoral council on vote count

CSE president Rivas told a news conference that the law does not allow for appeals to the CSJ in electoral matters as Ortega was soliciting. After nearly three weeks of electoral disputes, the CSJ upheld the official CSE results. The ruling said that the FSLN had brought its case too late since, under the law, CSE results are final after they have been published in the government's gazette. However, the court disagreed with Rivas' interpretation of the quorum rule and faulted the CSE for certifying the Assembly election without the participation of the three Sandinista magistrates. With Ortega's acceptance of the court's decision, the controversy appeared to end.

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