11-11-2010

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Legitimacy Concerns Cloud Upcoming Nicaraguan Presidential Election

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Category/Department: Nicaragua
Published: Thursday, November 11, 2010

The race for the presidency of Nicaragua is officially on following an announcement late last month by the de facto head of the Consejo Supremo Electoral (CSE) Roberto Rivas, who convoked a general election for Nov. 6, 2011. Itself a subject of debate, the polemical proclamation offered an early glimpse at the serious legitimacy questions already clouding the upcoming campaign season.

The CSE head gave political parties just one week to present their credentials for the election, which will decide not only the next president and vice president but also the 90 lawmakers who make up the country’s unicameral Asamblea Nacional (NL). Once accepted, parties will have until March 18 to register their candidates.

"This will be a process that is open to the people of Nicaragua, the political organizations, the media, and everyone else who is interested," Rivas said during an Oct. 28 press conference. Independent journalists were barred from the event, according to the Granada-based Nica Times. Journalists who did make it past the door were not allowed to ask questions, the Spanish news agency reported.

For Nicaragua’s scattered opposition, the CSE’s media management is just one of many problems associated with the controversial election board. For starters, say critics, Rivas—a close ally of President Daniel Ortega—should not even be president of the CSE. Like dozens of other key officials, including two acting Corte Suprema de Justicia (CSJ) judges, Rivas’ tenure expired months ago.

The country’s gridlocked AL was supposed to have voted on replacements for the influential posts months ago. Its failure to do so prompted President Ortega to issue a decree last January extending the terms of Rivas, CSJ Judges Rafael Solís, Armengol Cuadra, and Damisis Sirias, and other officials (NotiCen, May 6, 2010).

The president’s highly controversial "decretazo" not only exacerbated problems in the beleaguered legislature but extended the political crisis to the high court, where Solís and Armengol—who are affiliated with Ortega’s Frente Sandinista de Liberación Nacional (FSLN)—continue to show up for work even though their terms expired in April. Opposition Judge Sirias has not returned to the CSJ.

President Ortega’s opponents say his heavy-handedness with the CSJ and CSE have undermined the authority of both institutions, rendering all their decisions—including Rivas’ recent election convocation—illegitimate. "It’s one illegality on top of another illegality," Avil Ramírez, spokesperson for the American Chamber of Commerce, told reporters.

Ambitious Ortega extends control

Fueling Nicaragua’s wide-ranging political crisis is Ortega’s determination to sidestep the country’s term-limit laws and compete for a third term as president—even if it means taking a monkey wrench to the country’s principal governing institutions. The Constitution prohibits presidents from serving consecutive terms and limits at two the total number of times a leader can hold the top
office. Ortega, president from 1985-1990 and elected again in 2006, is disqualified on both courts. He plans to run anyway.

Without enough support in the AL to amend the Constitution, Ortega turned last year to his friends in the CSJ, whose Sala Constitucional ruled Oct. 19, 2009, that the term limits are "inapplicable" in this case (NotiCen, Nov. 19, 2009). In late September of this year, the "full" CSJ upheld the earlier ruling and ordered the CSE to accept Ortega’s candidacy. Rivas has said publicly he will comply.

Critics say the high-court judgment is completely illegal, not only because the CSJ lacks the authority to modify the Constitution (something that can only be done by the AL) but also because a number of the ruling judges are themselves illegitimate.

Among the judges responsible for the ruling were Solís, Cuadra, and several pro-Sandinista substitute justices appointed in August. The substitutes replaced the court’s six remaining opposition justices, who—unwilling to work with colleagues they considered illegitimate (Solís and Cuadra)—refused for several months to participate in court sessions (NotiCen, Sept. 16, 2010). Five the six pro-opposition judges ended their boycott last month.

"The imposition of substitute judges will end up having dire consequences because it will affect future judicial decisions," Vilma Núñez, head of the Centro Nicaragüense de Derechos Humanos (CENIDH), explained during an Oct. 26 presentation before the Inter-American Commission on Human Rights (IACHR). "In addition, there's the lack of credibility of the electoral body [the CSE], which is also stacked with representatives who are illegitimate because their periods of service have run out, too."

