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FREEDOM IN THE WORLD

Nicaragua

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OVERVIEW:

President Daniel Ortega and his party, the Sandanista National Liberation Front (FSLN), continued to consolidate power in 2012, with an overwhelming victory in the November municipal elections giving the FSLN near complete dominance over most of the country's institutions. Serious concerns remained about the politicization of institutions, particularly the Supreme Electoral Council. Meanwhile, the Comprehensive Law Against Violence Toward Women went into effect in June.

The independent Republic of Nicaragua was established in 1838, 17 years after the end of Spanish rule. Its subsequent history has been marked by internal strife and dictatorship. The Sandinista National Liberation Front (FSLN), a leftist rebel group, overthrew the authoritarian regime of the Somoza family in 1979. The FSLN then moved to establish a left-wing government, leading to a civil war. The United States intervened, in part by supporting irregular rebel forces known as the *contras*.

In 1990, National Opposition Union presidential candidate Violeta Chamorro defeated the FSLN's Daniel Ortega in free and open elections, leading to a peaceful transfer of power. Before leaving office, however, the Sandinistas revised laws and sold off state property to party leaders, ensuring that they would retain political and economic clout.

Former Managua mayor Arnoldo Alemán of the Liberal Constitutionalist Party (PLC) defeated Ortega in the 1996 presidential election, but he was accused of corruption throughout his ensuing presidency. In 1999, the PLC and FSLN agreed to a governing pact that guaranteed Alemán a seat in both the Nicaraguan and the Central American parliaments, ensuring him immunity from prosecution. It also included reforms that lowered the vote threshold for winning an election without a runoff from 45 to 40 percent (or 35 percent if the winner had a lead of 5 percentage points). Using their combined bloc in the legislature, the two parties solidified their control over the Supreme Court and the electoral tribunal, among other institutions.

In the 2001 election, PLC presidential candidate Enrique Bolaños, a respected conservative businessman and former vice president to Alemán, defeated Ortega. He vowed to prosecute Alemán and his aides for corruption, causing a break with the PLC; Bolaños later formed the Alliance for the Republic (APRE) party. The protracted effort to convict Alemán eventually led to a 20-year prison sentence for money laundering in 2003. However, the former leader used his alliance with Ortega to secure his release from parole conditions in March 2007, as long as he did not leave the country.

Ortega won the 2006 presidential election with 38 percent of the vote in the first round. Eduardo Montealegre of the Nicaraguan Liberal Alliance (ALN), who had served as finance minister under Bolaños, took 29 percent.

2013 SCORES

STATUS

Partly Free

FREEDOM RATING

4.5

CIVIL LIBERTIES

4

POLITICAL RIGHTS

5

In 2007, Ortega consolidated his power over the central bank, the police, and the military through a series of legislative changes. His administration also established a system of Citizens' Power Councils (CPCs), from the neighborhood to the federal level, to promote direct democracy and participation in the government's Zero Hunger food-production project. Critics argued that the bodies would blur the lines between state and party institutions.

Prior to the November 2008 municipal elections, the Supreme Electoral Council (CSE) took a number of steps that appeared designed to ensure FSLN victories, including postponing elections in several municipalities in the Northern Atlantic Autonomous Region (RAAN), where anti-FSLN sentiment was high, and preventing two opposition parties from contesting the elections. The CSE also refused accreditations to local and international electoral observers for the first time since 1990. After the balloting, the CSE announced that the FSLN had won 105 of 146 municipalities, including Managua. However, independent observers documented fraud in at least 40 municipalities, and the international community condemned the election results, leading to the suspension of more than \$150 million in U.S. and European Union (EU) aid in 2009.

In July 2009, Ortega publicly stated that the constitutional ban on consecutive presidential terms should be eliminated. The National Assembly opposed his initiative, and Ortega lacked the support to pass a constitutional amendment on the issue. Ortega and more than 100 FLSN mayors subsequently filed a petition with the Constitutional Chamber of the Supreme Court claiming that the ban on consecutive terms violated their rights to participate in the political process. In October 2009, the Supreme Court found in favor of Ortega and the mayors, lifting the ban on consecutive terms; the ruling, however, did not amend the constitution.

