

“Will President Ortega live up to his democratic discourse, or will the state become a hybrid regime, combining procedural elements of democracy with deep wells of authoritarianism?”

## Nicaragua's Turning Point

SHELLEY A. MCCONNELL

On November 5, 2006, Nicaragua held free and fair elections for president and vice president, legislative deputies, and representatives to the Central American Parliament. Sixteen years after his loss to Violeta Chamorro, and despite opposition from the United States, former revolutionary leader Daniel Ortega regained the presidency. Inevitably, his past fueled speculation about whether Ortega would follow the lead of Venezuela's populist president Hugo Chávez and defy the United States, and whether he might institute radical economic measures at home such as nationalization of properties.

In reality, President Ortega will be operating under severe constraints and with a pragmatism born of experience, and his policies likely will reflect current conditions more than revolutionary nostalgia. Although foreign policy is certainly at issue with Ortega, a more pertinent question is whether he can succeed in governing with a minority of seats in the legislature, and do so in a fashion that consolidates democracy rather than loosely wedding elections to a semi-authoritarian state.

### WHY ORTEGA WON

Three things made Ortega's victory possible. First, in 2000 Nicaragua's electoral law was changed to allow a candidate to win the presidency with as little as 35 percent of the vote if he had at least a 5 percent lead over his nearest competitor. This rule was tailor-made to suit Ortega. His party, the Sandinista National Liberation Front (FSLN) is composed of loyal adherents who could be counted on to deliver at least a quarter of the vote, and Ortega had wide name recognition among the remainder of the populace. However, he also suffered high negative associations in the polls, and a

consensus held that he could never win a majority. Facing a high electoral floor and a low ceiling, Ortega pushed for the 35 percent rule as a winnable figure. In 2006, the strategy paid off: he captured the presidency with 38 percent of the vote and a 9 percent lead over his nearest competitor.

A second factor propelling Ortega to victory was a division in the Liberal vote between the Constitutional Liberal Party (PLC), dominated by the former president Arnoldo Alemán, and a new Nicaraguan Liberal Alliance (ALN), which cohered in support of Eduardo Montealegre. Either party might have won had it been the sole Liberal option. Instead, a party caucus awarded the former vice president José Rizo the top spot on the PLC ticket. Rizo enjoyed the support of some party donors, but his campaign was beleaguered by voter concerns that he would be a puppet stand-in for Alemán, whose conviction on corruption charges rendered him ineligible for reelection. Montealegre then became the standard-bearer for the ALN, and the two Liberal contenders campaigned bitterly against one another rather than the FSLN. Pre-election polls did not identify a clear leader, making it hard for Liberal supporters to cast a vote strategically to block Ortega. In the end, the two men split the Liberal vote evenly, with Rizo mustering 27 percent to Montealegre's 28 percent.

The third reason Ortega won is that he proved an adept opposition leader who outlasted everyone's expectations. The United States had hoped that Chamorro's upset victory in 1990 would spell the end of Ortega's leadership along with the revolution. Instead, the FSLN emerged from those elections as the largest single party in the legislature and practiced party discipline rather than dividing its vote. Despite a major split in 1995, the party has consistently won about 40 percent of the votes in elections. After electoral defeats in 1996 and 2001, critics swore Ortega would lose control of his party to more viable candidates. Instead, he succeeded in

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SHELLEY A. MCCONNELL is senior associate director of the Americas Program at the Carter Center in Atlanta. The views expressed here are not necessarily those of the Center.

purging opposition within the FSLN and maintaining the loyalty of its base constituency.

The surprise in 2006 was not so much that Ortega won—the polls had predicted it—but that his victory was accepted with nary a murmur. Facing palpable US hostility to his candidacy, Ortega had done important groundwork to dispel fears that an FSLN victory would mean a return to war. His wife, Rosario Murillo, designed a quiet campaign that contrasted sharply with the FSLN's past showy efforts. Gone were the massive rallies; in their place were local reconciliation meetings between Ortega and former counterrevolutionaries, as well as with groups that had left the party but now renewed their support. Ortega swore he had learned his lessons and would maintain a market economy and peace while providing universal health care and ending unemployment.

