

Month In Review

Oct. 6-27, 2009

Politics

On Oct. 19, the Constitutional Panel of Nicaragua's Supreme Court ruled in favor of a petition by President Daniel Ortega and 105 Sandinista mayors that a constitutional provision banning consecutive reelection violates their rights. Ortega successfully followed in the steps of Costa Rican President Oscar Arias who won an appeal to the Constitutional Panel of his country's Supreme Court allowing him to run for reelection on the same grounds that the constitution could not "limit fundamental rights."

Ortega and the FSLN mayors resorted to the Supreme Court when on Oct. 16, the Supreme Electoral Council denied their appeal. The Court's Constitutional Panel quickly ruled on the case amid complaints



Justice Francisco Rosales presides over the Constitutional Panel of the Supreme Court.

by Constitutional Liberal Party justices that they had not received sufficient notice. Justice Francisco Rosales, who presides over the Constitutional Panel, and Justice Rafael Solis said that the ruling is final for the appellants but will be submitted to the full court so it will apply to all office holders. Roberto Rivas, president of the Supreme Electoral Council, said the Council would follow the Court's ruling and that there was no further appeal possible.

Protest from the opposition was immediate and loud. Former Eduardo Montealegre, leader of the Liberal Party faction closest to the US, said the decision was "a coup d'état" and called on the Organization of American States (OAS) and the United Nations to intervene. Dora Maria Tellez, a leader in the Sandinista Renovation Movement, said that the Sandinista justices had committed a serious crime and should be in jail. Former President Arnoldo Aleman said the Supreme Court had been "assaulted" by the Sandinista justices who issued the judgment.

Ortega told a television audience on Oct. 20, "I will say to those people that they should calm down and not drown in a glass of

water. To solve this we have the 2011 elections. What are they afraid of?" On Oct. 24 at a gathering in Chinandega, Ortega said that the Sandinista program cannot be carried out in five years and the people should have the right to decide if they want it to continue for another period. He said, "They were in power for 16 years and imposed their system of savage capitalism so the people have even more of a right to have continuity in a government that defends and promotes solidarity." Minister of Education Miguel de Castilla said of the Court's ruling, "I am satisfied because we feel that the plans of the Ministry of Education are not just for five years. We are working on a ten year plan and we will fight for there to be ten years of Sandinista government to rebuild the whole field of education."

About eight opposition youth hit Supreme Court Justice Francisco Rosales in the face with eggs as he entered a local television station. Young opposition activists brought a toilet to the sidewalk in front of the Court to show their "repudiation" of the ruling. Luisa Molina of the Civil Coordinator said that member organizations are meeting with the diplomatic corps and analyzing all avenues available "to reject this ignominious decision." She said that after analyzing the situation, "We will call on the people of Nicaragua to take to the streets, which belong to the people; we cannot be the prisoners of one political

class.” She said that the Supreme Court Justices should be removed from office. It is interesting that before she called on the Nicaraguan people she called on foreign diplomats.

Deputy Agustin Jarquin, representing a party allied with the Sandinistas, said, “At the beginning of the year we had something similar, but the reverse, when a Liberal group [of Justices] produced a ruling dropping charges against Arnaldo Aleman and there was a great commotion. Now the Sandinista side produces this situation.” He added, “We need to get to the bottom of this and bring Nicaraguans together again to strengthen the country’s institutions. We (the deputies) are partly responsible because we elected



U.S. Ambassador Robert Callahan called the ruling illegal.

these justices based on party affiliation.”

Foreign reaction was mixed. A US State Department spokesperson said, “We are concerned about reports from Nicaragua that there have been legal maneuvers that could make it more difficult for the Nicaraguan population to consider in an open and transparent manner the possibility of presidential reelection.” Sen. John Kerry, Chair of the Senate Foreign Relations Committee, said, “The manipulation by the president of Nicaragua of the

Supreme Court this week to avoid constitutional limitations on his government has an air of the authoritarianism of the past.”

Director of the Council of Hemispheric Affairs Larry Birns said that international concern tended to be “selective” depending on who was seeking reelection, noting that there would likely be little noise if President Lula da Silva of Brazil would want to run for a third term. The US has not criticized Arias nor Colombian President Alvaro Uribe who is changing the constitution for a second time to allow him to run for a third term. The nine governments of the Bolivarian Alliance for the Peoples of Our America (ALBA) gave their “total” support to the “democratic institutions of the sister republic of Nicaragua” in a statement released on Oct. 20.

