



Tico Times/Mónica Quesada

LAST RESPECTS: On the Day of the Dead, celebrated Wednesday, Cristian Acuña Blanco was among the many people who visited cemeteries across the country to remember their deceased relatives. Blanco carried water and flowers to clean and decorate his uncle's tomb at the Cementerio General de San José.

Avian Virus in 'Pre-pandemic' Stage

Authorities Denounce Flu Frenzy

BY MARÍA GABRIELA DÍAZ

Tico Times Staff

Alarmed by the national and international media frenzy surrounding avian flu, Costa Rica's health authorities have asked that people remain calm and informed regarding the threat of a possible pandemic, or global epidemic.

At the press conference following President Abel Pacheco's Cabinet meeting, where avian flu was first on the agenda this week, Public Health Minister Rocío Sáenz said that "people should remain informed about avian flu, but they should not be alarmed."

Carlos Jiménez, director of the school of veterinary medicine of the Universidad Nacional (UNA) in Heredia, north of San José, reiterated this idea, explaining that, although the press may have raised fears about an impending apocalypse, Costa Rican health officials started taking preventive measures a long time ago, and the country has by no means entered a state of emergency.

IN previous weeks, officials warned that a pandemic could begin at any time. Sáenz said it could occur in (Page 5)

Poll: Costa Rica's Democracy Struggling

BY REBECCA KIMITCH

Tico Times Staff

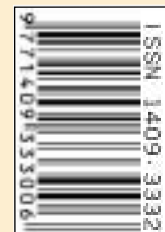
ON Feb. 5, 2006, Costa Ricans will go to the polls to elect the next President and more than 1,000 other officials – but only half think their vote can make a difference, slightly more than that think the elections in Costa Rica are clean, and satisfaction with democracy as a political system is falling fast, particularly compared to the rest of Latin America.

And while several years ago, Costa Rica had some of the region's highest levels of political participation, that level now ranks among the region's lowest. This apathy emerges despite the fact that only one in five Costa Ricans think the country is on the right track.

So concludes the latest Latinobarómetro poll, based on interviews with 20,212 people in 18 Latin American countries Aug. 1-Sept. 10. The annual poll revealed (Page 6)

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Villalobos Investors Hold Government Responsible

(Part one in a two-part series on the government's handling of the multimillion-dollar Villalobos investment operation.)

BY ROBERT GOODIER

Tico Times Staff

MORE than 300 jilted investors in the defunct Villalobos Brothers high-interest loan operation are making a case to sue the Costa Rican government for damages before the World Bank's International Centre for Settlement of Investment Disputes (ICSID), claiming government institutions did not protect them during the more than two decades when

the operation was in full swing.

This is another thorn in the Villalobos investment operation briar patch, unveiled when Luis Enrique Villalobos, one of the two brothers who headed the operation, fled the country with as much as \$800 million of investors' money, according to authorities' estimates, after what loyal investors say was a steadfast 15- to 20-year run of on-time monthly interest payments of 2.8-3% (TT, March 14, 2003). He disappeared shortly after police raided his offices and Osvaldo's home on July 4, 2002, seizing documents, computers and cash, then froze \$7 million in (Page 10)

Unprecedented National Forum Focuses on Indigenous Health

BY AMANDA ROBERSON

Tico Times Staff

MORE than 50 leaders from Costa Rica's 24 indigenous territories traveled to San José last week to speak with government officials on a topic they say has too long been forgotten – health issues in their communities.

They came to participate in the First National Forum on the Health of Indigenous Communities, held at the capital's National Cultural Center Oct. 26-28. The forum's goal: to bring together representatives from governmental, non-governmental and international organizations to dis-

cuss the state of indigenous health in Costa Rica and come up with some concrete plans for improvement.

Public Health Ministry studies have shown that Costa Rica's indigenous communities suffer from more health problems than the rest of the country. For example, infant mortality rates in areas where indigenous populations are concentrated, including the Caribbean and southern Pacific zones, were double those in the rest of the country from 1995 to 1999. Higher rates of respiratory infections, deaths caused by infectious diseases, malnutrition and diarrhea are also common in these areas. The causes include lack of (Page 8)

Could Authorities Have Stopped the Villalobos Scam?

(From Page 1)

Villalobos bank accounts (TT, Nov. 14, 2003). The raid panicked the more than 6,000 investors who had entrusted the brothers with minimum loans of \$10,000 each.

Villalobos' flight thwarted the possibility of serving preventive detention, which his brother and business partner Osvaldo Villalobos endured for more than two years until he was released on a kind of parole in April, not allowed to leave the country while his trial is pending (TT, April 1). Both brothers are charged with fraud, illegal financial intermediation and money laundering.