Nicaraguans adopted a wait-and-see attitude once the election process was certified by international observers from the Organization of American States (OAS), the European Union, and the Carter Center. The capital flight, feared by some, did not materialize, perhaps because Nicaragua's business leaders were aware that Sandinista capitalists had as much to lose as they did should radical policies prevail. Ortega gave consistent, moderate messages to the press, and met with leading financiers and businessmen to reassure them. During the transitional months after his election he courted the support of key cabinet ministers from the incumbent Enrique Bolaños administration to signal continuity in economic policy. These gestures bought Ortega running room, and he took office without a collapse in investor confidence.

## INTERNATIONAL MEDDLING

The United States faced a dilemma with respect to the 2006 elections. It wanted to prevent Ortega from regaining control of the presidency. At the same time, it worried that a presidential win for Rizo might prove a pyrrhic victory if convicted former President Alemán controlled the PLC and in turn Ortega continued to exercise leverage over Alemán, who needs FSLN help to obtain a pardon for his crimes. Washington had approved of the prosecution of Alemán, whose corruption was at odds with US policies favoring accountability. Thus, the United States tried to re-forge Liberal sympathies around the ALN and its candidate, Montealegre.

Although careful not to endorse Montealegre by name, US Ambassador Paul Trivelli preached against voting for the parties of the past, under-

stood to mean the PLC and FSLN. A stream of political figures traveled to Nicaragua in the year and a half leading up to the election to reinforce that message, including former US Ambassador Oliver Garza, former Contra war advocate and UN Ambassador Jeane Kirkpatrick, and trade czar Robert Zoellick. The United States also supported the International Republican Institute's doomed efforts to press the PLC into holding a primary, certain that Montealegre would win the PLC nomination in a fair internal election.

As the election drew near, former cold warriors speculated in public on the calamity that would ensue should Ortega win the presidency. On October 6, the American at the heart of the Iran-Contra scandal, Oliver North, urged US officials to stop shunning Rizo and support the PLC. Within days, Roger Noriega, the former Assistant Secretary of State for Western Hemisphere Affairs, shot back that Montealegre was the only candidate favorably disposed to the United States. Florida Governor Jeb Bush then issued an open letter denying he supported the PLC and calling on Nicaraguans in Florida to ask their family members to "vote for a better future." Otto Reich, another former state department official, published an article in *La Prensa*, Nicaragua's largest daily newspaper, declaring that "Nicaraguans have to choose between a future of economic opening and social progress or a return to a past of poverty and international isolation."

Two weeks before Nicaraguans went to the polls, US Representative Dan Burton, chairman of the Subcommittee on the Western Hemisphere, warned that an Ortega victory would ruin Nicaragua's relations with the United States and jeopardize US foreign aid. He also said it could cause remittances to be deposited in local currency instead of dollars, creating large losses for families dependent on those hard dollars. Days later Representative Dana Rohrabacher, chairman of the House International Relations Subcommittee on Oversight and Investigation, sent a letter to the secretary of Homeland Security, Michael Chertoff, urging him to block any further remittances from being sent to Nicaragua in the event of an FSLN victory lest the funds be used for terrorism. That position was subsequently advocated in a series of letters by congressmen to Chertoff, Secretary of State Condoleezza Rice, and Nicaraguan Ambassador to the United States Salvador Stadthagen that bore all the marks of an orchestrated campaign.

What made this election different, however, was not US intervention, which had occurred regularly in the past. Rather, it was the meddling by the region's resurgent left. When Ortega visited Caracas in April 2006, Chávez said on his radio show that he wanted Ortega to win. More than 100 Nicaraguans were flown to Venezuela for free eye surgery, accompanied by the Sandinista mayor of Managua, Dionisio Marengo, and Venezuela promised to provide oil to Sandinista mayors on easy repayment terms. A small shipment of fuel was sent during the campaign as a demonstration of benefits to come. Venezuela also sent fertilizer to Nicaragua that was reportedly distributed only in the rural municipalities where the FSLN had won the 2004 mayoral elections.

The effects of such international intervention were hard to gauge. Chávez's direct endorsement of a candidate in Peru had backfired, damaging his chances. US opposition to Chávez and Bolivia's Evo Morales had similarly backfired, increasing their popularity. However, in Venezuela and Bolivia a minority of citizens are pro-American, whereas, according to one poll, 68 percent of Nicaraguans have a "good" or "very good" opinion of the United States—suggesting that Washington's support might have benefited Montealegre. In any case, the Carter Center and the OAS election observation missions publicly criticized foreign intervention in the election.

