Of politics and democracy in Nicaragua in the XXIst century

Introduction

Last September 9, 2005, the Permanent Council of the Organization of American States (OAS) said that “the escalation of the institutional and political crisis in Nicaragua threatens the country’s democratic governance, the legitimate exercise of power, and the rule of law, with serious social and economic consequences, both now and in the future, for the people of Nicaragua.”

To the untrained eye, the Nicaraguan political process seems to suggest that a crisis of legitimacy and political instability is nearing the country just as national presidential elections are approaching in 2006. However, the actual trend is rather one of muscle flexing between two ideologically opposed traditional political machines, resistant to adapt to democratic change and choosing instead short term arrangements, with weak elite consensus, in order to coexist without addressing the root causes of their tensions. The end result is a struggle over control of political power, short term ideological convergence, and substantive undermining of democratic institutions.

The government of Enrique Bolaños is the focus of the struggle over political control in Nicaragua by the two leading political elites, the Sandinista Front, FSLN, and the Liberal Party, PLC. Indeed, the country is faced by two parallel powers, a legitimately elected government on one hand, and on the other a political elite comprised of a mixed matched machine of Sandinistas and Liberals that is resistant to adapting to the rules of democracy.

The options for gradual political change in the country will not emerge unless drastic or radical choices are made whereby dissident forces increase their political risk to defend democracy; civil society rises to the occasion against antidemocratic elite pact-making; and the international community commits to democratic transformations not welfare economics.

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1. The political dynamics under Bolaños

Shortly after President Bolaños started his term and the 2000 pact was in place, the administration was distracted by allegations and news reports of charges of corruption during the previous government and by the specter of former president Alemán’s attempt to control Bolaños’s new government.\(^3\) From that point on the government has been on the defensive and sidetracked by a power struggle among Ortega’s political circle, Alemán’s followers, and Bolaños. Although a priority for this new administration was to address a poverty reduction strategy, following a negotiated arrangement with donors, particularly the IMF, most of the past four years have been about sorting out a convoluted situation whereby there effectively exist two political powers.

At least four political events have kidnapped the imagination of policy makers, politicians, and society at large, making the current administration a punching bag of the FSLN and PLC both of which seem to have a sense of entitlement to authority. These events include the sentencing and jailing of Alemán, the FSLN growing power grip on the judiciary, political debates over various legislations, and pact making.

Throughout the last year of Alemán’s government, allegations over corruption were growing; once out of the presidency, they became the soap opera of the nation. Generalized enrichment of public officials was publicized, pointing at how ministers, advisors, consultants, and other officials were earning over US$20,000 monthly, in a country where 48% of people are poor and 10% of children under 5 are malnourished.\(^4\) To site just a few examples of exorbitant government salaries, in the year 2000, the president of the Central Bank earned US$300,000, the various ministers earned US$180,000, and Aleman himself earned US$360,000.\(^5\) The allegations of corruption against the previous government changed the prevailing balance of power after the elections and put the FSLN on the


In comparison, in 2000, the head of the Federal Reserve Bank in the United States earned $195,000, senators and representatives earned $167,000, and the president of the United States earned $250,000.
offensive and the PLC (with Alemán as head of the National Assembly) in disarray as to how to respond to this situation. Within a matter of six months the government became a de facto third independent political front with its own agenda complicating what was previously expected to be a smooth rule by Ortega and Alemán’s circles of power. As the allegations of corruption increased, Bolaños was able to remove Alemán’s immunity from prosecution and started a criminal case against him.

During most of 2003, the president was preoccupied with three major issues: Alemán’s prosecution, the FSLN’s increasing grip on judicial and legislative power and negotiations over a poverty reduction plan as part of the country’s compliance as a highly indebted country. By 2004, after Alemán was sentenced to 20 years in prison, the political elites continued a struggle over power with highly emotionally and resentful overtones. The FSLN stepped up its pressure on the government to adopt social reforms (particularly to prevent privatization), while at the same time offered support for Alemán’s release in order to increase its clout in the political system. While the president is seeking approval for several laws, the political parties sought several concessions in exchange, including freedom for Alemán.

In early 2004, President Bolaños and, more importantly, the political order were challenged more fundamentally. This challenge was the culmination of a political formula initially crafted in late 2003 that aims to drastically reform the constitution by adopting semi parliamentary procedures, directly aimed at diminishing the powers of the president. Although such proposals gave the impression of a second pact, in practical terms, they represented a continuation of the 2000 agreement over the repartition of political institutions. To step up the tension, the Comptroller General requested that the Legislative assembly remove the president from government. This last card was used predominantly to intimidate the administration, renegotiate political power, and distract the population about the overt abuse of authority practiced by the FSLN and the PLC.

In 2005, in the midst the OAS and UN emerged as mediators to this conflict inviting opposition forces to engage in a national dialogue. However, such effort has not only failed,
but has lacked the necessary political will to achieve concessions because each political player believed he had more to gain by destabilizing the other than negotiating with him.

\[i\] \textit{The fight against corruption: putting Alemán and cronies in jail}

The process that led to the indictment of Arnoldo Alemán is the result of growing allegations of corruption and the presentation of concrete evidence to back up some of those allegations. Between February 2002 and December 2002, two major developments threatened Alemán’s tenure as head of the PLC’s legislative group. One was reports funneling funds from public enterprises, such as the state owned TV channel 6 and ministries, into bank accounts outside the country. The other was the jailing of Bayron Jerez, former head of the tax administration, for the transfer of public funds into private hands for Alemán and other Alemán loyalists.

As the allegations mounted against Alemán and other former government officials, the PLC remained divided over the loyalty to the former president. In turn, by mid 2002 the FSLN through Daniel Ortega took the opportunity to raise the party’s profile as champion against corruption. In this context, they supported the removal of Alemán’s immunity and his prosecution. The FSLN’s astuteness in taking on corruption was strengthened by its control of critical positions of the judiciary and the Supreme Court. A Sandinista judge brought up the charges against Alemán together with other charges dealing with misuse of funds during the 2001 election campaign. The process developed negotiations with the FSLN to prevent eventual jail time. The battle lasted from December 2002 when Alemán’s immunity was revoked in December 2003 when he was sentenced to 20 years in prison.

