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Ecuador Re-elects President Rafael Correa

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The results of the Feb. 17 Ecuadoran elections, more than just re-electing President Rafael Correa for a third four-year term and electing a legislature under his control, reveal the total fragmentation of leftist political forces and threaten advances in protecting rights achieved through the 2008 Asamblea Constituyente (NotiSur, Oct. 12, 2007, and Oct. 10, 2008).

Correa achieved an overwhelming victory, capturing 57.79% of the votes, while conservative Guillermo Lasso polled a distant second, with 22.26%. The other six presidential candidates together took only 19.88%. Among them was Alberto Acosta, representing the Unidad Plurinacional de las Izquierdas, who received just 3.22%. The results eliminated the need for a runoff, re-electing Correa in the first round.

Correa's Movimiento Alianza PAIS also won big in elections for the unicameral Asamblea Nacional (AN), which will be seated in May. The president's party won 96 of the 137 seats in the AN. At a very distant second were the 12 deputies in Lasso's Creando Oportunidades (CREO), with Unidad Plurinacional de las Izquierdas winning five seats. Counts in some electoral districts are still not final, and Movimiento Alianza PAIS could capture another three seats, bringing to 99 the number of seats the president will control.

National legislation requires that organic laws and constitutional amendments receive a two-thirds majority. In the next AN, Correa will need the support of 91 deputies if he wants to amend the 2008 Constitution, considered one of the most advanced in protecting rights but also an obstacle to some government policies. With 96 sure votes, and possibly 99, Correa can amend the Constitution, and he indicated he would do so in his nationally broadcast weekly radio and television talk on Feb. 23.

Protective action: an obstacle to implementing extractive policies?

The Acción de Protección (action to enforce constitutional rights), spelled out in Articles 86 and 88 of the Ecuadoran Constitution, guarantees all rights established in the same Constitution, including the rights of nature. Anyone, whether affected by the violation of a right or not, can file for protective action in any court in the country, either in writing or orally.

Given how easy it is to request such protection, indigenous and campesino communities, as well as environmental and human rights organizations, use it to defend their rights and the rights of nature. Such appeals have stalled projects to extract natural resources and build large infrastructure projects in indigenous territories where people were not afforded prior consultation or even informed of the projects.

The most recent Acción de Protección that the organizations submitted, on Jan. 15, was specifically to stop implementation of the first large-scale mining project, Cóndor Mirador, by Chinese firm EcuaCorriente (ECSA), which would affect the Amazonian ecosystem in Zamora province in southern Ecuador (NotiSur, Nov. 11, 2011, and Aug. 10, 2012). On Feb. 22, a court hearing was convened to address the petition, and the lack of legal arguments from the Ministerio de Ambiente
and the Ministerio de Recursos No Renovables was evident. They were unable to justify the absence of prior consultation or to explain the mechanisms to prevent violations of the rights of nature that would occur with this project.

Without legal arguments to justify the violations of constitutional rights, government authorities opted to question the scope of the Acción de Protección. The first challenge came from the president's legal advisor Alexis Mera, who suggested that the judges could avoid dealing with the petition if it referred to development projects. President Correa then called the action "ridiculous" and repeatedly suggested limiting its scope in protecting all rights.

After the electoral victory, Correa said that he would amend the Constitution. One of his intended reforms is to the Acción de Protección, and, although he has not specified what the reform would be, everything points to limiting the protection of rights not linked to the extractive development model.

Transgenics will have free rein
Article 401 of the Constitution says, "Exceptionally, only in the interest of the nation as duly substantiated by the president and adopted by the Asamblea Nacional, may genetically modified seeds and crops be introduced into the country."

"How I regret not taking this on and saying no to such a notion," said Correa referring to the rights established in the 2008 Constitution, especially this article, and he accused Alberto Acosta, then president of the Asamblea Constituyente, of misleading him.

Before the election, Correa had brought up the need to convene a national debate on transgenics. "It is ridiculous to be afraid of knowledge," said the president in suggesting the debate. However, after his victory, Correa said outright that it was necessary to eliminate the "constitutional padlock" banning transgenics and to thus support agriculture with these genetically modified seeds. "We will be able to lift our campesinos out of poverty," said Correa at a meeting with foreign journalists after the elections.

Correa's current position ignores even some warnings from the Colectivo Nacional por la Agroecología de Ecuador, responding to the president's call for a debate on transgenics. "Are transgenics a superior technology that will solve our problems? After more than 20 years of distributing and marketing these crops on a large scale, we must ask: Is there less hunger in the world? Have campesinos escaped from poverty? Have crop yields been increased by transgenics? All the answers are negative," said the collective in an open letter to President Correa on Sept. 26, 2012.

A steamroller to approve laws
The president's control of the AN will mean that laws can be passed that had been on hold because of popular opposition, such as the Ley de Aguas, which regulates the use of water sources and government control. Indigenous peoples opposed the law, and Shuar professor Bosco Williams even died during demonstrations against it in September 2009 (NotiSur, Oct. 23, 2009). Since then, it has languished in the AN because of a lack of consensus.

Another law that undoubtedly will be passed is the Ley de Comunicación, which was also not passed because it pitted government interests, which control public media, against the interests of organizations that promote creating community communications media and those that defend

The AN has also been unable to make any headway on centralizing the management of public services and eliminating some competencies of local governments, such as health and environmental control. Correa expressed the need to centralize these competencies in the executive.

While Correa has said that he will push for the laws necessary for development and will make specific amendments to the Constitution, the power that he has amassed in the recent elections means that legislation will be adopted exclusively under his scrutiny and in pursuit of his own vision of development, ignoring alternatives that have equal legitimacy.

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