Following the election, the United States reluctantly recognized Ortega's victory and Condoleezza Rice assured former President Jimmy Carter that Ortega would be judged by his future actions rather than his past presidency. In the transitional months, both sides put out feelers to establish a connection, and Assistant Secretary of State for Western Hemisphere Affairs Thomas Shannon met with Ortega. However, even if cooperation is established in practical areas of mutual concern, such as counter-narcotics and hunger-alleviation efforts, relations may sour quickly if Ortega engages in the anti-American carping and symbolic slights favored by Chávez. Ortega is keenly aware that the success of his presidency could rely in part on Venezuela's generosity in trading oil for food on advantageous terms. Nonetheless, the United States remains the primary source of Nicaragua's imports and destination of

its exports, and Ortega can ill afford to jeopardize that relationship.

## THE DEVELOPMENT CHALLENGE

Like other Latin American leaders, President Ortega will need to craft policies that address underdevelopment, and do so within a democratic framework that respects human rights, civil rights, and property rights. Largely poor, the FSLN's supporters will be looking to him for rapid relief from their economic marginalization. It is a tall order, and his political honeymoon will be short.

Nicaragua is the second-poorest country in the Western Hemisphere. According to data cited in a forthcoming UN report, Nicaragua's annual gross domestic product is just \$850 per capita, compared to a regional average for Latin America of \$2,732. Income distribution is grossly uneven. The richest 10 percent of the population receives 45 percent of the nation's income, and the poorest 10 percent just 1 percent of the income. Inflation rates have stayed out of double digits, helping to preserve purchasing power, but life for the poor is grueling just the same. In 2000 the

UN Development Program estimated that 29 percent of the population was undernourished, and only 65 percent of births were attended by a skilled physician. Only 78 percent of Nicaraguans are literate, and 64 percent never finish primary education, while less than 20 percent graduate from high school. In 2005, 46 percent of the population still lived in poverty, and 15 percent in extreme poverty, and these data are markedly worse in the central region and Atlantic Coast.

Although the growth rate averaged 3 percent from 2001 to 2005, it is tough to make a dent in such systemic poverty via a trickle-down strategy, especially where formal sector wages average just \$240 per month. A 2005 Latinobarómetro public opinion survey showed that 52 percent of Nicaraguans believe unemployment is their most important problem, a higher figure than in any other Latin American country. Sixty-five percent of households reported at least one unemployed adult. Underemployment results in 46 percent of the working population making less than is needed to meet basic needs. Not surprisingly, 15 percent of Nicaraguan households report that at least one member has emigrated to Costa Rica, the United

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States, Canada, or Europe in search of work. According to the forthcoming UN “Common Country Report,” remittances are estimated to exceed \$800 million annually.

Nicaragua has reduced its external obligations through debt forgiveness programs, and the Bolaños government also did well in accumulating reserves, which in 2005 stood at 15 percent of GDP. While these are welcome macroeconomic improvements, the government’s annual budget is still just \$1.3 billion, and 20 percent of that goes to pay internal debt—much of it for properties nationalized under the revolution, as well as for the failure of several banks. The resources that the government can bring to bear against poverty are few. Social spending per capita remains, at just \$68 per year, the lowest in Latin America.

Foreign assistance will help. Following the election, the European Union pledged approximately \$264 million to aid education, governability, and development of the rural economy over the course of Ortega’s administration. The Inter-American Development Bank assured Ortega that \$100 million would be made available to Nicaragua in 2007. Nicaragua earlier became eligible for \$175 million in assistance from the US-based Millennium Challenge Corporation and approved the Central America-Dominican Republic Free Trade Agreement that will give it access to the US market and draw foreign investment. Nonetheless, investors are leery of the country’s systemic corruption. Nicaragua’s ranking by the corruption watchdog group Transparency International keeps it in company with former Soviet republics and with kleptocracies like Zimbabwe. Well before the election, the United States had stripped more than a dozen Nicaraguan political leaders of their visas on the grounds of corruption, including two Supreme Court magistrates and members of the Supreme Electoral Council (CSE).

Nicaragua’s poor want quick fulfillment of campaign promises, such as a pledge to reduce bus fares despite high gasoline prices. Such subsidies will be frowned on by the IMF, with which Nicaragua will seek to negotiate a new agreement this year. More palatable to the international financial institutions will be Ortega’s desire to empower small producers by making resources more readily available. In Managua, energy shortages have forced rationing of electricity; Ortega will come under pressure from the urban middle class to do something to get the Spanish multinational Unión Fenosa to distribute more energy.