Once Alemán’s immunity was removed and he was eventually tried, the FSLN and Ortega not only got the upper hand in the political scenario but set a framework to influence the overall conduct of politics in the country, particularly by seeking to control the judiciary and autonomous state institutions.

\[ii\] \textit{Corruption and the law}

The problem of corruption in Nicaragua is not new. During the Somoza dictatorship there was an overt marriage between personal and public enterprises benefiting the Somoza family.

and their close acquaintances and friends. Despite all the hopes of change with the Sandinista revolution, the problem of corruption did not change during the 1980s. The Sandinistas applied a policy of Sandinista favoritism and expropriation of property that even continued after their 1990 electoral defeat. The 1990 democratic transition did result in increased transparency and accountability for public goods. At the same time, the legacy of cronyism, a weak democratic institutional development, and economic opportunism resulting from the inflows of foreign aid for reconstruction contributed to political favoritism and continued abuses of public goods. Corruption worsened in Aleman’s administration. Abuses also surfaced during the government of Bolaños as reports would show how officials in various public institutions were personally benefiting from state resources, or providing favors to others.

The problem of corruption is inextricably connected to a vitiated justice system. First, Supreme Court justices as well as the court system more generally are highly politicized. Second, there is significant inequality in handling cases, whereby those with political and economic capital are more likely to have their cases resolved.

Partisan allegiances have also had an effect on the rule of law. One consequence has been to slow the judicial process. Another consequence has been that the outcome is determined beforehand: if the defendant does not share the political colors of the judge, he or she will likely be affected. In Arnoldo Alemán’s trial, for example, Judge Juana Mendez, an FSLN party loyalist, would answer to Ortega’s demands about the outcome of the trial, not just to the merits of the case.

The selection of judges is contingent to the political arithmetic of each party’s choices of a judge. For instance, a year after the election of new Supreme Court judges in June 2003, several appointments were still delayed due to political infighting among the parties. This situation applied to the appointments of court judges in Masaya, Granada and Bluefields. 7

7 In learning about the inquiries for this paper, one of the Supreme Court judges aligned with the FSLN, asked that the following be explained to this author: To underscore his limited contact with the FSLN’s political structure, he explained that his only involvement with the party was twice daily party instructions telling him how to judge in particular cases before the court.
This problem, however, extends to an interplay between political and economic interests. Irving Davila, Nicaraguan lawyer and Sandinista dissident, pointed out that “if narcotraffickers have a political party contact, their case is not solved with a judge, they solve it with the party and it is done in exchange of money. A narcotrafficker can’t give you nothing but money.” He added that it is a conventional wisdom that “whenever someone wants a case solved over a problem or a highly valued property, simply he goes to the Secretariat of the FSLN, has his case solved, and justice is served.”

Favoritism inevitably results in injustice. Low income individuals have hardly the same benefits in the justice system than their wealthier counterparts. A study conducted by the NGO Ethics and Transparency found that, by 2004, only 9% of 168 criminal cases under jurisdiction of Managua’s Criminal Court District (Juzgado Primero de Distrito del Crimen) presented between 1994 and 1997 had been resolved. It is thus no coincidence that Nicaraguans rate the judiciary as an inefficient institution and 46% see corruption as the main challenge of democracy. These findings are consistent with a 2003 survey which showed that people had little trust in its political institutions, the judiciary included.

Table 1: Trust in the political institutions (%)

<table>
<thead>
<tr>
<th></th>
<th>A lot</th>
<th>Some</th>
<th>Little</th>
<th>None</th>
<th>NA/NR</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive</td>
<td>9</td>
<td>16</td>
<td>38</td>
<td>31</td>
<td>6</td>
<td>100</td>
</tr>
<tr>
<td>Legislative</td>
<td>5</td>
<td>17</td>
<td>38</td>
<td>31</td>
<td>9</td>
<td>100</td>
</tr>
<tr>
<td>Judiciary</td>
<td>10</td>
<td>16</td>
<td>36</td>
<td>30</td>
<td>7</td>
<td>100</td>
</tr>
</tbody>
</table>


At a controversial and highly politicized debate over the appointment by the Legislative Assembly of nine new Supreme Court judges in June 2003, La Prensa newspaper pointed that “a nation that is incapable of appointing judges to its Supreme Court, nor of keeping a normal functioning of its Judiciary, does not deserve the trust of its citizens, nor the international community.”

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8 Informe Pastran, 1 de Junio de 2004
9 La Retardación de Justicia en el Tribunal de Apelaciones de Managua, Etica and Transparencia 2004.
10 La Prensa, May 25th 2005
11 Editorial La Prensa, 9 de Abril 2003
iii) Politics and the Constitutional reforms

The political battle of the past four years has been about reaching a balance of power amidst Sandinista calculations of a univocal power control. Alemán and the PLC’s loss of control presented Ortega with greater leverage and power repositioning. In fact, the FSLN found itself dealing with a parasitic and fragmented PLC seeking its leader’s freedom by any means. This condition created a space for Daniel Ortega to seek not only a victory in the 2006 presidential elections but also a head start in his power position by deepening the implementation of the 2000 pact with the PLC. The FSLN aimed to expand its political control in most of the political institutions, starting with control of the judiciary. The efforts to make Constitutional reforms are a significant consequence of this strategy.

During 2003, President Bolaños’s concern was not just prosecuting Alemán, but passing legislation that would help comply with an agreement with the International Monetary Fund to obtain a special status as a highly indebted country (a condition which would provide the country with financing and debt renegotiation). This effort coincides with the FSLN’s political ambitions of furthering the pact and weakening the PLC. The legislative appointment of nine Supreme Court judges gave the FSLN an advantage as they negotiated with the PLC more Sandinista seats in exchange for the PLC securing control of the electoral council.

