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George Rodríguez

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Honduran Congress Passes Revamped Law to Build Private Cities; Opponents Gear Up to Bring It Down Again

by George Rodríguez  
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Initially, they were named Redes Especiales de Desarrollo (RED)—better known as ciudades modelos—and the bill giving them the green light was passed in July 2011 by the Honduran Congreso Nacional (CN), the country’s unicameral parliament.

The way was thus opened for investors from abroad to come in and start building what in their English version are known as charter cities.

The idea was originally developed by US economist Paul Romer, director of the Urbanization Project of New York University’s Stern School of Business, as a way to rescue people from poverty—a massive, chronic social illness Honduras obviously suffers from—as a tool that hinges on transparency—something this Central American nation is signaled for not being strong in.

Three regions were then selected for the RED project: the government portrayed as a source of investment and job creation, thus promoting development, improving standards of living, creating general well-being for Hondurans—classified by international experts as Central America’s poorest people.

The starting regions were the northeastern Zona de Punta Castilla y Valle de Sico y Paulaya, the northwestern Zona del Valle de Cuyamel, both on the Caribbean coastline, and the southern Zona del Golfo de Fonseca, on the gulf shared by El Salvador, Honduras, and Nicaragua.

CN president Juan Orlando Hernández, of the ruling Partido Nacional (PN) and the traditional party’s presidential candidate for this year’s elections, said, “We must see this as a major opportunity in times when thousands of Hondurans are jobless, and with the ciudades modelos they’d be getting a job and earning money for their families.”

"The Honduran state will be exercising its right to sovereignty over the ciudades modelos regarding defense and foreign affairs, so it’s not the territory that is being sold," Hernández pointed out. "These ciudades modelos will be set up in uninhabited zones in Honduras, they don’t entail displacing social groups or inhabitants."

But the opposing civil society saw the plan as making way for city-states within the Honduran territory by selling portions of it—thus, selling sovereignty.

Appeals were taken to the Corte Suprema de Justicia (CSJ) seeking that the law creating the RED be declared unconstitutional and that the 126 deputies who passed the first RED law be tried for high treason and abuse of authority—including Hernández, a staunch promoter of the bill.

The lawyers who took part in drafting the appeals said the bill violated the Honduran Constitution and the deputies exceeded their authority when, in passing the law, they affected the country’s territory.
In the process of civil society opposition and legal action, Antonio Trejo, the most outstanding of the lawyers, was killed in October 2012.

Civil society’s struggle against the RED was successful, and by a 15-13 majority, the CSJ magistrates deemed the law unconstitutional, thus rendering it null, in October 2012 (NotiCen, Nov. 1, 2012).

**Ruling not the end of the story**

But human rights activist Bertha Oliva, who heads the nongovernmental human rights organization Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH), was skeptical that the RED case had been really closed.

"It seems to me there’s a possibility" that the bill will be pushed again, only "not as ciudades modelos," she told NotiCen. "Legally, they’d have to make another law, with another name and other characteristics so it could function."

"In a country like Honduras, everything’s possible since the coup," she said, referring to the bloody 2009 coup that toppled President Manuel "Mel" Zelaya in June of that year (NotiCen, July 2, 2009).

And, in separate statements to NotiCen in October 2012, Honduran President Porfirio "Pepe" Lobo said that the ciudades-modelos issue "is one of much debate. If there’s any extreme affecting sovereignty—and we’ve told Congress this—changes can be made. No matter how much it’s discussed, and we can get into a philosophical discussion...there’s one reality: if there’s no investment, there’s no employment—and this is what the people need most."

"We must understand that we must change," said the president. "I say to my people, 'If you don’t do this now, remember, you’ll have to do it tomorrow, because there is a need to change the strategies of how we create economic growth and development, a goal which must be accomplished with social responsibility.'"

As it turns out, Oliva was right in her forecast, and so was President Lobo. On the evening of Jan. 14, a new, revamped private cities bill—Ley para la Creación de Regímenes Especiales de Desarrollo—landed in Congress. The ciudades modelos are now Regímenes Especiales de Desarrollo, instead of Redes Especiales de Desarrollo, changing one word in the label and keeping the acronym RED.

Nine evenings later, closing a lengthy debate during which opponents of the idea again challenged what they described as the violation of Honduran sovereignty, the CN passed the new bill by a vote of 110-13, with five abstentions.

The text’s promoters insisted that the new version eliminated the legal flaws that made it possible for the CSJ to declare the first bill unconstitutional. Deputies hurried to pass it before the previous legislative term—the third of four in the present congressional mandate (2010-2014)—closed on Jan. 25 so they could aim at ratifying passage in the mandatory second vote during the fourth, which began then.

Among other things, the new law—which modifies three articles in the Honduran Constitution—says that "the state may establish zones in the country that are subject to special regulations, as legal entities, subject to special fiscal regulations."
"The creation of a zone subject to special regulations is the exclusive responsibility of the Congreso Nacional, after approval in plebiscite, but this requirement is not necessary for special regulations created for zones with low population density," the law says, in this case leaving it up to the Instituto Nacional de Estadísticas (INE).

The law states that special-regulation zones "are subject to national legislation in all matters related to sovereignty, national defense, foreign affairs, election matters, and issuance of identity documents and passports."

**Opponents will appeal again**

The day after passage last month in the first of two congressional votes, the Asociación de Jusristas Sobre el Estado de Derecho announced an appeal against the new law.

Asociación member Fredyn Fúnez—responsible for the appeal against the first bill—told reporters that the group is waiting for ratification in the present congressional term and for the law to be published, in order to appeal and to accuse the 110 deputies of having committed high treason by passing the bill, which, he says, "violates the territory, the form of government, and the sovereignty of the nation."

Passage of the bill not only angered civil society sectors as well as lawyers, it also unleashed the wrath of Anonymous Honduras, the group that last year hacked the Web sites of several state institutions—including the office of the president—in its "Operación Estado Fallido Honduras," launched to counter corruption, it stated in a communiqué in September 2012. The communiqué also expressed opposition to the ciudades modelos bill and warned about taking action.

Last month, the local daily El Heraldo reported that Anonymous had began a new cyberattack on Honduran government sites and had hit at least 28, as a protest against passage of the new bill. The newspaper said the "hacktivist" group explained, in a new statement, that the "aim is not to bring down the Web sites, the aim is to make our position known."

The protest "will continue until the government listens to the people’s voice. We don’t want our homeland to be sold," added the group. "We Hondurans give a cry of protest and help, we also call on the international community to intervene in this savagery attempted by the deputies. We Hondurans must defend tooth and nail our sovereignty and national identity."

"At the same time, we invite the entire Honduran nation to join in the many demonstrations throughout the country to defend our homeland, our Honduras, which 110 deputies along with the Juan Orlando Hernández, president of the Congreso Nacional, and Porfirio Lobo want to sell," Anonymous added. "We are against those people, who have betrayed the homeland, who are in power only to take the state’s resources."

-- End --