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Legitimacy Questions, ‘Supermajority’ to Mark Nicaraguan President Daniel Ortega’s Controversial Third Term

by Benjamin Witte-Lebhar
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Lingering allegations of election tampering have poked new holes in President Daniel Ortega’s already threadbare democratic credentials. They are not, however, likely to stop him next month from donning Nicaragua’s presidential sash for the third time. For all the legitimacy questions, Ortega appears to be more in control than ever.

The controversial incumbent ran circles around his rivals in last month’s general election, collecting 62.4% of the vote compared with just 30.9% for the runner-up, Fabio Gadea (NotiCen, Nov. 17, 2011). The third-place finisher, former President Arnoldo Alemán (1997-2002), earned just 6%.

In addition, Ortega’s Frente Sandinista de Liberación Nacional (FSLN) made huge gains in the unicameral Asamblea Nacional (AN). The party added 25 seats to give it 63 overall—enough for a two-thirds supermajority in the 92-seat AN. Its only real rival, Gadea’s Partido Liberal Independiente (PLI), won 26 seats. Alemán’s once powerful Partido Liberal Constitucionalista (PLC) will now have just two seats—down from 25.

Critics worry the 66-year-old Ortega will use his supermajority to amend the Constitution’s term-limit laws and thus stay on in power indefinitely. Nicaraguan presidents are supposed to serve a maximum of two nonconsecutive terms. In open violation of the Constitution, Ortega—a former Marxist revolutionary who first led the county from 1985 to 1990—is set to begin his second consecutive term and third overall. The five-year term officially begins Jan. 10.

In the run-up to this year’s election, the FLSN leader used his considerable influence in the Corte Suprema de Justicia (CSJ) and Consejo Supremo Electoral (CSE) to sidestep the Constitution. Judges loyal to the president declared the term limits "inapplicable" in Ortega’s case (NotiCen, Nov. 19, 2009). The CSE sealed the deal earlier this year by validating Ortega’s candidacy against opposition objections (NotiCen, March 24, 2011).

The strategy was effective, albeit politically messy. A tidier long-term "solution" to the term-limit stumbling block would for the AN to simply do away with the law. That option was not available to Ortega when the opposition—on paper at least—held a majority. Starting next month it will be.

Padding the numbers?

Not surprisingly, Ortega’s manhandling of the CSE and CSJ was a major point of contention among his critics, who routinely questioned the legitimacy of his candidacy. Reports of election-day tampering have added fuel to the fire for rivals like the 80-year-old Gadea, who accuse Ortega of outright fraud. Gadea, a radio station owner and on-air personality who promised voters a "revolution of honesty," still refuses to concede the election.

Organization of American States (OAS) observers reported being blocked from entering several polling stations. European Union (EU) observers made similar complaints. The EU mission chief,
Luis Yáñez of Spain, lamented that the CSE, the institution in charge of overseeing the elections, is "not independent and did not fulfill its duty to ensure transparency for all parties."

Ética y Transparencia (EyT), the Transparency International (TI) chapter in Nicaragua, went even further in its criticism of the FSLN and CSE, which it accused of stealing between 8 and 12 seats in the AN and padding the final results by at least 150,000 votes. The CSE’s official election results "don’t deserve any credibility given the systematic and intentional irregularities," EyT stated in a report released Nov. 21.

Refusing to go quietly into the night, opposition groups organized what was supposed to be a massive anti-Ortega demonstration. Turnout for the Dec. 3 rally came up far short of expectations, however. Organizers had predicted a crowd of 80,000. Instead the event drew between 5,000 and 10,000, according to the Granada-based Nicaragua Dispatch, which described the atmosphere immediately after the rally as "one of weary-cattle resignation."

During the event, Gadea addressed the crowd as the self-proclaimed "constitutional president of the Republic of Nicaragua" and promised to continue contesting Ortega’s victory. "You all voted for me, and all our votes were mocked," he said.

Violeta Granera of the citizens group Movimiento por Nicaragua also spoke, insisting that Nicaragua "retake the path to democracy." Citing Ortega’s "constitutional violations" and "abuses of power," Granera demanded new elections. She also made a plea to the international community not to recognize Ortega’s victory as legitimate.

Still, if the rally’s modest turnout is any indication, it seems unlikely—for now at least—that opposition to Ortega will coalesce into a full-fledged movement capable of properly challenging the FSLN’s grip on power. Needless to say, Ortega has not given any indication he plans to heed their demands for new elections.

**Grumblings in Washington**

Granera’s plea to the international community, however, is beginning to echo a bit abroad, particularly in Washington, DC, where some members of the US Congress recently turned their attention to Nicaragua.

On Dec. 1, the country’s only two Latino senators, Marco Rubio (R-FL) and Bob Menéndez (D-NJ), issued a joint resolution condemning "the fraudulent re-election of Daniel Ortega" and urging the administration of President Barack Obama "to take immediate and meaningful measures to encourage the restoration of constitutional rule in Nicaragua, including opposing loans by international financial institutions to the Nicaraguan government."

The bipartisan resolution calls on the OAS to issue a report detailing Ortega’s pre-electoral constitutional irregularities. It also recommends that the US Ambassador to the OAS Carmen Lomellin pressure the international body to use its "full power" to help restore democracy in Nicaragua, "including formally suspending the Nicaraguan government under Articles 20 and 21 of the Inter-American Democratic Charter."

"For years, Daniel Ortega and his cronies have eroded Nicaragua’s democratic institutions," said Sen. Rubio. "Their recent efforts have accelerated this democratic decline and reached a tipping
point that demands a strong reaction from the United States and the mobilization of our allies in defense of the Nicaraguan people’s human rights."

The Rubio-Menéndez resolution coincided with hearings held the same day by the House Committee on Foreign Affairs. The hearings, titled "Democracy Held Hostage in Nicaragua: Part 1," were chaired by Rep. Ileana Ros-Lehtinen (R-FL), who lashed out at President Obama for not acting to "prevent this latest affront on the rule of law and constitutional authority."

"In hopes of receiving cooperation to fight drug trafficking in Central America, the Obama administration appeared to do nothing," said Ros-Lehtinen, who demanded the administration not recognize last month’s election in Nicaragua. She also suggested the Obama administration hold off on sending an ambassador to Managua.

The previous U.S. ambassador to Nicaragua, Robert Callahan, left in July after three years in Managua. Republicans in Congress blocked President Obama’s first pick to replace him, Jonathan Farrar, who was chief of mission of the US Interests Section in Havana, Cuba, from July 2008 to early 2011.

Callahan, one of several people called to testify before Ros-Lehtinen’s House Committee on Foreign Affairs, urged a more cautious approach to the issue, saying that, for the sake of supporting the Nicaraguan opposition, US authorities would do best to maintain diplomatic ties with Ortega. "For the moment we should stay. I do think that it’s important to give material and moral support to the opposition," he said. "After all, we did remain in Nicaragua throughout the 1980s. And I have got to believe that, at least in small measure, it contributed to the victory of the opposition in 1990."

The Obama administration seems inclined to agree with Callahan. Shortly after the Dec. 1 hearings, the administration named its second nominee for the ambassadorship: Phyllis Powers, the current US ambassador in Panama. Otherwise the administration is remaining tight-lipped in its assessment of Ortega’s re-election, saying only that it is consulting with other governments in the Americas to develop a coordinated reaction.

Dan Restrepo, the National Security Council’s western hemisphere affairs director, told reporters on Dec. 1 that the Nicaraguan election had "significant deficiencies," but said the Obama administration wants "to maintain our robust relationship with the Nicaraguan people."

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