

## **The Chronicle of a Forewarned Crisis**

Panama celebrates 120 years of republican life in the midst of a crisis whose trigger was the hasty approval of Law 406 on October 20, 2023, in the Panamanian parliament. Through this law, the government granted a mining concession contract to the company Minera Panama, S.A., a subsidiary of the Canadian company First Quantum Minerals, which was considered harmful to the country's interests.

Law 406 replaced Law 9 of February 25, 1997, which had been declared unconstitutional by the Supreme Court of Justice of Panama in 2017 because the Panama parliament had approved a concession contract for copper extraction to the company Minera Petaquilla, the previous concessionaire, without complying with the public bidding process established in Article 266 of the Panamanian Constitution.

Furthermore, the Panama parliament omitted exercising its constitutional authority to assess whether Law 9 regarding the mining contract complied with constitutional procedures before its approval. In other words, the Panama parliament did not fulfill its constitutional duty of carefully examining a mining contract that would govern for 20 years, with the possibility of extensions, and which would undoubtedly have a significant and lasting impact on the environment and the lives of communities near the mine.

Prior to the approval of Law 406, a diverse group of citizens with expertise in mining contract matters had warned in the Panama parliament that the new contract was detrimental to the country's interests. They pointed out that it not only suffered from the same flaws that had caused the unconstitutionality of Law 9 in 1997 but also included additional cessions of national sovereignty beyond the mining concession area.

However, the lawmakers and the President of Panama, Laurentino Cortizo, ignored not only the warnings of several recognized legal experts such as constitutionalist Dr. Carlos Bolívar Pedreschi but also those of the Attorney General of the Public Administration, Rigoberto González, who in 2021 had responded to inquiries from the Ministry of Commerce and Industries, reaffirming the legal and constitutional violations of the contract, as outlined in the Supreme Court of Justice's ruling of 2017.

As I mentioned, the mining contract was the trigger for the crisis, but many frustrations and anger had already accumulated in the population due to the mismanagement of governments during the democratic era (except for the Endara administration). Particularly, the abuses of the current government and its lawmakers, who have been legislating to satisfy their personal interests, despite the deteriorating living conditions of thousands of Panamanians, had contributed to worsen this climate of discontent.

It should be noted that during the pandemic, President Cortizo's government maintained prolonged restrictions compared to other countries in the region and the world. Many of these restrictions were considered excessive and lacked scientific support, leading to an 18%

contraction of the Gross Domestic Product, the destruction of thousands of jobs, and permanent harm to Panamanian students who will not be able to recover the lost knowledge due to the closure of schools for approximately 2 years.

Regarding the economic deterioration of the country, labor consultant René Quevedo pointed out that around 40% of small and medium-sized enterprises in Panama went bankrupt, resulting in the loss of 407,000 jobs and the emergence of a precarious labor environment.

Yet, the socio-economic deterioration did not stop with the end of the pandemic. In July 2022, the population paralyzed the country for three weeks in protests against the government due to the unsustainable increase in food and fuel prices caused by the Russian invasion of Ukraine. Thus, the Panamanian economy entered a second round of economic paralysis, further exacerbating the precarious labor environment highlighted by consultant Quevedo.

In the meantime, and amidst a challenging year in 2022, the government of Panama engaged in negotiations with Minera Panama, S.A., with the aim of replacing the mining contract that had been declared unconstitutional by the Supreme Court in 2017. The negotiations had begun in September 2021, but one of the government-appointed members to renegotiate the contract, former Ambassador Marcel Salamín, presented his resignation to the Minister of Commerce and Industries, arguing that the government's strategy did not serve the best interests of the nation.

In the context of these negotiations, former Ambassador Salamín also warned that the ruling of unconstitutionality of the contract had not yet been made public in the Official Gazette and that three foreign states owned the majority of shares in the companies First Quantum Minerals and its subsidiary Minera Panama, which was unconstitutional.