Thus, Bolaños’s lobbying for the approval of three draft pieces of legislation, the Public Debt Law, the 2004 Budget Law, and the Judicial Career Law was compromised by these events. The most controversial of these proposals was the Judicial Career law which proposed among other aspects basic qualifications of judges. This law, proposed to be retroactive, would have hurt some of the Sandinista judges currently in place, many of whom do not have verifiable law degrees.12 The situation turned critical in November 2003 when the FSLN and PLC sought to negotiate a revision or postponement of this law in return for securing Alemán’s freedom. During this time, Ortega manipulated the judicial system by

12 Orozco, Manuel, “¿Un paso más hacia adelante? Democracia y cultura política en la coyuntura Nicaragüense” San José: Procesos, 2005.
moving Alemán (from house arrest to jail or to a hospital) at key strategic moments to negotiate with his party, and thus leverage his bargaining power. These negotiations did not succeed, in part because of strong censuring of public opinion of this arrangement and because the PLC did not trust the FSLN. In large part because the negotiations failed, Aleman received a 20 year prison sentence in December dealing a heavy blow to the PLC and Alemán.

This situation paved the way for a stronger FSLN which entered a political offensive in 2004 against the president by pushing Constitutional reforms and seeking to investigate him on allegations of misuse of funds during his election. This offensive kept the government defensive while it prepared its team to negotiate a free trade agreement with the United States.

Between November 2004 and January 2005, the FSLN joined forces with the PLC to pass a series of constitutional reforms that strictly limited the president’s powers. After the FSLN chaired the presidency of the Assembly, the reforms, which included fourteen laws, created new institutions seeking to oversee public services, property, and social security, as well as changing the 2005 budget bill.

The reforms effectively limited the powers of the presidency asserting that presidential appointments of ministers, senior diplomats, and heads of public companies are subject to confirmation by the National Assembly, which could also call them to account and even dismiss them if it so decided. Finally, the reforms gave the National Assembly the power to overturn a presidential veto by a simple majority, instead of a two-thirds vote.13

After approval of the reforms, President Bolaños appealed to the Central American Court of Justice (CCJ) to rule against the reform bill. The CCJ ordered Nicaragua’s national assembly to suspend its ratification, while the United Nations, through the UNDP, promoted national dialogue. Daniel Ortega agreed to hold a three-party “National Dialogue” among himself, Bolaños, and Alemán, and promised to support Bolaños to serve out the rest of his term.14

On January 19, the three-party dialogue came up with four agreements, only two of which were substantial. The first was a significant concession by Bolaños: he pledged to promulgate the constitutional reforms. In exchange, Ortega and Alemán promised to rewrite two laws that Bolaños objected to and to consult with him about the 2005 budget and about reforming the social security institute. A day after these agreements were announced, the dialogue was jeopardized when the National Assembly decided to appoint replacements for six members of the Comptroller General’s office and two of the supreme electoral council, even though it had promised to discuss key appointments with Bolaños.15

The friction between the legislative and executive branches reached new levels on March 29 when the CCJ declared the constitutional reforms null and void. It argued that the new reforms were “legally inapplicable” as they altered the balance of power in Nicaragua.16 It said that they could only be approved by a specially-summoned constituent assembly and not by the parliament. Based on this decision, President Bolaños vetoed one of the reforms approved by the assembly – the one establishing a ceiling on the tax breaks granted to the media by the constitution. In return, Nicaragua’s politicized Supreme Court (dominated by nominees of the opposition parties) issued its own ruling ratifying the validity of the reforms and said that the CCJ had overstepped its powers.

According to some, the constitutional change appears to violate Article 129 of the Nicaraguan Constitution, which states: “The legislative, executive, judicial, and electoral powers are independent of each other and they will cooperate harmoniously, subordinated only to the supreme interests of the nation and that which is established in the present Constitution.” The fact that the National Assembly can override the president alters the nation’s democratic principles and eliminates the checks and balances that most would argue are needed to maintain harmonious cooperation.17 The situation showed how the two political parties legally kidnapped the legitimate right of the President to rule as entitled by the Constitution.

iv) Putting Bolaños on trial?

The FSLN’s increasing control of the political institutions, and the PLC’s complicity with Ortega worsened greatly when Sandinista judges and later the Comptroller General pushed for an investigation of alleged fraud seeking to remove the President and his ministers’ immunity. When Judge Juana Méndez of Managua’s first district criminal court viewed Alemán case, she unexpectedly added charges directed at several officials of the previous government for “election crimes.” She contended that some of the money allegedly stolen and rerouted through Panama had found its way into the PLC’s 2001 campaign account.18

This was a first indication that the Bolaños government’s drive against Alemán could backfire, as a number of those named were now Bolaños administration functionaries. Bolaños at first offered to relinquish his immunity to stand trial but then reversed himself. While he has not clarified substantial questions concerning his campaign finance flows, charges against Bolaños have continued to evolve thanks to the insistence of his political rivals. In October of 2004, the Comptroller General’s Office asked the Assembly to remove Bolaños from office for his failure to disclose the origin of $7 million purportedly used in his 2001 presidential campaign. The Assembly’s reaction was to welcome the request and threatened to impeach Bolaños.

This political battle continued throughout 2005 with the manipulation of the political system in order to weaken the president’s powers and jockeying for position for the 2006 national presidential elections. The two parties used the subject of criminal investigation in order to achieve their specific objectives. The FSLN, has created the specter that Bolaños is also involved in corruption, and the FSLN is the only group not facing criminal charges. Ortega has also used the pressure of lifting the president’s immunity as another attack to Bolaños refusal’s to acknowledge the legality and legitimacy of the reforms. The PLC’s weakening of Bolaños has been influenced by a feeling that Alemán was betrayed.

The consequence of the various struggles for power is that the political system and government have been dramatically weakened and there are few options for progress.

2. Explaining the architecture of power in Nicaragua

This political game in Nicaragua has been one of seeking to control power without being democratically elected. Daniel Ortega has worked through a close circle of power to subvert the political institutions by controlling key positions through party loyalists. The critical issue in this political game is not a power struggle between Ortega and Alemán. Rather the situation dates back to the aftermath of the 1980s civil war when neither the Sandinistas nor the anti-Sandinistas were prepared to validate each other’s political legitimacy.

