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World Court Agrees to Revisit Nicaragua-Colombia Maritime Border Row

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The United Nations’ International Court of Justice (ICJ) is again wading into a long-standing maritime boundary dispute between Nicaragua and Colombia, two countries that are no closer to resolving their differences now than they were the last time the Netherlands-based tribunal issued a judgment on the matter three-and-a-half years ago.

That ruling, handed down in November 2012 after more than a decade of deliberations, was supposed to have settled the matter once and for all. In it, the ICJ, or World Court, as it is commonly known, confirmed Colombian sovereignty over the Archipelago of San Andrés, Providencia and Santa Catalina—even though the Caribbean islands are closer to Nicaragua than to Colombia—but granted Nicaragua control over much of the surrounding sea (NotiCen, Dec. 13, 2012). In total, Nicaragua gained at least 75,000 sq km of resource-rich water.

Colombia refused to accept the binding ruling, prompting the government of Nicaraguan President Daniel Ortega, in late 2013, to present the ICJ with additional claims. One of the newer cases accuses Colombia of continuing to exercise jurisdiction over the disputed waters. The other is a request that Nicaragua’s Caribbean maritime border be extended further still—beyond the current offshore limit of 200 nautical miles.

Colombian lawyers argued that the ICJ lacks jurisdiction to settle the claims. But on March 17, the World Court dismissed the bulk of those challenges, agreeing to proceed with the cases. “The Court found that it has jurisdiction, on the basis of Article XXXI of the Pact of Bogotá, to adjudicate upon the dispute between the Republic of Nicaragua and the Republic of Colombia concerning alleged violations by Colombia of the rights of Nicaragua in the maritime areas which the latter claims were recognized as being under its jurisdiction,” reads an ICJ press release issued March 21.

The decision marked a clear victory for Nicaragua, which needs all the help it can get in the standoff with its larger and far wealthier rival nation. “The message is clear: Rulings by the World Court need to be respected. Period,” Carlos Argüello, Nicaragua’s top legal representative before the ICJ, told reporters. Rosario Murillo, first lady of Nicaragua and an official government spokesperson, applauded the decision as well, thanking “God and Mother Mary” for the victory and for “the blessings and protection given our country.”

And yet for all the Ortega administration’s enthusiasm, it is unclear how much the latest World Court decision really helps the Nicaraguan cause, which continues to be hampered by complete intransigence on the part of authorities in Bogotá. Even with ICJ backing, the tiny Central American nation has no obvious way of properly asserting its maritime claims against an unwilling South American power that boasts a far more extensive military, eight times as many people, and a Gross Domestic Product (GDP)—US$337 billion, according to the International Monetary Fund—that exceeds Nicaragua’s output by a factor of 34.
‘Our Caribbean Sea’

Colombian President Juan Manuel Santos responded to the earlier ICJ verdict, in November 2012, by withdrawing the country from the Pact of Bogotá, a 1948 Organization of American States (OAS) treaty by which most countries in the region agreed to recognize ICJ jurisdiction in international disputes. This time around, he again chose to disregard the World Court, accusing it of “contradictions” and declaring that Colombia would not participate in further proceedings regarding its boundary dispute with Nicaragua.

“The bilateral agreements between Nicaragua and Colombia won’t be subjected to a third party decision and should be resolved through direct mediation between both parties,” he said. He also promised to “preserve our territory down to the last centimeter,” and called on Colombians of all political stripes to form “a firm and impenetrable common front to protect (...) our Caribbean Sea.”

This is not the first time Santos, a one-time naval cadet who served as Colombia’s defense minister before winning the presidency in 2010, has used this kind of tough talk to dismiss Nicaragua’s ICJ-backed maritime claims (NotiCen, Oct. 10, 2013). “We believe [Nicaragua’s] new case is unfair, unfounded, unfriendly, reckless, and has no chance whatsoever of succeeding,” he said in September 2013 while participating in Caribbean patrolling exercises aboard a Colombian warship.

The standoff has also created a rare unified front in Nicaragua, providing common cause for the Ortega administration and its weak but vocal political opposition. Deputy Eduardo Montealegre, a former foreign affairs minister and presidential candidate who leads the center-left Partido Liberal Independiente (PLI), said of the ICJ’s latest ruling that Nicaragua should stand its ground and not accept demands by Colombia that the dispute be settled bilaterally. He said the Ortega government should continue to demand Colombian compliance with the World Court and lobby the UN for international support.

The Ortega administration seems inclined to agree. In a press release sent out March 17, the “Government of Reconciliation and National Unity,” as it calls itself, stressed its “strong commitment to the international rule of law” and to the World Court system in particular. “In its actions before international justice, Nicaragua has been characterized by its unwavering compliance with each and every one of the judgments of which Nicaragua has been part,” the document reads. “For this reason, Nicaragua has always expected reciprocity from other states parties in a dispute.”

Mixed record

For evidence of its “unwavering compliance,” authorities in Managua point to an ICJ ruling handed down just three months ago regarding a testy territorial dispute with Costa Rica. At issue is a 3-sq-km island——called Harbour Head in Nicaragua, and Isla Portillos in Costa Rica—at the mouth of the San Juan River (NotiCen, Oct. 17, 2013). The World Court sided in this case with Costa Rica, determining that Costa Rica “has sovereignty over the disputed territory” and faulting Nicaragua for “violating” the territory by carrying out dredging operations and by “establishing a military presence” there. Nicaragua lamented the decision, but promised, in the words of Deputy Foreign Minister César Vega, to “abide by the verdict.”

Not all of Nicaragua’s recent dealings with the UN, however, have involved that same level of cooperation. Less than two weeks before the San Juan ruling came down, Nicaragua made international headlines when it announced, during the UN’s high-profile COP 21 climate talks in
Paris, that it would not submit a national plan for cutting greenhouse gas emissions (NotiSur, Jan. 7, 2016). Nicaragua was one of just a handful of participating countries not to offer Intended Nationally Determined Contributions (INDCs), as the national plans are called, and the only one to publicly protest the UN’s approach, based on voluntary reductions, to climate change reduction.

Nicaraguan representative Paul Oquist called the strategy “a path to failure” and said Nicaragua doesn’t “want to be an accomplice to taking the world to 3 to 4 degrees [Celsius] and the death and destruction that represents.” While some observers praised Oquist’s candor, others blasted Nicaragua’s position as being obstructionist and misplaced. “This is the wrong COP to seek attention without putting solutions on the table,” Monica Araya, a Costa Rican participant at the talks, told the Financial Times. “Paris cannot be kidnapped by a few countries playing ideological games.”

The Ortega administration also finds itself sharply at odds with the United Nations Development Program (UNDP), which coordinates all UN activity in Nicaragua. On Feb. 12, the Foreign Affairs Ministry issued a letter directly accusing the UNDP of “political interference” and of misrepresenting the country’s development numbers. The note charged the UN agency with “financing political groups” and insisted it has “a hidden agenda.”

The surprising accusations came four months after the UN’s top representative in Nicaragua, Silvia Rucks, abruptly left the country. At that time, the independent news magazine Confidencial reported that all of the UNDP’s various projects in Nicaragua—with a total estimated budget of some US$20 million—had been suspended. A government source told Confidencial that the Ortega administration no longer wanted “third parties” to manage outside funding. “It’s irrational (…) given that the government has the mechanisms in place to do as good a job, if not better, [than the UNDP],” the source said.

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