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Honduras Supreme Court Clears Way for Presidential Re-Election Bids

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Seven years ago, a bloody military-civilian coup d’état brought down former Honduran President Manuel “Mel” Zelaya (2006-2009) (NotiCen, May 18, 2006, July 16, 2009, July 23, 2009). The reason: Zelaya had proposed a constitutional assembly to bring about reforms, including the removal of a ban on presidential re-election. This summer, after months of consultations, the Corte Suprema de Justicia (Supreme Court of Justice, CSJ) ratified the right of former presidents to seek a second term.

The coup
At dawn on June 28, 2009, heavily armed soldiers stormed Zelaya’s home, whisked Zelaya off in nightwear to a military airplane, and after a stopover at an air base run by the US, dropped him off at Costa Rica’s main police air base. Zelaya had been seven months away from completing his four-year term in 2010.

The day chosen for the coup was significant: The popular consultation promoted by Zelaya was to be held that day. Hondurans would be asked whether they would support the election of a constitutional assembly to reform the country’s Constitution and, among other changes, allow presidential re-election, which was at the time considered one of the “artículos pétreos” (“articles set in stone” and impossible to modify) (NotiCen, March 26, 2009).

Opponents quickly raised legal arguments to counter the initiative, which they saw as a move by Zelaya, a populist leader, to remain in power. One of the first to discredit the proposal was Roberto Micheletti, a member of Zelaya’s own Partido Liberal (Liberal Party, PL) and the president of the country’s single-chamber parliament. Micheletti was to play a key role in the coup since the coup leaders, the golpistas, appointed him to complete Zelaya’s presidential term (NotiCen, Sept. 10, 2009). He was eventually replaced by Porfirio “Pepe” Lobo (2010-2014), of the Partido Nacional (National Party, PN), the PL’s historic rival, after elections were held in 2010.

The day after Zelaya announced the proposed referendum, and quoting the Constitution, Micheletti had told a local television station, “Article 374 says that plebiscite and referendum can’t be used to reform the artículos pétreos… that refer to the form of government, national territory, the presidential term, the ban to be president again… It’s clear that this is punished by law. I’m completely sure that the Justice Department (Fiscalía General de la República, FGR) must already be monitoring everything that’s being said publicly and privately, because even that, to announce it privately, is a crime."

Former President Ricardo Maduro (2002-2006), a PN member, warned that Zelaya’s initiative was “aimed at continuing in power,” and called for the justice system to intervene in defense of the Constitution.

Almost simultaneously, the FGR issued a press release stating that Zelaya or any other official then taking part in organizing the consultation were “exposed to being subjected to the respective..."
criminal investigation... Neither the Constitution of the republic, nor the laws on elections and political organizations, grant the president the ability to carry out a popular consultation to modify the country’s Constitution.” The FGR added that the only institution authorized by law to promote a consultation to change the Constitution was the Tribunal Supremo Electoral (Supreme Electoral Tribunal, TSE).

But Zelaya immediately warned that the FGR had no ability to investigate political activities, and insisted that “the popular consultation is on, and no one stops it.”

Four days before the coup, Congress, headed by Micheletti, tried to stop Zelaya’s initiative, passing a law that banned any popular consultation scheduled for 180 days before or 180 days after general elections. Passage came 157 days before the elections scheduled for 2010.

Change of opinion

But last year, the CSJ, which backed the coup along with Congress, decided to rule in favor of two appeals against the article banning re-election. The appeals were submitted by congressmen close to current President Juan Orlando Hernández and to former President Rafael Leonardo Callejas (1990-1994), a PN leader who then acknowledged he would again run for the country’s top job should the Constitution be amended.

Callejas’ new presidential ambitions were suddenly foiled by reports of his involvement—as head of the Federación Nacional Autónoma de Fútbol de Honduras (Soccer Federation of Honduras, FENAFUTH), from 2002 to 2015—in the corruption scandal that embroiled FIFA (the International Federation of Association Football), and led to his turning himself in to authorities to stand trial in the US (NotiCen, Jan. 28, 2016).

On April 23, 2015, the five magistrates making up the CSJ’s Sala Constitucional (Constitutional Chamber) backed the appeals and revoked the re-election ban. Almost a year later, the chamber rejected two petitions filed against its original ruling, and CSJ spokesperson Melvin Duarte told reporters that the chamber’s decision was also unanimous. Finally, in August, the 15 CSJ magistrates ratified its Constitutional Chamber’s ruling, green-lighting any re-election bid. In response to a congressional inquiry, they stated that the Constitutional Chamber, which “is the competent body to interpret the Constitution, has already made a decision.”

Zelaya says he would run

Although he has not said that he would seek a second term, opposition sectors have pointed out that Hernández wants to stay on. Zelaya, for his part, has vowed that if Hernández runs in next year’s general elections, he would do the same.

Zelaya recently told reporters he would run as a candidate of the Partido Libertad y Refundación (Liberty and Refoundation Party, LIBRE), which he founded after returning from exile, because he is “the only one who can defeat” Hernández.

After the coup, the center-right PL—a traditional party founded over a century ago and one of the civilian forces that backed Zelaya’s removal—was deeply divided, and in the elections held three years ago lost its rank as the leading opposition force to LIBRE, moving to second.

But the re-election of either politician is something thousands of opposition demonstrators marched against last month. Chanting slogans such as “No to re-election,” “JOH, out” (referring to
Hernández, who is known by his initials), “No to dictatorship, yes to democracy,” they marched on August 5 through Tegucigalpa, the nation’s capital, waving the red and white flags of the PL and the white flags of the Partido Anitcorrupción (Anti-Corruption Party, PAC).

Mauricio Villeda, the president of the PL’s central council, then said that liberals were opposed to both JOH’s and Zelaya’s re-election, and continued to insist that the Constitution forbids re-election.

The same day, Hernández told the local radio station HRN that he’d prefer to leave political talk for 2017, when the next elections are scheduled, and added that he would then do so as “just a citizen of this country.”

“I’m a member of my National Party, and I obviously have my hopes about what I believe Honduras should be in the future and how we’re going to contribute to it… that’s what parties are for,” he said. “If political leaders believe it’s their priority to express themselves as it’s usually done within a democratic framework, it’s their right… and while they do so, I have to do my job, which is to work for Honduras.”

Nevertheless, PN loyalists have held two demonstrations in Tegucigalpa to ask Hernández to run again.

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