Despite persistent poverty, Nicaraguans do not seek to return to the socialist experiment of the 1980s. Indeed, among Latin American countries Nicaragua ranks third for its support of a market economy. According to a Latinobarómetro survey, fully 69 percent of Nicaraguans “strongly agree” or “agree” with the statement that “only with a market economy can Nicaragua become a developed country.” Nor does poverty necessarily delegitimize democracy. Whereas citizens of the Southern Cone think democracy means an “economic system that ensures a dignified income,” only 22 percent of Nicaraguans agree. Nicaraguans place more emphasis on elections and civil liberties as the most significant features of democracy. These are the values the new president will be working with.

## PARTISAN POWER

One advantage that Ortega will have as president is his party’s extensive control over the state apparatus. In 1999, Ortega and then-President Alemán reached a political pact that divvied up state institutions between their two parties. In putting the agreement into effect the following year, they began by packing the Supreme Court of Justice, raising the total number of magistrates from 12 to 16 and mandating that the Liberals and Sandinistas, as the first and second strongest “political forces” in Nicaragua, would each name half the magistrates. Other parties were shut out entirely. They similarly increased the number of magistrates on the Supreme Electoral Council from five to seven, with each of the two parties naming loyalists to three of those seats. The presidency of the CSE was to be purportedly a neutral figure; in practice he cast votes on electoral matters consistently with the Liberals in the 2001 election and with the Sandinistas in the 2006 election. Here again, smaller parties were given no representation whatsoever. Finally, the Comptroller General’s office was made into a collective body with five members, three of whom were nominated by the Liberals and two by the Sandinistas. With Liberals winning the executive branch in 1996 and 2001, and the FSLN cooperating with them to control the legislature, the two parties enjoyed a virtual duopoly on the institutions of state.

Ortega and Alemán referred to this pact as a governability accord designed to lessen what they saw as overrepresentation of micro-parties. In the wake of the 1996 elections, when 23 political parties ran candidates for the presidency, there was

arguably some need for reform. However, the magnitude of the change was stunning, and the effect was worsened by partisan administration of the law. After President Bolaños prosecuted Alemán, his own party leader, and then, under US pressure, spurned the Sandinistas as well, the PLC and FSLN cooperated to deepen the pact via a constitutional amendment to further limit executive branch independence. The measure would give the legislature the right to ratify cabinet ministers and fire them without cause. It would also shift control of key government agencies from the executive to the legislative branch. The amendment was aimed at controlling President Bolaños, who rejected it and threw the country into a nine-month constitutional crisis. In an OAS-brokered compromise, it was decided that the legislature would vote this year on whether to scratch or implement the reform.

In contrast to the electoral and judicial branches, which his party now dominates, President Ortega will need to move carefully in the legislature, where his party has a minority of seats and must ally with either the PLC or the ALN to pass legislation. In last year's legislative elections, the FSLN won 38 of the 90 contested seats, the PLC 25, and the ALN 22, with the Sandinista Renovation Movement (MRS) splinter party capturing 5 seats. By law, Montealegre will be given a seat as runner-up in the presidential race, and outgoing President Bolaños will also hold a seat, bringing the total number of seats to 92. Both men are expected to vote with the ALN, so its voting bloc is nearly as large as the PLC's.

How Ortega will manage the legislature is anyone's guess. The safe money is on a continuation of the FSLN-PLC pact, since Ortega can still dangle the prospect of Alemán's freedom as leverage to gain PLC cooperation. However, Ortega says he is flexible and will ally in the legislature on a case-by-case basis to enact his agenda. He is aware that, should the ALN and PLC join forces, they can pass ordinary legislation over the objections of the FSLN; although President Ortega will have a veto, it can be overridden with a simple majority. The FSLN can, just barely, block constitutional reforms that require 60 percent approval in the legislature.

The transition period offered some hints as to where legislative practice is headed. The PLC and FSLN deputies again voted together, this time to

craft an organic law to regulate the functioning of the legislature. The measure stipulated that only party leaders would have the power to propose candidates for the governing board of the legislature. Deputies' power to introduce legislation was limited. Votes could be kept secret at party leaders' request. The bill also granted the legislature the power to summon and question ordinary citizens, civil servants, foreign citizens, and naturalized persons, whose failure to appear could result in charges of contempt and a jail sentence. It furthermore placed all authority for creation of the legislature's budget in the hands of the legislators themselves. These changes will marginalize small parties even further while increasing the power of the legislature and party leaders' capacity to discipline their respective benches. President Bolaños criticized the bill as a threat to citizens and vetoed it, even knowing that his veto would likely be overridden.