The reluctance of Ortega to concede defeat in 1990 as well as the anti-Sandinistas refusal to seek a long term reconciliation mechanism that would address the problems brought up by Sandinista rule during the revolution thus produced short term tactics to negotiate a power sharing mechanism without having full elite consensus about the political institutions. Civil society was further co-opted which weakened its options to leverage democratic values against a corrupted circle of power. To this situation was added a weak political dissidence as well as an economic elite unwilling to challenge the prevailing powers. Finally, the United States continued to uncritically vilify the FSLN, undermining legitimate solutions to the internal tensions.

i) Short term pacts instead of reconciliation: an unintended ideological convergence

The end of the Sandinista Revolution and the civil war did not bring an end to the ideological and political antagonisms that existed before and during the revolution between Sandinistas and anti-Sandinistas. The wounds of the war were not addressed in any significant way after the pacification process initiated (Orozco 2002). However, the leading political forces of the FSLN and anti-Sandinistas mostly associated through the Liberal Party realized that both groups represented strong political forces. They choose to negotiate short term pacts in order to work out their political ambitions.

The danger of these accords is that the Sandinistas and the Liberals have come together to constitute the only force in the country, sacrificing the principles of their parties for a power
sharing arrangement. This ideological convergence has done away with the meaning and substantive practice of democracy, including debate, ideological conflict over ideas, and different policies that are resolved not through elite compromise, but in a democratic, participatory, and representative electoral process.

Therein lies the paradox of this alliance of enemies who use democratic institutions to preserve their political entitlements while undermining both their own values and those of democracy. Another way in which this situation was framed was expressed by a Nicaraguan living abroad, “corruption unites anyone, and in this case has united two political enemies in order to profit from the state’s wealth.”\(^{19}\) A simple but telling illustration of the overt nature of corruption is the case of the Assembly that recently passed a bill reducing the salaries of the president and minister but that raised their own monthly salaries from US$4,300 to US$4,725.\(^{20}\)

\(^{19}\) “La corrupción unifica a quien sea, en este caso está uniendo a dos acérrimos enemigos políticos para beneficiarse de la vaca del Estado,” A. Gallard, as reported in Pastran News, June 27th 2005.

\(^{20}\)
a political and economic agenda, loyal to the party, and intolerant of dissent. The PLC’s network is predominantly guided by three main roots, anti-sandinismo, loyalty to Alemán, and economic opportunism. Their interests are heavily compromised by externalities that have turned their members into parasites in a now very fragmented political party.

Two examples of the political network controlling the country by the two groups is presented here. First, is the Supreme Court, second, of independent agencies of the State. The political history of many of these people is associated to their allegiance to the party and strong loyalty to Ortega or Alemán. For example, Rafael Solis is among the most influential and powerful judges in the Court. A longtime Sandinista loyalist, and a former ambassador during the revolution, in the 1990s he became a key lawyer for a number of clients during the “Pinata,” the privatization of expropriated property confiscated by the Sandinistas during the revolution. Solis has a close relationship to Ortega and follows instructions about how to deal with legal and political entanglements of the party. One incident in which his reputation was questioned dealt with a dispute between two bankers. In 2001, Banker Roberto Zamora had entered into a legal dispute with Haroldo Montealegre over the acquisition of Banco Mercantil (owned by Montealegre). The (Sandinista) judge decided in favor of Montealgre. During the process transpired that Montealegre is a relation of Mr. Solis and he controlled the judicial process of the case and afterward when Zamora presented a demand against Judge Ligia Rivas Peña for delaying the case.\(^{21}\)

The Sandinista influence of this court is also observed in the roles of other members, such as Francisco Rosales, another longtime Sandinista militant involved with the Front since the 1960s. Mr. Rosales has been a strong loyalist of Ortega. He has kept a low profile because of allegations that he does not have a law degree (and which he has not demonstrated otherwise).

Meanwhile the PLC leadership has also occupied positions within the Court. Guillermo Selva, a former member of the Independent Liberal Party, PLI, shifted allegiances towards the PLC in the mid 1990s with other PLI members (Wilfredo Navarro, Roger Guevarra).

\(^{20}\) Latin American Regional Report, Caribbean & Central America - April 2005 (ISSN 1741-4458)
\(^{21}\) Pastran News August 24th 2004
His position has been to offer invariable loyalty to Alemán. Another loyalist to Alemán is Manuel Martinez, who was Minister of Labor during his term.

Table 2: Political composition of the Supreme Court judges in Nicaragua

<table>
<thead>
<tr>
<th>Sandinista Magistrates</th>
<th>Liberal Magistrates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Francisco Rosales</td>
<td>Manuel Martínez</td>
</tr>
<tr>
<td>Rafael Solis</td>
<td>Iván Escobar Fornos</td>
</tr>
<tr>
<td>Yadira Centeno</td>
<td>Damisis Sirias</td>
</tr>
<tr>
<td>Alba Luz Ramos</td>
<td>Guillermo Selva</td>
</tr>
<tr>
<td>Armengol Cuadra</td>
<td>Nubia Ortega</td>
</tr>
<tr>
<td>Ligia Victoria Molina</td>
<td>Ramón Chavarría</td>
</tr>
<tr>
<td>Arguello</td>
<td>Edgar Navas Navas</td>
</tr>
<tr>
<td>Marvin Aguilar</td>
<td>Guillermo Vargas Sandino</td>
</tr>
</tbody>
</table>

The control of key political institutions that technically have independence from the branches of government is also evident. The table below shows the political allegiances of various individuals in key state institutions. The most notable perhaps is that of Roberto Rivas. Rivas has been the head of the Supreme Electoral Council since the mid 1990s and strongly and personally connected to Cardinal Obando y Bravo and to anti-Sandinista followers. He has been a key player in negotiations between the PLC and FSLN in dividing positions of government power, and has been three times elected magistrate of the council. He has been linked to various allegations of corruption, including deals with the Catholic church and Coprosa (of which Rivas was president), a religious foundation linked to mishandling of funds.

Meanwhile, Guillermo Arguello Poessy, a former Somocista judge, managed Alemán’s property during the period his wealth skyrocketed. As Comptroller General he has been at the forefront in a personal battle against Bolaños and his government. Jose Pasos Marciac and Luis Angel Montenegro, on the other hand, are Sandinista militants with a long tradition and involvement. Marciac held senior party positions within the FSLN, including the International Relations office, and has stayed as FSLN representative at the Comptroller’s office. Montenegro has been seen as an obscure figure involved in shady businesses including loans to Sandinista members of the Board of Directors of the National Development Bank, of which he was president. Later he was accused of logging and
trafficking with wood in protected areas of Southern Nicaragua (San Juan River), but has been protected by Daniel Ortega in exchange of his loyalty to the party and Ortega.