RATHER than turning to private lawyers, risking scams by con artists – who began preying on investors months after the closure – or banking their hopes on the outcome of the trial, a group of more than 300 investors has turned its back on the hope of recovering the money Luis Enrique Villalobos took. These investors, headed by U.S. expatriate Jack Caine, hope to recover their money from the government's coffers, accusing it of shirking its duty to protect them and bungling its intervention when it finally took action. They are registering for a jurisdictional hearing with ICSID, to which U.S. citizens have a right; Canadian investors, whose country has a different financial agreement with Costa Rica, might slip in the back door.

Caine has worked full time for nearly three years gathering evidence from the government, international and private-sector players involved, ferreting away rickety stacks of a dozen boxes and two hard drives of copies of official documents and correspondence in his office at his business partner Charles Bergeron's house in Escazú, west of San José. A former Army captain, he is a rough-hewn intellectual and roller hock-

ey player who has waded in the Villalobos legal morass long enough to suspect government corruption from desk clerks to the upper echelons. Many investors share these suspicions, but Caine says he has evidence.

His accusations snake through myriad posts and officials, but their thrust is basic: he claims the Superintendence of Financial Entities (SUGEF) knew the Villalobos brothers operated an unregistered financial enterprise but did not step in to regulate it and protect the investors, and that the raid on the offices that precipitated the operations' downfall was an illegal crusade by an overzealous public prosecutor for drug crimes, Walter Espinoza.

"THE Costa Rican government was part of the whole thing – they were involved in defrauding investors," Caine said. "I don't care if (Luis Enrique Villalobos, considered the senior business partner) is guilty or innocent. If he's innocent then the government has trampled all over the rights of an upstanding businessman."

If Villalobos is guilty, Caine said, he was allowed to stay in business all those years through quiet government complicity sanctioned with winks and nods.

The Tico Times consulted Luis Ortiz, a lawyer with the firm Rojas Franco y Asociados, whose experience might shore up Caine's case. The firm just won a similar case against the Central Bank representing a group of depositors who sued for damages claiming the bank did not protect

them, and Ortiz wrote a book on the affair: "The Bank of Costa Rica's *In Vigilando* Responsibility to Supervise the National Financial System" (2005).

In the case, the depositors had money in Banco Federado, an international consortium of financial entities that the Central Bank did not step in to regulate, though it was aware they were operating in Costa Rica without proper credentials. One of the entities suffered a financial crisis and the consortium collapsed in November 1997.

In June of this year, an administrative contention court ordered the Central Bank to reimburse the depositors for their losses and the interest they would have accrued.

"The government was part of the whole thing – they were involved in defrauding investors."

—Jack Caine,
Villalobos investor

"THIS is the first time the (Costa Rican) state has been condemned (on such charges) and probably the fifth time a government has been condemned worldwide," Ortiz

said.

The difference between the case he won and that of the Villalobos investors is how much SUGEF knew – or how much Caine and company can prove it knew.

"If (SUGEF officials) knew the brothers were doing financial intermediation and didn't (intervene), they were responsible," Ortiz said. "SUGEF had to pull them in and regulate them or close them down."

Caine points to a ream of documents that might prove SUGEF had prior knowledge, one of which is a December 1996 letter from the anti-drug police to SUGEF, of which The Tico Times has a copy. It refers to an earlier advisory the police made to SUGEF that they had begun investigating the Villalobos brothers' operations regarding "the presumed irregular handling of North American money... through bank accounts in the state banking system and perhaps... activities linked to money laundering."

The letter said the police were continuing their investigation with the suspicion that the brothers operated an unregulated investment and currency exchange scheme.

IN May 2003, after the brothers' offices were raided, the Comptroller General's Office issued a report on SUGEF's handling of the brothers during the previous eight years. It details warnings SUGEF received and investigations it made into businesses the brothers operated. One such warning, it says, was a November 2000 phone call from an anonymous lawyer who said the brothers' currency exchange business, Ofinter S.A., was taking money for investment, not just changing money, and that it had as much as \$250 million from North Americans living in Costa Rica. Then-director Henry Murillo replied that SUGEF looked into the business but "there was no evidence that they were collecting public funds."

A Tico Times article may have instigated that SUGEF probe. The Comptroller's Office document outlines an internal SUGEF communication that cites a Tico Times report on a Villalobos investor (TT, March 16, 2001). Because investment services are illegal without state regulation, SUGEF asked its legal advisor if it should make a report to the Chief Prosecutor for the Judicial Branch, but its advisor warned that a newspaper article is not sufficient evidence and urged it to find more. SUGEF's subsequent investigation apparently did not turn up such evidence, according to the Comptroller's report.

SUGEF also inspected the currency exchange business twice in 1999 and checked in on the brothers' helicopter busi-

ness in 1996 without finding evidence of wrongdoing, according to the report.