There is little compelling the FSLN to dismantle its pact with the PLC and surrender control of state institutions in favor of a more fluid, democratic set of rules and procedures. The best chance for change lies in the electoral system. Article 16 of the Electoral Law awards

the first and second "political forces" the top two seats on departmental and municipal electoral councils, relegating other parties to compete for the third seats. The term "second political force" is not well defined, but the CSE magistrates have asserted that, as the party whose presidential candidate placed second, the ALN is now the "second force" despite the PLC's greater number of seats in the National Assembly. A precedent for giving the presidential vote priority was set in 2001, when the Nicaraguan Supreme Court ruled that the Conservative party had lost its legal status for failing to win 4 percent of the presidential vote, even though it had succeeded in winning a seat in the legislature. The CSE's interpretation could affect whether the FSLN-PLC pact continues, or instead the FSLN partners with the ALN in controlling the electoral branch. The latter approach would offer the FSLN a chance to extend its divide-and-conquer strategy for handling the Liberals.

An important exception to this cartelization of the state has been the military. Although its origins lie in the Sandinista revolution, and its officers were then party members, the 1990 transition to

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democracy included an agreement to depoliticize the military and give it a measure of independence. The agreement appears to have worked. The military did not attempt a coup to return the Sandinistas to power, nor did it resist a drastic reduction of its ranks. In 1993, President Chamorro retired General Humberto Ortega, Daniel's brother and the architect of the revolutionary insurrection and the Sandinista defense in the Contra war. His successor was selected by the military following its own protocol, and he in turn was later replaced in a rhythm that was entirely unremarkable.

It is noteworthy that in 2006, the international election observation teams did not receive a single complaint concerning the conduct of the military. On the contrary, citizens expressed their confidence in the neutrality of the armed forces, which help to distribute voting materials and provide security during elections. Following the 2006 election, FSLN and PLC leaders spoke of cooperating in the legislature to move control of the military intelligence services to the ministry of defense, further consolidating civilian control of the military. Critics fear it could be the first step toward reasserting Sandinista party control over the armed forces, but the military can be counted on to resist any such plan.

### DEMOCRACY OR HYBRID?

The FSLN victory last year resulted in a peaceful alternation in government. The 2006 elections were competitive, with five parties vying for power, and no candidates were prohibited from running. Over the past decade, the National Assembly has strengthened its hand, ending hyper-presidentialism. Nicaragua's two main parties have consolidated their positions and endured in stark contrast to the temporary electoral vehicles found in some other Latin American countries. All this might seem to suggest that democracy is consolidating. However, since 2000 the rules, norms,

and operating procedures of Nicaragua's political regime have been altered to conserve the advantage of two internally undemocratic parties dominated by traditional Latin American strongmen.

The PLC and FSLN parties have become the primary locus of power, stripping state institutions of much of their content. The National Assembly is not an arena for genuine deliberation on policy, but mainly a machine for codifying decisions made via backroom pacts between party leaders. The electoral system is less a guarantor of citizen rights than an administrative apparatus for defending partisan interests. The judiciary is too weak to dispense speedy justice and, like the comptroller's office, is sometimes feared as a tool of the parties that appoint its leadership. Collectively, state institutions do not mediate conflict-

ing interests but instead are prizes in an ongoing power struggle.

Nicaragua is at a turning point.

Will President

Ortega live up to his democratic discourse, or will the state become a hybrid regime, combining procedural elements of democracy with deep wells of authoritarianism? The 2006 elections brought the Sandinistas back to power, demonstrating that they are not forever locked out of the presidency by US opposition and a Liberal majority. If President Ortega makes good on reassurances offered during and since the campaign, his victory could lead the FSLN to recommit to a market economy and democratic rules. Party leaders now know they have a fair shot at power on a level playing field and can, if necessary, survive a long period in the opposition. Alternatively, the new government may reinforce the institutionalized advantages that the PLC and FSLN have legislated for themselves in recent years, thereby maintaining and deepening their political pact to the exclusion of other parties and further weakening institutional checks and balances in Nicaragua's fledgling democracy. ■

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