



ELECTORAL REFORMS IN NICARAGUA – A BRIEFING

Introduction

With approval ratings for the government of Daniel Ortega and the FSLN consistently high, it is looking increasingly likely that they will be re-elected in November 2021. A national M & R Consultores [poll](#) conducted in March 2021 found that 6 in 10 Nicaraguans support the government, while 2 out of 10 respondents support the opposition and 2 out of 10 said neither.

As the election calendar advances, the United States and its allies, the Organisation of American States (OAS) and Nicaragua's right-wing opposition are now desperate and have launched a new stage of aggression against the country in an attempt to undermine and sabotage the forthcoming elections. In addition to illegal coercive measures (sanctions) imposed against the country by the US, the groundwork is being laid by the US and opposition forces to denounce the forthcoming elections as fraudulent before even the first vote has been cast.

Nicaragua's recently introduced electoral reforms are being roundly and unjustly condemned by the various national and regional forces opposed to the Nicaraguan government. An OAS technical mission worked with the Nicaraguan authorities from 2017 to 2020 to overhaul the administration of Nicaragua's electoral system. The recent reforms incorporate several recommendations of that OAS advisory team.

Despite this, the OAS has said that the electoral law is going in the wrong direction and does not promote free and fair elections and the United States Representative to the OAS stated at a special session held on 12 May that *'The upcoming elections represent a crucial opportunity to return Nicaragua to full democracy. If President Ortega wants the international community to support election results in November, he should take steps in the coming days to rebuild confidence at home and abroad that those elections will be genuinely free and fair.'*

These comments were made despite the fact that the majority of the electoral law has been in place since the 1980s, and that it is the same basic law which saw the opposition elected in 1990, 1996 and 2001 and attracted no complaints from the US. It is clear that the elections will only be considered 'free and fair' if the US-backed and financed opposition wins once again.

The following explains the main points of Nicaragua's electoral reforms and deals with a number of the arguments that have been put forward by Nicaragua's right-wing opposition and by the OAS and US and UK governments.

Electoral Reforms

A series of reforms to Nicaragua's electoral law was approved by the National Assembly on 4 May. The main purpose of the reforms was to modernise, strengthen and complement the existing law and to make it more transparent, accountable, equal and fair. This included bringing the electoral law up to date with other subsequent legislation that affected the electoral law's provisions, for example in terms of gender equality.

The reform was the result of a consultation process involving all 19 political parties legally registered with the Supreme Electoral Council.

The main points of the new law are:-

- A commitment to gender equality by mandating that all electoral structures of parties participating in the elections must comprise 50% women
- In order to protect national sovereignty, the introduction of measures controlling foreign funding aimed at interfering in the country's elections (this brings Nicaragua into line with the great majority of other countries, including the US and UK and most other European countries)

- Guaranteed reimbursement of electoral costs even to small parties and abolition of the requirement that they have to poll four percent to qualify for reimbursement
- Strengthening the political rights of political parties and alliances
- Electoral mapping
- Respect for sovereignty, self-determination and independence

In addition, the law reform regroups into a single section all the procedures to protest against the election result in case candidates and parties feel they have been victims of fraud or improper procedure. Interestingly, both this and the reform regarding reimbursement of electoral costs were recommendations put forward by the OAS, something which the OAS has conveniently forgotten.

The reforms also strengthen the relationship and co-ordination between the Supreme Electoral Council's national and departmental offices and the municipal civil registries administered by the country's 153 local municipal authorities, for the purpose of improving the technical administration of the registries. This was yet another OAS recommendation.

The new law also empowers the Supreme Electoral Council to establish online electoral training programmes and to create computerised and digital mechanisms for the presentation of shortlists for the composition of the different national, regional, departmental and municipal electoral structures, for the registration and accreditation of public electoral oversight officials, for the auditing and traceability of the polling station voting material and also to enable a digital application that will allow the population to find the location of their polling station and how to exercise their vote.

Nicaragua's opposition has condemned the fact that the new reforms give the police control over permits for marches held during the electoral campaign. However, public demonstrations have always been required to seek authorization from the police naming legally registered organisations, for example a political party or an NGO as responsible for any damages that might result. Since the often lethal violence of opposition protests in 2018, the police have strictly enforced those requirements.

