Maritime dispute: Colombia and Nicaragua

Participants: Alejandra García Lindarte and Ronja Kern

In our project we would like to address the way in which national borders are delimited and control of territorial waters is strengthened. Our main objective is to expose the national and regional implications of this problem, how Colombia assumed the defense of its island territory and the way those maritime borders were threatened by real and “invisible” factors.

According to international law, a rock that permanently protrudes above sea level is considered an island. After an exhaustive search, scientists from the Colombian National Navy found that there are 34 individual maritime formations in Quitasueño that qualify as islands, since they remain above the high tide level; and thanks to this discovery in Colombian waters, Nicaragua's expansionist desires could be stopped.

Summary:

Nicaragua filed a lawsuit against Colombia in 2013, seeking to extend its continental shelf beyond the usual 320 kilometers limit. The International Court of Justice rejected Nicaragua's claim, stating that a continental shelf overlapping another state cannot be extended. The court reasoned that extending Nicaragua's claim would compromise the sovereignty of San Andrés and Providencia, an archipelago under Colombian sovereignty. Despite being closer to Nicaragua, the court had confirmed Colombia's sovereignty over the archipelago in 2012. The resolution was welcomed by Colombian President and Nicaragua respected the decision, acknowledging its sovereignty within the 320 kilometers limit. The resolution marked the end of Nicaragua's claims against Colombia in international courts for the disputed region.

What was Nicaragua seeking in this legal dispute?

To grasp the context of this court ruling, one should revisit Nicaragua's previous claims. Initially, Nicaragua aimed to strip Colombia of control over the archipelago. Once the land issue was settled, Nicaragua sought control over the associated waters.

In 2012, the court partially ruled in favor of Nicaragua regarding the islands' sovereignty. While it did not grant land rights to Nicaragua, which had been under Colombian control since 1803, it expanded maritime boundaries, reducing Colombia's sovereignty over 75,000 square kilometers of sea. Colombia rejected this ruling and eventually withdrew from the Pact of Bogotá, an agreement signed in 1948 for resolving territorial disputes through peaceful means.

During the year following Colombia's exit from the pact, Nicaragua pursued two lawsuits against Colombia. One alleged violations of maritime spaces, and the other aimed to expand its territorial platform. In April 2022, the resolution of the first lawsuit called on Colombia to "immediately cease" patrol operations in the Nicaraguan area and exert control overfishing and maritime activities in those waters.

Now, the announcement of the resolution of the second lawsuit has favored Colombia, maintaining the status quo in the Caribbean region and indicating that there will be no modifications to the current state of affairs.

Why do the islands belong to Colombia?

Back in 1492, when the Spanish took control of the Caribbean after discovering America, the islands were given to the Captaincy of Guatemala and later to the Viceroyalty of New Granada, which is now part of Colombia. A Royal Order in 1803 formalized this, granting control to Bogotá for better defense against pirates.

However, a resolution in 1806 returned the Mosquito Coast (but not the islands) to the Captaincy of Guatemala. Over time, each country interpreted these orders based on its interests.

In 1825, after gaining autonomy, both nations signed a treaty defining current boundaries. Until 1928, there were no significant changes. The Esguerra-Bárcenas treaty in 1928 acknowledged Nicaragua's sovereignty over the Mosquito Coast and Colombia's over the Saint Andrew archipelago.

Nicaragua claims it signed the treaty under U.S. control. In 1980, after the Sandinista revolution overthrew Somoza's regime, Nicaragua sued Colombia for the archipelago's sovereignty. The international courts have now settled the matter: the islands belong to Colombia, and both countries must share the surrounding waters.

What about communities?

The people living there, especially the Raizal inhabitants, believe that both countries owe them a historical debt. They feel that their economic, cultural, and political interests have not been respected.

The Raizal people speak Creole, but their language is not taught in schools. Traditional fishermen face challenges from industrial fishing. The tourist development on San Andrés, currently facing a crisis, has displaced many of their traditional cultural practices. Basic services are concentrated in hotels, and the island's sustainability is at risk due to overpopulation.

Moreover, the Raizals argue that the international dispute disrupted the cultural and commercial exchanges they've had for centuries. They claim that their lands were colonized without regard for their cultural and economic connections with Managua and Bogotá.

While the legal dispute is settled, there remains a historical debt towards the Raizal peoples, and addressing their social conditions is an ongoing challenge.