It concludes: "Since 1996, SUGEF has executed diverse fiscal activities (inspections) of (the Villalobos brothers) but has never been able to demonstrate that those men or their representatives have effected illegal financial intermediation activities."

"The problem is the Comptroller's report seems to show the Villalobos' illegal financial intermediation activities were clandestine," Ortiz said. "If SUGEF can prove that it could not have impeded the Villalobos brothers from carrying out illegal financial intermediation because it was unable to discover anything about their operations, then SUGEF was not responsible (for protecting the investors). But if there is proof and (SUGEF) still did nothing, it could be responsible."

Caine claims it is. "The government was notified," he said, citing the Comptroller's report and others sources including bank and police documents. "They were told many times. You cannot transfer \$400 million in five-and-a-half years' time without it coming up on somebody's radar screen. Half of it went through state banks."

SUGEF Director Juan Muñoz told The Tico Times three weeks ago he needed more time to respond to these accusations. He did not make a statement by press time.

Carlos Loria is a finance lawyer and economic consultant who fought successfully for creditors who lost money when the Cayman Island-based Latin American Bank folded in 1974 and sat on a special committee in the Legislative Assembly in 1997 asked to review financial transaction supervision laws. He told The Tico Times SUGEF and the country's finance laws are flawed. (Incidentally, the Latin American Bank, which had an office in Costa Rica across the street from the Central Bank, operated illegally, unsupervised by the bank.)

"The laws are weak. SUGEF is weak in supervision," he said. "One, because... there is no sufficient legal means of supervision. Two, because of negligence. Every country has the obligation to provide security for its investors. Historically, that has not been the case in Costa Rica – the image projected (of stability) is not the reality."

ONE problem could be cronyism in the regulating institutions, according to Loria.

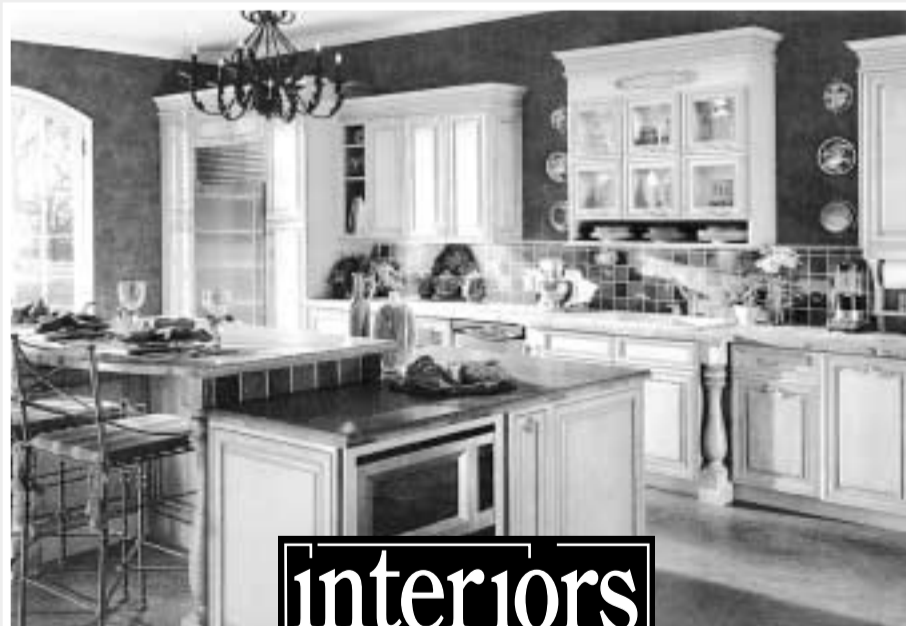
"The people appointed to SUGEF have strong ties to the private banking system. That means they are not really protecting the consumers of financial products," he said.

Like some investors, he said he believes the raid on the Villalobos operation was a private bank conspiracy of sorts. "They couldn't compete with the interest rates offered – they couldn't do currency arbitrage because there was no assurance that the funds don't come from drug money. Their image would suffer," Loria said.

It is not proven how the Villalobos brothers paid their investors such high interest rates for so long, but Caine's theory is currency arbitrage – in this case, the purchase of U.S. dollars from Colombia routed through U.S. banks back to Colombia, deposited as pesos in legitimate Colombian banks, then bought by a licensed currency exchanger who bought cheap U.S. dollars on the open Colombian market and took them back to Costa Rica. Investors would have been paid with the Colombian dollars and their investments transferred through U.S. banks would have legitimized (laundered) the Colombian funds.

Next: Ex-President José María Figueres' role in the handling of the Villalobos affair; Caine's complaints about Drug Crimes Prosecutor Walter Espinoza and an update on self-described bounty hunter Steven Waitman.

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