Supreme Electoral Council

With a historic representation of the multi-ethnic Caribbean Coast and 60% of women, ten new magistrates of the Supreme Electoral Council were sworn in on 6 May, with seven proprietary and three alternate magistrates. In accordance with Nicaragua's constitution, a total of 44 candidates were proposed by individual deputies of the National Assembly and by the country's President and subsequently voted on one by one; if a candidate obtained 56 votes or more, then they were elected. With six women, four of them proprietary and two within the substitutes, the Supreme Electoral Council has gender equity for the first time in its history.

Those elected were as follows:-

Brenda Rocha, from Bonanza, North Caribbean Autonomous Region, lost an arm in a Contra attack in 1982 when she was 15. She was part of the militia defending an electricity tower and was the only survivor of the attack. She is a lawyer. **Alma Nubia Baltodano** lost both arms to a contact bomb in the insurrection in 1979. She is a lawyer and has specialized in supporting people with disabilities. Even after losing her arms, she went on the literacy campaign, picked coffee, and was in the militia. **Lumberto Campbell** (current vice-president of the electoral body, from Bluefields and Afro-Caribbean, was in the insurrection and has been a leader in different areas. **Maira Salinas** was part of the previous CSE, also highly educated. **Cairo Amador** was part of the Commission of Truth, Justice and Peace after the attempted coup of 2018. **Devoney McDavis** is part of the Miskito Indigenous group, from Waspán, most recently was President of the North Caribbean Regional Council. She is a specialist in defense of Indigenous people. **Leonzo Knight** is from the Indigenous group Ulwa, speaks six languages, educator and author, and was proposed by a Conservative Deputy. The three alternate magistrates are **Adriana Molina**, a lawyer from Jinotega, whose father was part of the political prisoners freed by the FSLN action of 1974. **Maura Lisset Álvarez** was proposed by PLI-ALN Deputies and Alberto Blandón was proposed by PLC Deputies.

After the inauguration of the members of the Supreme Electoral Council, they elected Brenda Isabel Rocha Chacón as President of the CSE and Cairo Melvin Amador as Vice President.

Electoral Calendar

Among the first acts of the new Supreme Electoral Council was the presentation of the electoral calendar on 11 May 2021. The general elections for the Presidency, National Assembly and the Central American Parliament will be held on 7 November 2021. The election campaign will formally start on 21 August 2021. Participating political parties will have to define their candidates by mid-August with the definitive list being published by the Supreme Electoral Council on 18 August 2021.

The CSE resolution published in the official newspaper La Gaceta states *'the participating political organizations are exhorted to duly comply with the Political Constitution; Electoral Law; Regulatory Foreign Agents Law; Defense of the Rights of the People to Independence, Sovereignty and Self-determination for Peace, as well as respect for Ethical Standards, Resolutions, Agreements and Regulations. Likewise, political organisations are urged to present 50% women and 50% men in their proposals for electoral structures and candidacies, guaranteeing equity and alternation.'*

Nicaragua's right-wing opposition reacts

Predictably, Nicaragua's right-wing opposition have condemned the electoral reforms, stating that they 'reduce the competitive capacity of the opposition' and that they do not advance any profound changes in the electoral system.

Having demanded that elections took place immediately during the 2018 failed attempted coup, the opposition called for delays saying that the deadline for registering was too close. The fact is that the deadlines for the inscription of alliances and political parties were extended by the Supreme Electoral Council as early as July 2020 by way of a resolution which was published on July 14 in the official newspaper La Gaceta. The resolution stated that its intention was to *'safeguard the certainty, legality, independence, impartiality and objectivity of the popular will in the upcoming elections'*. The fact that alliances wishing to take part had to be registered in May 2021 has been known since last year, the newly elected Supreme Electoral Council simply set the precise date (May 12). Legally constituted political parties must register by mid-August.

The opposition remains weak and fragmented, with no policies and no programme other than opposing Daniel Ortega and the government. It is largely held together by US financing and attempts to unite around either a single group or a single candidate (in spite of US encouragement) have been marred by months and months of in-fighting and jostling for power, with as many as 14 different possible presidential candidates putting their names forward. Nicaragua's right-wing opposition know that without a united front, they stand no chance of victory in the November elections. Yet they make excuses for their failure to unite, falsely claiming that their participation in the elections has been restricted. Their leaders have even argued that the reforms themselves aim to weakening the opposition, something in fact caused by their own failure to reach agreement.