An M&R Poll released before the courts’s ruling indicated that over 50% of the population of Nicaragua supported government policies on health care and education. However, La Prensa, which published the poll results, gave no number and did not give figures on public opinion about other government programs. La Prensa did report that most prominent government and opposition political figures were held in low esteem according to the poll.

M&R said that in terms of political party identification, 32.8% of respondents declared themselves Sandinistas; 14.4% Liberals and 50.3% said that they had no party. The percentage of respondents who believe that President Daniel Ortega is democratic and following the law was 38.9% and the percentage who believe his government is seeking unity and reconciliation among Nicaraguans was 39.1%. These figures are virtually identical to the vote percentage Ortega received in 2007 when he won with a plurality in a four way race.

The person with the highest approval rating was National Police Commissioner Aminta Granera at 84.7%, followed by Head of the Army General Omar Halleslevens with 75.6%. Other figures with high approval ratings were former President Violeta Chamorro (72%), Managua Archbishop Leopoldo Brenes (71.4%), and former Sandinista Mayor of Managua Dionisio Marengo (62.5%). Another recent president of Nicaragua, Arnaldo Aleman, held the highest disapproval rating with 60.3%. He was followed by First Lady and head of the Council of Citizenship and Communications Rosario Murillo with 53.6%, President

Daniel Ortega with 49.5%, and former Liberal presidential candidate Eduardo Montealegre with 48.7% negative ratings. When asked who were the leaders of the political opposition in Nicaragua, 32.6% answered “no one,” 26% said Aleman, and 24.9% said Montealegre.

In a later poll, 39.2% said they would “mobilize against the reelection of Ortega,” 56.4% would not.

On Sept. 30, Esteli Bishop Abelardo Mata abandoned his clerical duties to host a political meeting between former President Arnoldo Aleman, head of the PLC, and Eduardo Montealegre, who leads an ever shifting alliance of anti-Aleman Liberals. It was part of Mata’s continuing attempt to bring Liberal party factions together in unity against the governing Sandinista Party (FSLN). After the meeting the two men gave separate statements, not seen as a positive sign by the local media.

Miskito Independence/Autonomy

Mateo Collins, of the Indigenous Committee for Caribbean Coast Defense, said that the Wihta Tara (leader) of the independence movement in the North Atlantic Autonomous Region (RAAN), Hector Williams, wants a dialogue with President Daniel Ortega and not with local governor Reynaldo Francis, National Assembly Deputy Brooklyn Rivera, or with Fisheries Institute director Steadman Fagoth, all of whom they view as corrupt. Collins said that the region’s Ecumenical Council, with members from the Catholic and Moravian Churches among others, could serve as a mediator.



The Wihta Tara (Miskito leader) Héctor Williams (with hat in hand) meets former combatants in Bilwi. Photo: La Prensa

Susan Marley, a resident of Waspam and a member of the Indigenous Committee, said that the reason for the social convulsion in Bilwi/Puerto Cabezas is the looting of the natural resources of the region and the incapacity and corruption of the regional officials who have made the autonomy project fail. Berenice Sanders blamed government tear gas for the heart attack death of an Ornes Warman, 75, during a protest march on Oct. 19. However, family members of Warman blamed organizers of the separatist movement. Daughter Maria Elena Warman said, “The Whita Tara promised my

father to double his pension, and even give it to him in dollars” if he would join the protests. Warman’s niece, Karla Warman, said the leaders were taking advantage of the ignorance and humility of the elderly people, raising a false banner of independence that doesn’t have support among the people of Bilwi.

On Oct. 23, the day before United Nations Day on October 24, separatist movement leaders appealed to the representatives of the UN to mediate. According to Oscar Hodgson, legal advisor to the movement, the decision to declare independence was based on the UN declaration of indigenous rights. However, Walter Lacayo, spokesman for the UN office in Managua, said that the UN cannot mediate if it does not receive a request from both parties and it has received no request from the Ortega government.