Table 3: Political composition of key state institutions

<table>
<thead>
<tr>
<th>Institution</th>
<th>Name</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank Superintendency</td>
<td>Victor Urcullo</td>
<td>PLC (Somoza)</td>
</tr>
<tr>
<td></td>
<td>Alfonso Llanes</td>
<td>PLC (Alemán)</td>
</tr>
<tr>
<td>Intendency Insurance</td>
<td>José León Sánchez</td>
<td></td>
</tr>
<tr>
<td>Intendencia de Valores</td>
<td>Alberto Gallegos</td>
<td>PLC (Alemán)</td>
</tr>
<tr>
<td>Human Rights Procurator</td>
<td>Omar Cabezas</td>
<td>FSLN</td>
</tr>
<tr>
<td></td>
<td>Adolfo Jarquin Ortel</td>
<td>PLC (Alemán)</td>
</tr>
<tr>
<td>Comptroller General</td>
<td>Guillermo Arguello Poessy</td>
<td>PLC (Somoza)</td>
</tr>
<tr>
<td></td>
<td>José Pasos Marciac</td>
<td>FSLN</td>
</tr>
<tr>
<td></td>
<td>Luis Angel Montenegro</td>
<td>FSLN</td>
</tr>
<tr>
<td>Supreme Electoral Council</td>
<td>Roberto Rivas</td>
<td>PLC (Church)</td>
</tr>
<tr>
<td></td>
<td>Emmet Lang</td>
<td>FSLN</td>
</tr>
<tr>
<td></td>
<td>René Herrera</td>
<td>PLC (Alemán)</td>
</tr>
</tbody>
</table>

Other key figures include Rene Herrera, political scientist who became a key advisor to Alemán and was the PLC’s architect of the pact with the FSLN in 2000. He supported Alemán during his term and is involved as his negotiator with Ortega over Alemán’s liberty. He maintains a strong dispute with Rivas within the CSE.

These examples illustrate a vitiated political system whereby governance and democracy are kidnapped by the capriciousness of traditionally crafted politicians. Meanwhile stands a weak civil society that only recently has mobilized forces to demonstrate against the pact.

iii) Weak civil society

Nicaragua has had a structurally weak civil society and relatively few social protest movements. Beyond the labor and student movements, there has been very little social mobilization in the country since 1990. Non-governmental institutions have seen their militancy co-opted to a certain extent in exchange for their social service work. The church, on the other hand, has accepted the status quo instead of choosing to work for democratic political change.

Non governmental organizations have played an important role in supporting and consolidating democracy. Either through their social agendas or by their own existence these organizations have contributed to important political transformations. In particular,
women in positions of authority in NGOs have been prominent within their organizations and above those in positions in government. Forty percent of NGO executive directors are women in Nicaragua.

Table 4: Gender composition of Executive Directors of NGOs in Central America

<table>
<thead>
<tr>
<th>Country</th>
<th>Number of Orgs</th>
<th>Women</th>
<th>Men</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belize</td>
<td>15</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>306</td>
<td>159</td>
<td>147</td>
</tr>
<tr>
<td>El Salvador</td>
<td>157</td>
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<tr>
<td>Guatemala</td>
<td>160</td>
<td>60</td>
<td>100</td>
</tr>
<tr>
<td>Honduras</td>
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<td>137</td>
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<td>Nicaragua</td>
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<tr>
<td>Panamá</td>
<td>127</td>
<td>54</td>
<td>73</td>
</tr>
<tr>
<td>Total</td>
<td>1106</td>
<td>475</td>
<td>631</td>
</tr>
</tbody>
</table>

Source: Author’s tabulation as of November 2001.

Table 5: Women in Central America in positions of political authority (%, circa 2001)

<table>
<thead>
<tr>
<th>Country</th>
<th>Costa Rica</th>
<th>El Salvador</th>
<th>Guatemala</th>
<th>Honduras</th>
<th>Nicaragua</th>
<th>Panamá</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministers</td>
<td>17.6</td>
<td>25.0</td>
<td>7.7</td>
<td>26.3</td>
<td>7.1</td>
<td>25.0</td>
</tr>
<tr>
<td>Vice-Minister</td>
<td>18.75</td>
<td>6.7</td>
<td>ND</td>
<td>5.3</td>
<td>ND</td>
<td>23.1</td>
</tr>
<tr>
<td>Legislador</td>
<td>19.30</td>
<td>9.5</td>
<td>9.7</td>
<td>10.2</td>
<td>7.6</td>
<td>9.9</td>
</tr>
<tr>
<td>Parlacen</td>
<td>4.5</td>
<td>12.0</td>
<td>11.5</td>
<td>29.2</td>
<td>26.3</td>
<td></td>
</tr>
<tr>
<td>Mayor</td>
<td>9.2</td>
<td>8.0</td>
<td>1.0</td>
<td>10.0</td>
<td>9.9</td>
<td>10.0</td>
</tr>
</tbody>
</table>


However, these groups and other social organizations have been unable to demonstrate against the pacts and abuses of authority. There exist only less than six NGOs monitoring democracy and their political influence is limited to informing political elites and are heavily depending on foreign assistance. Rather than organic political movements, democracy building NGOs are organizations that operate as a function of international donor agencies agendas and funding availability, which for the most part do not recommend political activism and rather support ‘soft’ and long term institutional development.

The most active civil society group has been the media. The national newspapers La Prensa, El Nuevo Diario, political analysis magazines like Confidencial or radio stations like Coroporacion have played a critical role in questioning the political injustices in the country resulting from the FSLN and PLC pact. What Nicaraguans need is a multiclass coalition of
groups that represents not only organized movements but public opinion. In fact, the public is generally opposed to the pact. A recent poll carried out in August showed that over 80% of Nicaraguans believed the pact to be conducive of instability.

Figure 1: Do you agree that the pact ...

