12-12-2013

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Nicaraguan Legislature Ready to Ratify President Daniel Ortega’s Constitutional Rewrite

by Benjamin Witte-Lebhar

Category/Department: Nicaragua
Published: 2013-12-12

At the behest of President Daniel Ortega, Nicaragua’s Sandinista-controlled legislature has given initial approval to a series of made-to-order constitutional reforms that together amount to an overhaul of the country’s political system.

Among other things, the changes clear the way for Ortega—who has already won the presidency three times (in 1984, 2006, and 2011)—to seek indefinite re-election. The Constitution currently bars presidents from immediate re-election and limits at two the total number of terms they can serve. Ortega, with help from his political allies in the Corte Suprema de Justicia (CSJ) and Consejo Suprema Electoral (CSE), strong-armed his way around those limits prior to the last election (NotiCen, March 24, 2011), which he won in a landslide (NotiCen, Nov. 17, 2011). Eliminating the term limits once and for all will make it even easier for the president should he choose to run again in 2016—and beyond.

The Ortega administration says the reforms will give Nicaragua a more "direct democracy" and institutionalize a model of government it now calls "evolving constitutionalism." Unveiled in late October, the proposals were "inspired by the values of Christianity, the ideals of socialism, and the practices of solidarity," the administration went on to say.

Critics say the reforms are anything but democratic. They see the move instead as an imposition; a clear power grab by an already potent president whose Frente Sandinista de Liberación Nacional (FSLN) enjoys a two-thirds majority in the Asamblea Nacional (AN), the country’s unicameral legislature, that has taken to rubber-stamping any and all legislation Ortega sends its way (NotiCen, Sept. 27, 2012).

On Dec. 10—less than six weeks after Ortega went public with his proposed reforms—FSLN lawmakers put their "super majority" to work, green-lighting the constitutional changes in the first of two AN voting sessions required to ratify the bill. The FSLN’s 63 deputies all voted in favor of the legislation, as did Dep. Wilfredo Navarro of the conservative Partido Liberal Constitucionalista (PLC). Twenty-three opposition deputies voted against the reforms. The AN is expected to carry out a second and final vote on the bill early next year. Ortega will then sign the changes into law.

**Dim prospects for dissidents**

Overall, the reforms affect approximately 20% of the Nicaraguan Constitution, which was implemented in 1987 (during Ortega’s first official stint as president) but underwent major reforms in 1995 during the administration of President Violeta Chamorro (1990-1997).

Besides allowing for indefinite re-election, the partial rewrite also gives the president new powers to govern by decree, something Ortega has already done, for example, by allowing key government
officials—such as CSE head Roberto Rivas, an FSLN stalwart—to keep their posts well after their constitutionally mandated term limits expired.

Under current law, active military officials are barred from occupying civilian government posts. That will no longer be the case once the reforms go into effect. The pending legislation will also benefit the FSLN's Consejos de Familia, partisan neighborhood associations that will be given an expanded and more formal role—in schools, communities, and private homes—promoting "family values" and teaching people about health issues and preventable diseases.

A boon for the ruling FSLN, the reforms promise to complicate matters for political dissidents. Lawmakers who choose to leave (or are booted from) their respective political parties will automatically lose their seats in the legislature. The bill does not bode well for presidential runners-up, either. Under the new rules, second-place finishers will no longer have the option—in cases where the first-place finisher fails to net at least 35% of the vote—of competing in a head-to-head runoff. Elections will instead be determined in just a single round, regardless of how low the winner’s total vote percentage may be.

Less controversial—at least in Nicaragua—are references in the revamped Constitution to a pair of favorable International Court of Justice (ICJ) rulings. The first ruling, issued by the Netherlands-based ICJ in 2007, pertains to Nicaragua’s maritime boundary with Honduras. The second concerns an ongoing sea-border dispute with Colombia. In late 2012, after more than a decade of deliberations, the World Court, as the ICJ is also known, extended Nicaragua’s reach into the Caribbean by at least 75,000 sq km (NotiCen, Dec. 13, 2012). Colombia has so far refused to recognize the tribunal’s supposedly binding authority in the matter (NotiCen, Sept. 12, 2013, and NotiCen, Oct. 10, 2013).

A push for "absolute power"
The Army and Policía Nacional (PN) both came out in support of the reforms, as did the Fiscalía General and CSE. Nicaragua’s various opposition parties, on the other hand, were quick to criticize. The 24-seat Bancada Alianza Partido Liberal Independiente (BAPLI), as Ortega’s opponents in the lopsided AN are now calling themselves, promised to vote against the bill, calling it "authoritarian" and "regressive." The proposals represent "a frontal attack on our representative democracy, on the values and principles of our democratic institutions, and on the rule of law," said opposition Dep. Luis Callejas. "According to these reforms, if you are not a Christian, socialist, and in solidarity, you will be outlawed."

The government initiative has also drawn complaints from leaders in the Catholic Church and from various civil society organizations. In a statement issued on Nov. 22, the Conferencia Episcopal de Nicaragua (CEN) accused Ortega of seeking "absolute power" and warned that the constitutional changes "will offer no benefits to the nation." A week later, the group Movimiento por Nicaragua organized a march on the AN building in Managua. Several hundred people turned out for the Nov. 28 demonstration. "Gathered here are citizens who represent the people of Nicaragua and who don’t want Daniel Ortega to have perpetual power," Movimiento spokesperson Carlos Tünnermann told reporters.

Sandinista lawmakers dismissed the protest, describing it as a "partisan" gathering, and ridiculed organizers for the low turnout. "How many people were marching out there, 250?" said FSLN Deputy René Núñez.
The Sandinistas have reason to be smug. As the Dec. 10 vote made clear, neither the protestors outside the legislature nor the toothless opposition deputies inside have any real hope of blocking reforms.

Ortega says the changes will offer Nicaragua and its people a brighter future. "They’ll give us more tranquility, more security, more peace, more happiness, and more hope," he said during a late November appearance at a Policía Nacional graduation ceremony.

Critics fear the opposite will happen, that Ortega’s power push could eventually lead the once war-torn country back down the road to violence. "If these constitutional reforms pass as is, and democratic spaces in Nicaragua are closed, Ortega’s eventual removal from office will not be as peaceful as his entry," legal analyst Gabriel Álvarez told the online news site The Nicaragua Dispatch.

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