Also on Oct. 23, there were celebrations in Bilwi and in Bluefields of the 22nd anniversary of the Atlantic Coast Autonomy Law. The Bilwi celebration, which was almost cancelled, included a program in the local gym attended by government officials and a parade with floats and marching bands. Carlos Aleman, president of the RAAN Regional Council, recognized that many young people on the Coast are unaware of the rights that they enjoy under the Law. He said that forums are planned in conjunction with the Education Ministry on land demarcation, the environment, health and education.

RAAN leader Steadman Fagoth, head of the National Institute of Fisheries, said that the government had offered to assist the independence movement leaders in formulating proposals for changes to the Autonomy Law, passed in 1987. However, the independence movement has accused Fagoth himself of corruption and refuses to talk with him. Head of the Army Omar Halleslevens said that no extra troops have been moved to the RAAN. He stated that it was the Police who had the responsibility in these cases,

adding that this type of situation should not be resolved by force but by discussion “through verbal interaction between people and in this case between the different ethnic groups and the authorities.”

Meanwhile, Lumberto Campbell, political secretary of the Sandinista Party (FSLN) for the Atlantic Coast, said that after the municipal elections of March 2010, the government will work to deepen the autonomy process in the communities there. He said that under the Ortega government, the residents of the Coast were seeing the benefits of autonomy. He said, “Now, things have to have the approval of the communal, territorial and regional governments and there is an attitude of recognition of the historic rights of the people of the Coast to govern themselves.” He added that there have been improvements in roads, bridges and electricity, loans to fishermen, programs for small farmers under the Zero Hunger Program and the issuing of communal property titles to indigenous communities.

Tax Reform

The tax reform measure now under consideration by the National Assembly could tax remittances that Nicaraguans send home to the families in Nicaragua according to economist Adolfo Acevedo. He said that over the past decade, family remittances have totaled approximately US\$800 million each year, which amounts to 50% of the total foreign exchange entering from Nicaragua’s exports. According to the Central Bank, Nicaragua received US\$390.2 million in the first half of 2009, a drop of 4.4% from last year.



Walmaro Gutierrez, Sandinista Deputy and chair of the Economic Committee of the National Assembly said, “We are not going to tax family remittances; we’re not going to put even one cordoba of tax on family remittances;... It’s the government’s official position not to affect family remittances.” But he added there are businesses which make significant international financial transfers of several thousand dollars twice a month as if they were family remittances and these will be taxed. He stated that it was necessary to define what is meant by family remittances. When a worker sends US\$400 each month to his or her family in Nicaragua, that is a family remittance. But, when someone sends several thousand dollars twice a month, that is a capital investment.

At the same time Gilberto Alcocer, president of the Nicaraguan Council of Micro, Small and Medium Sized Businesses (Conimipyme), said that the tax reform bill as currently written would worsen the situation of the medium sized businesses in his organization at a time when the international economic crisis has caused sales to fall by an estimated 40%. He said that “If the tax reform is applied in its current form, it will have the direct result of reduced employment and some business will have to close temporarily or definitively.”

Gutierrez explained to a meeting of merchants’ associations that neither small nor medium sized grocery stores would be affected by a tax increase under the reform measure. An owner of a small store or market stall has only to show that he or she has purchased from a wholesaler who has paid the required value added tax to be exonerated from that amount of their tax. The immense majority of small merchants who are under the simplified fixed quota regime will not be affected by the tax reform, he said, adding that the goal of the measure is to increase payments by the large importers who earn millions under the fixed quota system. And peddlers, small business owners over 60, and the owners of the smallest groceries will be exempt from the fixed quota payments altogether.

Gustavo Porras, an FSLN deputy in the National Assembly and head of the FNT, said, “This is the moment when the business sectors need to do their part.” He added, “The workers have always been

against the policies of the International Monetary Fund (IMF), but when we have an agreement that doesn't affect the pensions of the retired people, and that doesn't put more tax on 90% of salaried folks, for us that's an achievement and that's why we support these reforms." He said that he expected the business sector to support the reforms because approval by the IMF and the release of US\$90 million depends on it. The bill needs 47 votes to pass. The FSLN has 38 so another 9 votes will have to come from other parties.