- 86.20%: Brings stability and tranquility into the country
- 8.60%: Has brought the country into a political crisis destroying the institutional achievements of the past few years
- 5.30%: No answer
- 0.00%

Source: M&R Agosto 2005

iv) Low political risk

Nicaragua has experienced very little dissidence, partly due to intimidation and co-optation. Increased dissent within the Sandinista and Liberal parties has been controlled, and on occasion eliminated. There is no doubt that there is nonconformity among party members (including within the Legislature and Court), but internal intimidation has contributed to silencing calls for internal reform.

Independent leaders, including from the private sector have been reluctant to assume the risk of heading a fight to protest political injustice at the cost of expulsion or sanctions. The fragmentation of political authority in Nicaragua has been a typical practice: leaders that emerge are eventually eliminated as a result of the absence of an agreement among elites that
delegates representation in an authority that reflects trust among these groups. The private sector has been indirectly an accomplice of the continuity of the pact as it has shown little concern for the state of politics unless their economic interests are affected.

It is possible that this situation may change as three new events are occurring in the country. First, a new head of the private sector group was elected, Erwin Kruger. Mr. Krueger a former minister of external cooperation under Violeta Chamorro has played an important role in denouncing the pact. Second, an increasing group of social organization has mobilized to demonstrate against the pact. Specifically, the Movement for Nicaragua, a coalition of organizations including various social and political sectors has mobilized to denounce the arbitrary abuses of authority but also to carefully watch the forthcoming electoral process against the danger of fraud. Third, political dissidents have set foot against Ortega and Alemán by creating their own political movement to run in national elections.

This third dynamic is capturing the attention of many. Herty Lewittes a senior FSLN militant who played a key role during the Sandinista revolution, was expelled from the party after he demanded free and fair primary elections within the FSLN. Openly challenging Daniel Ortega to compete in a primary, Lewittes was accused of betraying the party’s ideals. Ortega’s wife, Rosario Murillo and one of his most influential advisors, initiated the battle against Lewittes and his expulsion. Herty Lewittes joined the Sandinista Renovation Movement, MRS, before his death and was running for elections. Prior to his death, the FSLN intimidated him, threatened and fabricated a corruption case against him in order to prevent him from running. Polls indicate, however, that the movement holds significant popular support within the FSLN sympathizers.
Meanwhile, the Liberals have also had several dissenting groups moving away from Alemán and further fragmenting the party. Eduardo Montealegre is a key presidential candidate who has created his movement outside Alemán’s circle of power. He enjoys popular support even among PLC groups.

These dynamics signal a slight change in a political turmoil. However, there are many limitations in sight that are not balanced by a stronger political movement. While one can not disregard these movements as pivotal, the strength of the FSLN and PLC in maintaining their political influence is non-negligible.

v) The U.S.: cold war eyesight

The problem of the internal political crisis in Nicaragua is also associated with its international position and its relationship with the United States. The United States has played both a constructive and destructive role in Nicaragua. It continues to view its policy towards Nicaragua through the prism of the Cold War. While the world has changed
radically, U.S. policy towards Nicaragua still demonizes the Sandinistas and is silent about other injustices. The U.S. is not worried about the content of the pacts, but rather what will happen if the Sandinistas win the election and communism returns to the region.

During the Bolaños administration the U.S. pursued a policy of supporting Nicaragua while exerting pressure on issues, such as approving CAFTA, seeking the destruction of missiles from the country’s armed forces, and scolding PLC leaders. But at the same time the U.S. government has played a key role in promoting democracy by supporting with foreign aid the rule of law and civil society.

The U.S. Cold War mentality is detrimental to address the problem of democracy in Nicaragua. The policy interests of the U.S. administration do not necessarily coincide with democratic change, but with keeping allies on their side. The real threat to Nicaragua is in not wanting to recognize or confront current problems that have emerged since the Cold War era. The United States should recognize the legitimacy of the Frente Sandinista because more than one third of its population supports that party. But it also needs to criticize the anti-democratic nature of Ortega, rather than his alleged communist credentials. This is the only way the U.S. will be able to confront the anti-democratic face of the FSLN not as a party of the left, but as a populist party in desperate need of internal reform.

3. Nicaraguan politics in an election year

2006 has proven to be a critical time for Nicaragua because a new presidential election is set for November of 2006 and the candidates at hand reflect the political scenario prevailing in the country. First, the resulting process that led to the selection of four presidential candidates raises a number of questions about the extent of political change in the country’s future. Second, some of the political issues that surged during the campaign (ie, energy crisis and CENIS) highlight the weakness of the political system. Third, people’s perception of political change are yet to correspond with a solid popular movement or substantive leadership.
ELECTING THE CANDIDATES

Currently there are five candidates in the presidential race: Daniel Ortega, Jose Rizo, Eduardo Montealegre, Edmundo Järquin, and Eden Pastora. Each one of them represents preferences among Nicaraguans. The selection process of Daniel Ortega was straightforward and uncontested, particularly because the party structure prevented internal competition and the dissenting forces behind Herty Lewittes moved to the MRS. In turn, the MRS strengthened its position adding Edmundo Järquin as vice-president, but later was chosen presidential candidate after Lewittes sudden death from a heart attack during the campaign. Montealegre on the other hand established his party, the Alianza Liberal Nicaraguense, which represented a coalition of varying political forces, including followers of Bolaños, members of the private sector and the middle classes. His campaign has sought to distance itself from the PLC. Meanwhile, the PLC struggled to choose a candidate that was not clearly Aleman’s hand picked choice and decided among Jose Rizo, Francisco Sacasa (closer to Aleman) and Jose Antonio Alvarado (distanced from Aleman). Rizo was chosen as the middle of the range candidate.

The opinion polls have been monitoring the party preferences among Nicaraguans and show that people have increasingly demonstrated an interest in moving away from the two traditional parties. Gallup polls in Nicaragua show that support of these parties has either declined or remained consistent but has not increased.

