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Nicaragua’s Extreme Constitutional Makeover Takes Effect
by Benjamin Witte-Lebhar
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Nicaraguan President Daniel Ortega put the finishing touches this month on a thunderous political power play that could extend his already lengthy stay in office until 2021—and beyond.

Late last year, the Ortega administration presented a set of tailor-made constitutional reforms that, among other things, called for an end to presidential term limits (NotiCen, Dec. 12, 2013). At the time, Nicaraguan presidents were limited to two nonconsecutive terms, a rule Ortega ignored when he participated in—and then won—the 2011 election. Three weeks ago, the Asamblea Nacional (AN), Nicaragua’s unicameral legislature, gave the sweeping amendments final approval. And on Feb. 11—when they were published in La Gaceta, the official government newspaper—the measures went into effect.

Ortega is now free to seek re-election as many times as we wants. A win in 2016, should he run again, would give the wily Frente Sandinista de Liberación Nacional (FSLN) leader his third consecutive presidential term and fourth overall. He first served as president from 1985-1990. After several failed re-election bids, the perennial Sandinista candidate returned to power in 2007 (NotiCen, Jan. 11, 2007). Ortega also headed the FSLN’s post-revolution Junta de Gobierno de Reconstrucción Nacional (1979-1985).

The Ortega administration and its allies in the FSLN say the reforms offer Nicaragua more stability. They "deepen Nicaragua’s democracy," FSLN Deputy Edwin Castro said on Jan. 28, the day the AN delivered its second and decisive vote on the matter.

Opposition leaders insist the opposite is true, that the partial constitutional rewrite is an illegitimate power grab by a leader whose regime is coming more and more to resemble the Somoza family dictatorship (1936-1979) he helped overthrow more than three decades ago. "History has shown that, when constitutional reforms are passed for the purpose of keeping a leader in power, the results are violence, fratricidal confrontation, and armed conflict," said Deputy Eduardo Montealegre of the opposition Partido Liberal Independiente (PLI).

The reforms have also drawn complaints from civil-society groups and from members of the Catholic Church. Last November, shortly after the changes were first presented, a group of Nicaraguan bishops sent the AN a letter in which they described the government plan as "oriented toward the establishment and perpetuation in the long term of absolute power."

Extending control
And yet, for all their concern, opponents of the constitutional makeover were unable to stop it. Since squeezing back into the presidency with a narrow win in the 2006 election (he garnered just 38% of the vote), Ortega has climbed rung by rung to a new pinnacle of power. His political fortunes took a particularly positive turn in 2011, when he not only won his re-election bid, but won big, attracting literally twice as many votes (62% versus 31%) as his closest rival, Fabio Gadea of the PLI (NotiCen, Nov. 17, 2011).
The election also gave him a long-elusive "supermajority" in the AN, which has since taken to rubber stamping any and all government-sponsored legislation sent its way. Ortega’s constitutional-reform bill proved to be a case in point. The AN gave the measures an initial nod of consent in December, less than six weeks after the government first went public with the plan. The AN’s 63 FSLN deputies voted for the amendments, as did Deputy Wilfredo Navarro of the conservative Partido Liberal Constitucionalista (PLC). Twenty-three opposition deputies voted against the reforms. Six weeks after that, on Jan. 28, the AN issued its second and final vote on the matter—with similar results.

As powerful as Ortega was before the constitutional changes took effect, he is even more untouchable now. Besides allowing for indefinite re-election, the partial constitutional rewrite facilities Ortega’s ability to issue binding decrees and allows him to change tax policy without legislative approval. Another new clause lets him appoint military personnel to executive-branch posts that previously only civilians had been allowed to hold.

The changes also include a warning to political dissidents: legislators who break with or are expelled from their political parties will lose their AN seats. Another change involves the minimum vote percentage presidential candidates need to win an election outright. The cutoff had been 35%. If a candidate won an election but failed the reach the 35% vote mark, the contest would go to a second round. Under the new law, there is no minimum vote percentage, meaning presidential runoffs are now a thing of the past.

Full steam ahead?

One of the more curious aspects of the updated Constitution is an item pertaining to the Gran Canal de Nicaragua, a grandiose government-backed plan to carve an ocean-to-ocean shipping lane through the country. Ortega’s decision to codify the canal project is the latest in a series of moves to consolidate the plan’s legal standing.

The president first submitted his canal scheme for legislative approval in mid-2012. The FSLN-controlled AN approved the bill—known as the Ley del Gran Canal de Nicaragua—within just a few weeks, giving the Ortega administration permission to appoint a board of directors for the project (NotiCen, Sept. 27, 2012).

A year later, Ortega asked the pliant legislature to again vote on the issue, this time to approve a deal he cooked up with the mysterious Chinese firm HKND Group. The company, headed by telecom tycoon Wang Jing, is based in Hong Kong but registered in the Cayman Islands. It has no major infrastructure-construction experience (NotiCen, Aug. 15, 2013). The agreement gives HKND Group a 50-year concession (with the option to renew for an additional half-century) to build and operate the canal, which could take upward of a decade to complete.

The project’s government backers say it will create thousands of jobs and send Nicaragua’s economic growth rate soaring. Skeptics, however, question whether the scheme is either financially or technically feasible. The canal’s price tag—currently estimated at US$40 billion—is four times Nicaragua’s GDP. Geography is a problem as well. A coast-to-coast channel through Nicaragua would have to be at least three times as long as the Panama Canal.

Ortega and his Chinese partner insist, however, that the project is moving full steam ahead. "On the Celebration of the New Year, all the good news about this important Project, contribute, we are sure,
in strengthening The Optimism, the Trust and The Hope of the Nicaraguan People, in its’ Country and in its’ Future, " the pair explained in a statement issued (in English) on Jan. 10.

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