On Oct. 13, the National Assembly passed the final necessary changes to the 2009 national budget with the 38 votes of the Sandinista Party (FSLN), five from the Nicaraguan Liberal Alliance (ALN), and five from the National Unity Bench (BUN). Gutierrez explained that the government has reduced the budget three times this year for a total reduction of US\$137 million of which US\$85 million has been in capital improvements and US\$69 million in day to day expenditures.

Legal

A US federal judge ruled that Dole Foods does not have to pay a US\$98 million judgment to 150 former banana workers suffering from being exposed to the pesticide Nemagon on Dole banana plantations in Nicaragua in the 1970s. Judge Paul Huck, in a Miami court, vacated a 2005 award by a Nicaraguan court, ruling that that court did not have jurisdiction and the law applied did not conform to



Dole dropped its suit against the Swedish filmmaker who produced "Bananas! The Movie!"

international standards. Judge Hick accepted Dole's argument that the 2001 Nicaraguan law, under which the award was issued, was not impartial and favored the workers. Since 2002 Nicaraguan courts have issued judgments against Dole and the pesticide manufacturers totaling US\$2 billion.

In early October, shortly before a Los Angeles court was scheduled to rule, Dole Foods dropped its defamation lawsuit against Swedish filmmaker Fredrik Gertten over a documentary film which the company

claimed contained falsehoods which harmed the US food giant. "It's a really positive development. It's thanks to the support we've received," Gertten told the press.

The film exposes the havoc wreaked on workers' health by the chemical DBCP, primarily in the form of the pesticide Nemagon, which was used freely in the Dole Foods banana plantations of Western Nicaragua in the 1960s and 70s, even after its use had been prohibited in the United States. It claims that thousands of workers have been affected, with the damage they suffered often transmitted to their children and even their grandchildren. Examples are: sterility in both women and men, birth deformities and other defects, skin rashes, headaches, dizziness, distorted vision, and even some cancers.

In other legal news, Nicaraguan Ombudsman for Human Rights, Omar Cabezas, confirmed Oct. 12 that he had formally requested that the Nicaraguan Supreme Court overturn the current law that declares all abortion illegal, even therapeutic abortion, which only applies in cases of extreme hardship and particularly when the mother's own life is in danger from her pregnancy. Cabezas revealed that he had used the occasion of a recent forum on human rights which brought together the national police and various state institutions to approach Supreme Court President Justice Francisco Rosales in order to put the case to him directly and to request that the matter of the formal appeal be dealt with as quickly as possible.

Economy

Coffee producers are optimistic that the harvest, which begins in October will end a difficult year for the industry during which the price remained stable but production dropped considerably. Amilcar Navarro, president of the Nicaraguan Union of Coffee Growers (UNICAFE) stated that coffee exports this year closed at 1.4 million hundredweights (100 lbs). This was well below the 2 million

hundredweights exported the previous year. Coffee producer and National Assembly Deputy for the Constitutional Liberal Party, Freddy Torres, predicted that this year's exports would hit 1.8 million hundredweights bringing the country more than US\$200 million in foreign exchange. In addition to the hope for an increased harvest is the hope that international coffee futures prices will rise. Last week futures for March 2010 were selling for US\$141/hundredweight.

Coffee producers have a new option for sales thanks to the growing internal market for coffee. There are no accurate figures on internal consumption but it is estimated at 15% of production. There is increased interest among young people in new coffee drinks such as iced coffee.

The lack of rain is severely impacting food crops according to National Federation of Cooperatives (FENACOOOP) President Sinforiano Cáceres. Among other strategies, FENACOOOP urged the government to promote the production of drought-resistant seeds, to support the development of irrigation, and to help resolve the credit problems of the "Won't Pay" movement, small farmers enmeshed in insupportable debt to commercial micro-lenders. Above all, he stressed the vital importance of "harvesting water" – collecting rain runoff in the last few weeks of the rainy season, storing it in underground cisterns "or by whatever means," and making it available for careful irrigating in the dry months ahead.

Cáceres said that FENACOOOP and other experts were predicting a 25 – 30% drop in corn production with beans similarly affected. "Twenty per cent of the rice crop has already been written off," he warned. FENACOOOP has a membership of 620 cooperatives throughout Nicaragua, representing some 40,000 families.