As of the end of September 2006 polls showed that support for FSLN candidate Daniel Ortega and ALN candidate Eduardo Montealegre is nearly tied with Ortega at 30.9% and Montealegre at 26.5% of voters’ support. Since the poll conducted in August by the same agency Ortega’s lead over Montealegre has narrowed slightly with Ortega dropping from 32.1% to 30.9%, and Montealegre has gained a bit of support increasing from 25.0% to 26.5% of voters’ support. Also, for the first time M&R Consultores registered PLC candidate José Rizo in third place with 16.3% and MRS candidate Edmundo Järquin slipped to fourth place with 15.9% of the vote.\(^\text{22}\) With regard to the two front-runners, it seems as

though the scandals and negative media attention that Montealegre has received in the last month have not negatively affected his support for the presidency. And although Ortega remains in the lead, as he has often done in previous presidential elections, the narrowing of his lead may suggest that Nicaraguan voters are not convinced that he is the best suited alternative for the country.

Emerging issues during the campaign

In addition to the campaign dynamics at least two major political events have influenced the conduct of the election. First, news of corruption and mishandling of domestic bonds by government officials in the previous administration caused a debate about how to respond to the problem. Second, failure of the government to address the energy crisis has led to Ortega to seize the opportunity to campaign on an ideological platform with support from Hugo Chavez.

On May 12, 2006 PLC party officials demanded that all parties implicated in the internal debt scandal, known as the CENIS scandal, receive prison sentences. The PLC’s demand was a direct attack on ALN candidate and former Minister of Public Finance Montealegre. While Minister of Public Finance under Alemán, Montealegre was responsible for the negotiation of the interest rates of the Negotiable Certificates of Investment (CENIS), which was meant to relieve internal debt during the banking crisis of 2000-2001. Critics of Montealegre’s handling of the banking crisis suggest that his decisions as Finance Minister merely shifted the private internal debt to the public sector, and they point out that Montealegre acquired $1.7 million as a result of his involvement in the scandal.
Montealegre denied the allegations of his involvement with the CENIS controversy, and ALN supporters, including U.S. ambassador to Nicaragua Paul Trivelli, maintain that the controversy is really a smear tactic of the opposing parties to threaten Montealegre’s presidential campaign. Despite repeated denials, PLC and FSLN deputies have initiated a commission to investigate Montealegre’s personal gains from and his role in the CENIS scandal. Representatives from the pacted parties have also requested help from the U.S. to investigate a U.S.-based company that is allegedly connected to the presidential candidate.

The FSLN and PLC party members have used this scandal to depict Montealegre as a corrupt politician and ultimately to undermine his campaign. The political maneuvering of the PLC and FSLN since May has affected Montealegre’s ratings in the polls, but not as much as may have been expected. M&R Consultores polls show that Montealegre’s support did decrease from 27.6% in May to 25.0% in August, however, the September poll placed him back at 26.5% showing that he recovered some of his previous support. Montealegre supporters have used the scandal to indicate that the pacted parties are themselves corrupt and merely looking for a way to damage the reputation of Montealegre before the elections.

Another issue that has been raised and politicized throughout the presidential campaign is Nicaragua’s energy crisis. Power cuts have become routine across Managua and in other parts of the country, which have prompted protests against Unión Fenosa, the Spanish electric company responsible for delivering electricity to the country. In response to the energy crisis, the Comptroller General’s Office has issued a resolution of nullification of Unión Fenosa’s contract with the Nicaraguan government, and presently the Attorney General Alberto Novoa must decide to either implement or reject the resolution. The Bolaños government has attempted to deal with the energy crisis by proposing several measures, but principal among them is an Energy Emergency Law that would allow weekly changes in the electricity rate based on the price of oil rather than on a combination of factors as is done currently. However, the President’s proposal has received harsh criticism from the Nicaraguan Energy Institute and will most likely fail in Congress.
The FSLN maintains that the best solution to Nicaragua’s energy crisis is to buy oil under preferential terms from Venezuela, and they have brokered a deal to do so. Previously in May the mayor of Managua and other mayors in Nicaragua signed a deal with the Chavez government to buy oil at discounted rates; however, this arrangement was blocked by Bolaños stating that such an arrangement would have to be agreed upon at the state level. Thus, the agreement between Nicaraguan mayors and the Venezuelan leader have been put indefinitely on hold. The FSLN, however, has continued to promote the idea of buying oil from Venezuela and has made the proposal into a campaign issue suggesting their allegiance to Chavez if Ortega were elected.

The potential relationship between Chavez and Ortega, if elected, has elicited concern from U.S. ambassador Trivelli who has suggested that a leftist leader in Central America would undermine the regional interests of the U.S. Due to the FSLN’s preference for Venezuelan oil in response to the energy crisis, the U.S. has lent even more support to conservative candidate Montealegre, who has not suggested the possibility of subsidized Venezuelan oil as a solution to the crisis. Although the U.S. endorsement of Montealegre may not ultimately affect Montealegre’s approval ratings, the endorsement does influence international opinion about the presidential candidates in Nicaragua.

The social problem

The main challenge in Nicaragua continues to be economic development. People’s income is relatively low and poverty levels are not declining substantially (see tables in the appendix). Even the primary sources of economic income are either based on enclave sectors, such as tourism or maquilas, or sectors for which there is no policy in place, as is the case of remittance transfers. This reality poses continued challenges in satisfying people’s needs and wants.