However, despite these obvious constitutional violations, President Cortizo's government concluded the mining contract negotiations in March 2023, approving it in record time through Law 406 on October 20, 2023.

As expected, Law 406 was challenged as unconstitutional, and the entire country is awaiting a ruling on the constitutionality of this law from the Supreme Court of Justice at the end of this month or early December. The Attorneys General of the Nation and of the Public Administration have already issued their opinion to the Court, stating that Law 406 is unconstitutional.

Unfortunately, the irresponsible actions of the Cortizo administration have paralyzed the country for more than three weeks due to protests against Law 406, causing a new and severe blow to the national economy, with the consequent worsening of the living conditions of thousands of Panamanians.

It is also worth noting that this third shock to the national economy has been exacerbated by radical and uncompromising left-wing groups, who not only protest against the repeal of the mining contract but also take advantage of this situation to sow chaos and advance a political

agenda that has shown a resounding and historical failure in other countries, leading to the migration of millions of their citizens.

I truly thought that the crisis would erupt in 2021 due to the draconian countrywide lockdown measures imposed by the government without a serious scientific analysis, causing the destruction of the livelihoods of thousands of Panamanian households. But it was not until 2022 that the population reacted to a dramatic increase in the cost of living, bringing the country to a standstill. This crisis led to a national dialogue that did not progress due to the absence of the private sector and the lack of a serious commitment from the government to address the accumulated social problems.

The current crisis is undoubtedly the epitome of a worn-out and unviable political system that has made Panama the second most unequal country in Latin America and the Caribbean. This political system has also led us to occupy a dismal position in terms of the perception of corruption on the international stage, preventing serious companies from considering investment in our country.

In my view, this crisis represents the rejection of an unpatriotic contract that would set a precedent for future violations of national sovereignty by multinational companies with little or no environmental conscience. It also signifies the rejection of a political class that failed to learn the lessons from the military dictatorship era and reverted to the same corrupt practices that led to the coup d'état of 1968.

This crisis symbolizes the people's desire to change an unjust crony capitalist economic model, as highlighted by economist Guillermo Chapman, which has persisted since colonial times.

Like Chapman, I aspire to a social market economy where the genuine rule of law and free competition among economic agents prevail, rather than rent-seeking, crony entrepreneurs, as described by Argentina's President-elect Javier Milei. Additionally, I aim for a green foreign policy and economy focused on advancing our carbon-negative status, with the aim of securing international funding for national development.

The carbon market is already well-recognized, and there are companies seeking environmental projects to reduce their carbon footprints, forging partnerships in clean energy production, renting or buying forests not to cut down trees but to exchange carbon dioxide, which has become a valuable commodity, just to mention a few eco-friendly product and service exchange activities. With a green national conscience, we will be able to efficiently harness the abundant water resources to supply the Panama Canal, the population, and even sell the surplus to the world.

The ongoing mining crisis, which was foreseeable, has awakened this environmental awareness to prevent greed and excessive capital concentration from destroying human and natural life in our country and on the planet.

However, other crises are looming for the coming year, including a severe reduction in income due to the economic shutdown caused by the pandemic and subsequent protests, with a possible loss of investment-grade status; the Social Security Fund crisis, which could leave retirees and pensioners without funds; the water crisis in the Panama Canal, which will have a significant impact on state revenues and the global image of the Canal due to the slow implementation of alternative water supply measures to maintain uninterrupted operation of the interoceanic route. Additionally, deep crises in Panama's healthcare and education systems must be added to the list.

Whoever wins the elections next year will need a government of national unity, free from the usual corrupt elements, in order to navigate wisely and with strength through the perfect storm that the country will face in 2024. Neither political corruption nor crony capitalism should be tolerated.

Perhaps more importantly, the entire nation will have to engage in deep reflection on this challenging historical moment, a sort of mea culpa, because bad governance is only possible when the majority of citizens become excessively individualistic, apathetic, and lacking in civic responsibility.

Ritter Diaz  
International Consultant  
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