7-8-2010

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President Ricardo Martinelli Enacts Controversial Environmental, Labor, Police Laws

by Sean Mattson
Category/Department: Panama
Published: 2010-07-08

Panamanian President Ricardo Martinelli firmed up his conservative credentials in June as his coalition-controlled Asamblea Nacional (AN) quickly passed controversial laws that weakened labor unions, relaxed environmental standards, and reduced penalties for police officers who commit crimes while on duty.

Dubbed the "9-in-1" or "sausage" law because it was sent to lawmakers as a bill for commercial aviation but was stuffed with rider modifications to unrelated laws, which is unusual for major law changes in Panama, the law was passed with little debate as riot police barricaded the legislature against protesters.

Martinelli, a supermarket magnate who came to power on promises to stamp out crime and corruption and end the inefficiencies of past administrations, argued the fast-tracked changes were necessary to move his agenda forward.

But the criticized move has damaged Martinelli's popularity, which has also been marred by accusations of his concentrating power through appointments of Corte Suprema de Justicia (CSJ) magistrates, replacing the attorney general with a political ally, and decreeing jail time for street protesters who turn violent (see NotiCen, May 06, 2010).

Striking down strikes
The new legislation limits the effectiveness of a unionized strike, as Panamanian employers are allowed to suspend the contracts of striking workers and hire replacements. The new law calls for police to immediately take over the security of a work site affected by a strike to guarantee access to nonstriking workers and employers.

Union leaders challenged the constitutionality of the labor-code changes in Panama's CSJ, but they are not optimistic they will receive a favorable or expeditious ruling.

"The law as it is violates the universal right to strike," said Santiago Ramos, a leader of Panama's construction workers union (Sindicato Único Nacional de Trabajadores de la Industria de la Construcción y Similares, SUNTRACS), who said a court ruling could take one to three years. "The entrance of public forces [to strike sites] will work as a means to coerce workers into ending the strike."

Ramos said Martinelli, considered one of Panama's richest men and owner of the country's largest supermarket chain, is favoring the private sector over workers with the new laws. "Restricting workers' rights to demand better conditions is obviously benefiting the private sector," said Ramos, adding that Panama's relative peaceful labor conditions could be threatened by the new legislation. "Obviously this reflects a negative situation on an international level."
Ramos said the legislation also seeks to reduce dues received by unions as a means of weakening unions that are clearly unpopular with the government.

"I recommend that you [workers] care for your jobs and don't follow the games of the [union] leaders who are living off union dues," Labor Minister Alma Cortés told Panamanian television station Telemetro, responding to SUNTRACS criticism.

The toughened labor laws might soon be put to the test. July began with a reported 5,000 banana-plantation workers on strike in western Panama to protest the law. In an especially delicate instance of labor unrest, some 700 SUNTRACS construction workers protested labor conditions at the construction site of the new Atlantic-side locks of the expanding Panama Canal (see NotiCen, August 20, 2009).

SUNTRACS leaders characterized the unrest as a strike but a spokesperson for Grupos Unidos por el Canal (GUPC)—the Spanish-Italian-Panamanian consortium with the US$3.1 billion locks contract, the most important of the expansion project—characterized the unrest as a sporadic protest. The consortium promised to "take the pertinent legal actions to ensure the normal operation of this great project."

**Martinelli in a rush**

In an interview with the newspaper La Prensa before completing his first year in office on July 1, Martinelli said the sausage law could have been better presented but defended the need to enact a number of important changes to Panamanian legal codes.

Among the law's less-controversial aspects were defining or strengthening penalties on human trafficking and official document falsification, blights Panama has been trying to crack down on under Martinelli.

"I accept that that was not the best way to change a law," Martinelli told La Prensa. "It's a sausage [law], that must be recognized...but thinking I was going to change the laws one by one, I have five years and I won't finish. This country needs to change and evolve."

The law provides that police officers accused of committing crimes on duty will not be arrested or suspended from duty until convicted and sentenced. Sentences will be served in police stations, not jails. Martinelli told La Prensa the law was similar to ones in the US. But police and judicial-system standards in Panama are much closer to those of their regional peers than those in the US.

The 9-in-1 law eliminates the need for government projects deemed of "social interest" to have environmental-impact studies. Instead, government agencies in charge of the project will have to submit an environmental-risk analysis of the damage the work will cause to the environment and the suggested mitigation or compensation actions.

Panama boasts some of the world's greatest tropical biodiversity but does not have a strong track record of environmental law enforcement and leaving gauging environmental impact to a public-works department makes environmentalists nervous.

Martinelli is already at odds with environmentalists on plans to open Panama to large-scale open-pit copper mining. In response to protests, legislators specifically ruled that mining and private projects still require environmental-impact studies, but Martinelli's planned US$13 billion in infrastructure spending remains exempt under the law.
"Far from strengthening environmental institutionality it weakens it considerably," said the Asociación Nacional para la Conservación de la Naturaleza (ANCON), one of Panama's leading environmental groups, in a statement signed by dozens of nongovernmental organizations (NGOs). "[The law's] content threatens environmental legal order and [affects] the fundamental human right to a healthy environment."

The environmental provision may yet backfire and require modification. Some multilateral lenders that the government may approach for financing infrastructure spending are restricted from supporting projects lacking independent environmental-impact studies, said Heather Berkman, an analyst at the US-based Eurasia Group.

Martinelli's once stratospheric public-approval ratings have taken a beating by the unpopular moves, but he still retains a good level of support among the public.

"While [Martinelli's] popularity has dropped, after a year in government he maintains the 60% acceptance [equal to the percentage of] votes when he won," said Edwin Cabrera, a political commentator and radio personality, adding that the administration has a penchant for not explaining its actions. "It appears that he's lost all those groups that backed his proposals on July 1 of last year."

"The law has opened too many political battlefronts at the same time," said Cabrera. "Evidently [the government] is not defending the legislation. It simply presented it and approved it, which denotes a style of government. It's a government that makes a lot of decisions and makes them quickly and does not do an analysis or political calculation of the consequences."

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