Table 6: Central America in the global economy, 2005, in million US$

<table>
<thead>
<tr>
<th>Sector</th>
<th>Guatemala</th>
<th>El Salvador</th>
<th>Honduras</th>
<th>Nicaragua</th>
<th>Costa Rica</th>
<th>D.R.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remittances</td>
<td>2,992.8</td>
<td>2,830.2</td>
<td>1,763</td>
<td>850</td>
<td>362.0</td>
<td>2,410.8</td>
</tr>
<tr>
<td>Merchandise Exports (not including maquiladora)</td>
<td>5,028.6</td>
<td>1381.47</td>
<td>875.0</td>
<td>857.9</td>
<td>2,954.0</td>
<td>1,397.9</td>
</tr>
<tr>
<td>Maquiladora</td>
<td>352.4</td>
<td>1,920.7</td>
<td>886.4</td>
<td>682.1</td>
<td>4,072.3</td>
<td>4,734.6</td>
</tr>
<tr>
<td>Sector</td>
<td>Guatemala</td>
<td>El Salvador</td>
<td>Honduras</td>
<td>Nicaragua</td>
<td>Costa Rica</td>
<td>D.R.</td>
</tr>
<tr>
<td>------------------------</td>
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<td>------------</td>
<td>----------</td>
<td>-----------</td>
<td>------------</td>
<td>------</td>
</tr>
<tr>
<td>Official Development Assistance*</td>
<td>218.4</td>
<td>211.5</td>
<td>641.7</td>
<td>1,232.4</td>
<td>13.5</td>
<td>86.9</td>
</tr>
<tr>
<td>Income from Tourism</td>
<td>868.9</td>
<td>542.9</td>
<td>472.2</td>
<td>207.1</td>
<td>1,598.9</td>
<td>3,519.7</td>
</tr>
<tr>
<td>GDP</td>
<td>27,400.0</td>
<td>17,244.0</td>
<td>8,000.0</td>
<td>5,000.0</td>
<td>20,014.5</td>
<td>29,333.2</td>
</tr>
<tr>
<td>R+X+A+T/GDP</td>
<td>35%</td>
<td>40%</td>
<td>58%</td>
<td>72%</td>
<td>45%</td>
<td>41%</td>
</tr>
</tbody>
</table>

One important development in this direction is that there seems to be a relationship between dissatisfaction of where the country is heading and political support for alternative political parties. At the very least, these two patterns (which are statistically correlated) raise the question as to whether support for alternative candidates mean they want to move in a different direction from which the country is heading.

Figure 4: Where the country is heading and support for other parties than FSLN/PLC

4. Alternatives to the country

The political situation will continue to deteriorate against the current government. The FSLN will push the government into the corner in order to improve its position given a weakened government. The current energy crisis affecting the global economy is levying a heavy toll in Nicaragua and leaves the government with very few options and means to address it. The FSLN has capitalized on the situation mobilizing strikes and appearing as a benevolent party seeking conciliation and solutions, while holding the government accountable for the crisis. The end result continues to give more credibility to the FSLN
than the government, in part because the FSLN is more astute in handling these crises to its favor, but also because the government is dramatically slow at predicting and responding to these conditions.

The options to solve a continued weakening of the government with the purpose of strengthening the FSLN, while the PLC vindicates its anti-Bolaños stance are limited. Dialogue for one is not an option under almost any circumstances. Thus, the international community must act aggressively questioning the powers that be, while civil society mobilizes with disobedience against the pact. Moreover from a long term perspective it is time the country addresses the dangers of the past and investigates the thousands of violations. This situation will seek to alleviate the hatred and resentment that prevails among Nicaraguans of all ranks.

i) No more dialogue
Contrary to what others argue, dialogue is synonym of political stagnation. Nicaraguan elites have traditionally sought to engage in a dialogue with their opponents whenever they want to leverage their position or gain time, but not to arrive at effective solutions. No solutions have ever resulted in any national dialogue in the past fifteen years, much less in the political history of the country. Democratic forces in Nicaragua, albeit weak, need to problematize the dubious quality of national dialogues and instead demand immediate resolve in favor of political change and representation of society.

ii) International pressure, but of a different nature
Within that framework the international community must be unequivocal in supporting civil society and democratic forces, by demonstrating its position against a dialogue, and simultaneously conditioning its assistance to democratic performance. Although more often than not criticism of the United States has been fair, such criticism is not balanced. International donors from the European Union and other countries have often shied away from conflict or crisis happening or simply kept quiet. Although the European Union played a key role in supporting the United Nations dialogue initiative, in practical terms, most influential sectors were quite aware of the limitations that such dialogue had. Indeed, the national dialogue only bought time for the pacted elite to further weaken the government.
Often international players raise the respect of the sovereignty card as justification for their silence. However, the costs of democratic support by these players has been greater and less effective when anti-democratic forces prevail: what sense does it have to support rule of law programs, political culture, for example, when the pacted elite throws everything down the drain? Moreover, these players have carried out an important democratizing role under other circumstances\(^{23}\), and can do so now applying diplomatic, political and economic pressure against the pacted elite by forging alliances with democratization forces.

\[\text{iii) Domestic mobilization: unmasking the networks, rising the stakes, and civil disobedience}\]

A militant social movement that includes all social classes would be a key way to respond to the abuses of authority that have taken place in Nicaragua. This alternative requires a decisive and conflictive response to political and social injustices, which brings together not only intellectuals and the middle class meeting at hotels, but also social uprisings that question the legitimacy of traditional politicians and their parties.

Social disobedience in Nicaragua is crucial at this time to stop the violations of constitutional abuses of constitutional rights and the use and abuse of the Nicaraguan public. But this social movement must be accompanied by national elites who are prepared to stop the theft and abuse. Such a risk does not refer to the work of the government in fighting against the two parties, but instead to a force of wider social groups in questioning the parties’ source of power and their reforms. While Ortega and Alemán try to paint themselves as “representatives” of a political mass anxious for a national rejuvenation of political alternatives, political risk will require to argue that is politically and morally indefensible to unquestioningly support these parties and their arbitrary decisions.

\[\text{iv) A truth commission}\]

Nicaragua is a deeply polarized country with a high level of social fragmentation and political obstruction that has been manifested in social distrust and resentment. Consensus among political elites has been opportunistic, seeking short-term political objectives with scant

vision of national unity. This has resulted in permanent political and social instability that has exhausted the Nicaraguan public.

The bitterness and resentment that predominate in many social sectors (rich vs. poor, rural vs. urban) are linked to the legacy of the civil war that deepened the culture of violence and hate and contribute to the current situation. To the extent that these injustices are not attended to and remedied, this resentment will continue and will foster violent conflict or a state of political inertia.

Confronting the past means telling the story of human rights violations against all sides, demonstrating the injustices committed against thousands of people, and validating the experience of having suffered abuse. But it also means seeking remedies in the face of that injustice.

Nicaragua needs to know the past and make it public, and it needs justice and rectification of damages with social and state responsibility. Nicaragua is one of the few countries in the world that lived through a civil war in which human rights violations were committed but the past was not investigated. Instead, it approved two amnesties to protect the army and the counterrevolution.