By 12 May, only one of the opposition alliances, the CxL (Citizens for Liberty), unable to come to an agreement with any of the opposition groupings, decided to go it alone and submitted their registration. It is now likely that some of the more prominent opposition leaders such as Felix Maradiaga, Cristina Chamorro, Juan Sebastian Chamorro and Medardo Mairena, all of whom had previously announced their wish to run for the Presidency, may seek either to become part of the CxL or to join up with one of the existing political parties.

Foreign Agents Law

A major criticism being levelled by the US, OAS and opposition groups relates to the introduction of measures controlling foreign funding of political parties which directly or indirectly interferes in the country's elections. Nicaragua's Law Regulating Foreign Agents was approved in 2020, along with a law addressing cybercrime, as part of the Nicaraguan authorities' efforts to modernise and reinforce legal protections and integrity of the country's public administrations, including its electoral processes and citizen security in general. The law actually brings Nicaragua into line with the great majority of other countries in North America and Europe, including the US and UK. In fact, the UK government is proposing to enact legislation (Electoral Integrity Bill, included in Queen's Speech on 11 May 2021) which will introduce measures to

prevent foreign interference in elections. It is also proposing a Counter-State Threats Bill to introduce a US-style register of foreign agents to help counter espionage and influence from hostile governments.

The intention behind Nicaragua's inclusion of the law as part of the programme of electoral reform is to create a tool that allows Nicaragua to prevent foreign powers, countries, governments, agencies or organisations from interfering in Nicaragua's domestic affairs. Nicaragua's position on this issue is based on resolutions in the United Nations, the OAS and judgements by the International Court of Justice. All these bodies condemn, in a clear and categorical way, acts of interference by any foreign government in the domestic matters of another country.

For more information about the law see [here](#)

Organisation of American States (OAS)

At a time when its attention would be better focussed on state repression and human rights abuses in Colombia (April and May 2021, with more than 40 peaceful demonstrators killed), the OAS has decided, yet again, to target Nicaragua. After its infamous intervention in Bolivia's elections in 2019, its relentless attacks on Venezuela's legitimate government and its continued false demonisation of Nicaragua, the OAS has lost all pretence of impartiality. Secretary General Luis Almagro in particular has been strongly criticized by various OAS member States including Mexico and Argentina for abusing his mandate. The OAS is widely regarded in the region as a puppet dancing to the tune of the US government.

On 12 May, the OAS convened a special session of its permanent Council to 'analyse the situation in *Nicaragua*'. During the session, OAS General Secretary Luis Almagro referred to the reforms as '*nothing more than a cosmetic change to a deficient legal body*', adding that Nicaragua is heading for '*the worst possible election*' due to the '*lack of guarantees to hold a free, fair, and transparent process*'. He also made reference to the 2016 elections in Nicaragua, when Daniel Ortega and the FSLN won with 72% of the popular vote, alleging that these were '*flawed*', even though they were praised by an international observer mission monitoring the electoral process and accepted as valid even by a hostile delegation from the European Union.

It is worth recalling that the actions of the OAS are in direct violation of its own Charter, Article 19, which says that '*No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements.*'

Conclusion

There are fears that the current actions of the OAS could well lead to a repeat in Nicaragua of what happened in Bolivia in 2019 when an OAS report claiming that Evo Morales had won the election fraudulently was instrumental in motivating the right-wing opposition to mount a coup against Morales, who was then forced to resign in November.

US aggression against Nicaragua has intensified over recent months, more recently with the proposed introduction of the *Reinforcing Nicaragua's Adherence to Conditions for Electoral Reform (RENACER)* Act which would require the US government to increase sanctions in coordination with Canada and the European Union and proposes new immediate measures against the Nicaraguan government and officials ahead of Nicaragua's November elections, all under the guise of promoting democracy.

The latest statements coming out from the OAS, US and members of the OAS who are closely allied to the US are cause for grave concern that we could be moving towards renewed attempts to subvert Nicaraguan democracy and even encourage a further coup attempt. It remains vital to do everything possible to defend Nicaragua's democracy and the right of its people to elect a government of their own choosing. Nicaragua presents no threat in the region, much less globally. The country is under attack because its government implements a socialist agenda with which the US disagrees. Nicaragua's people deserve to develop their economy and society in peace.