The CENIDH is one of several groups asking for intervention by the Organization of American States (OAS). Opposition parties in the AL have also addressed the OAS, asking in a letter sent April 30 that the international body help "prevent the establishment of a dictatorship" under Ortega.

**No choice but to play along**

Ortega’s power plays have put Nicaragua’s opposition parties in a perplexing predicament. Denouncing the upcoming elections as illegitimate, they are more or less obliged, nevertheless, to participate since boycotting the process would mean letting Ortega waltz into another term uncontested. The opposition’s best option for unseating the powerful FSLN leader, in other words, is to compete—even if it means abiding by Ortega’s rules.

To mount a legitimate challenge, however, the opposition parties will first have to overcome lingering internal divisions, something that is proving easier said than done. After winning back-to-back presidencies under the leadership of Arnoldo Alemán (1997-2002) and Enrique Bolaños (2002-2007), the once dominant Partido Liberal Constitucionalista (PLC) has since lost cohesion. In the last election the conservative opposition ran two candidates, allowing Ortega to eke out a less-than-stellar 38% victory by splitting what would have been a 58% vote haul between them. The PLC’s José Rizo won 27.1% of the vote while Eduardo Montealegre of the Alianza Liberal Nicaragüense (ALN), a PLC spinoff party, finished with 28.3%. A fourth candidate, Edumndo Jarquín of the leftist Movimiento Renovador Sandinista (MRS), won 6.29% (NotiCen, Nov. 9, 2006).

While Montealegre, Alemán, and other opposition leaders agree in principle that they would do best if they presented a single candidate against Ortega and the FSLN, they have so far been unable to agree on a formula for how exactly to make that happen.
Alemán insists on running for a second term despite consistently poor poll numbers and a prior corruption conviction that has since been lifted by the CSJ (NotiCen, Jan. 22, 2009). The corpulent ex-president wants to participate in an "open" primary, meaning all Nicaraguan voters could participate. Other conservatives, including Montealegre, are balking at the idea, saying it would basically allow FSLN sympathizers to choose the opposition's candidate for them.

Earlier in the year, Montealegre, himself an early candidate, spurned an offer by Alemán to run on a single ticket as the latter’s vice president. Montealegre held a Cabinet post during Alemán’s presidency. He now serves as a deputy and leads an informal and very much separate political group called Movimiento Vamos con Eduardo (MVE).

In September, however, Montealegre changed course, backing out of the race and instead endorsing what he calls a "consensus candidate"—Fabio Gadea Mantilla, a 79-year-old radio personality and station owner who serves as a PLC deputy in the Parlamento Centroamericano, a Guatemala-based regional legislative body. Montealegre and other supporters are hoping Gadea—like former President Violeta Chamorro (1990-1997) in the 1990 election—will be able to oust the Sandinistas by reaching out across party lines.

Gadea held his first major rally Oct. 10 in the western port town of Corinto, where he spoke of carrying out an "honesty revolution." He has yet to decide under which political banner he will run.

"Some of you will say, 'What is this man doing coming to Corinto? Is he going to be a candidate who offers everything and delivers nothing?' I’m not here to offer promises. I’m here to offer a dream that you yourselves can make into a reality," Gadea, who is perhaps best known for his "Pancho Madrigal" radio personality, told supporters. "I’m here to offer you something that will change the face of the Nicaraguan nation. I’m here to offer what no other candidate has offered. I offer you honesty."

Early poll numbers favor the incumbent Ortega. Results of a survey released in October by the international polling firm Borge & Associates suggested that if the election were held then, Ortega would win outright with 42% of the vote. Polls released the same week by CID Gallup and M&R reached similar conclusions, projecting the president’s vote haul at 37% and 43% respectively. Thanks to an agreement Ortega worked out years ago with Alemán, Nicaraguan presidents need just 35% of the vote to avoid a runoff. The cutoff for a first-round victory was previously 45%.

Borge & Associates predicted a second-place finish for Gadea (25%). Nearly 21% of poll respondents said they did not yet know who they would vote for, while just 7.7% said they would back Alemán.

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