In January 2010, Ortega decreed that appointed officials could remain in their posts until the National Assembly selected replacements, even if that occurred after the end of their terms. The decree affected 25 high-level posts, including the presidency and magistrates of the CSE, who had supported allowing Ortega to run for a second consecutive presidential term in 2011. The struggle over these appointments sent Nicaragua into a political crisis in 2010, as members of the National Assembly were unable to achieve the majority necessary to select replacements. In keeping with Ortega's decree, many officials remained in their posts after their terms expired in June, including the CSE president and members of the Supreme Court, which moved ahead with preparations for the 2011 elections.

Ortega's candidacy for another term was officially approved by the CSE in April 2011, effectively ending legal challenges to his candidacy. Fabio Gadea Mantilla's Nicaraguan Unity for Hope (UNE) attempted to unite the opposition against Ortega, but former president Alemán refused to abandon his candidacy. Instead, Gadea became the candidate for the Liberal Independent Party (PLI) coalition, which united parties from Montealegre's ALN and the Sandinista Renovation Movement. Alemán was selected as the presidential candidate for the PLC-Conservative Party alliance.

The CSE delayed issuing invitations to international observer teams until August 2011, significantly reducing the time available for observers to conduct their work. As with the 2008 municipal elections, several domestic observer groups with significant experience in electoral observation did not receive accreditation, though several international observer missions that were excluded in 2008—including the EU, the Organization of American States, and the Carter Center—were invited to observe. There was some controversy over the rules for accompaniment issued by the CSE, which some observer teams feared would limit their capacity to effectively observe the electoral process.

Ortega won the election in November 2011 with almost 63 percent of the vote, followed by Gadea with 31 percent and Alemán with almost 6 percent. The FSLN won 63 seats in the National Assembly, followed by the PLI with 27 and the PLC with 2. Though international observation teams noted irregularities and lamented a lack of transparency, there was no conclusive evidence of fraud. Observers did, however, report issues with the distribution of voting cards, the voter registry, difficulty accessing polling places, and concerns about the composition of electoral boards. Both Gadea and Alemán denounced the

outcome and refused to recognize the results. Several protestors were killed and dozens of police officers were injured in post-election violence between supporters of the government and the opposition. In June 2012, the United States canceled its fiscal-transparency waiver—a policy in which U.S. aid to Nicaragua is contingent on financial and electoral transparency—over concerns about the 2011 elections, cutting approximately \$3 million in aid.

In May 2012, the National Assembly approved numerous changes to the municipal electoral law, including adding the provision that mayors could run for re-election and instating a requirement that half of each party's candidates for mayor and council seats be women. The Assembly also approved an increase of municipal councilors from 2,178 to 6,534.

Municipal elections were held in November 2012. The FSLN won 134 of 153 municipalities, the PLI took 13, the PLC captured 2, Yatama won 3, and the Liberal Alliance took 1. The PLI and PLC challenged results in five municipalities, but the challenges were rejected by the CSE on procedural grounds. Opposition parties and observer groups noted irregularities in the electoral process, including outdated voter rosters, the presence of “phantom” parties and candidates, voters being turned away at the polls, and repeat voters. The abstention rate was also a matter of concern, though that number has been disputed by the CSE.

POLITICAL RIGHTS AND CIVIL LIBERTIES:

Nicaragua is an electoral democracy. The constitution provides for a directly elected president and a 92-member unicameral National Assembly. Two seats in the legislature are reserved for the previous president and the runner-up in the most recent presidential election. Both presidential and legislative elections are held every five years. While the president is limited to two nonconsecutive terms under the constitution, the Supreme Court lifted the restriction in October 2009 following a petition by Ortega.

Corruption cases against opposition figures are often criticized for being politically motivated. The 2007 Law on Access to Public Information requires public entities and private companies doing business with the state to disclose certain information. However, it preserved the government's right to protect information related to state security. Concerns about the transparency of funds from the Bolivarian Alliance for the Peoples of our America organization, of which Nicaragua is a member, persisted in 2012, as did those over the appointments of officials whose terms have expired and the electoral process. Nicaragua was ranked 130 out of 176 countries surveyed in Transparency International's 2012 Corruption Perceptions Index.

In May 2012, CSE alternate magistrate Julio César Osuna of the PLC was arrested on charges of money laundering, using his office to smuggle drugs, and selling false identification to drug traffickers. He was later stripped of his immunity by the National Assembly so that he could stand trial. Osuna, who has been linked to the traffickers who ordered the 2011 murder of Argentine folk singer/songwriter Facundo Cabral in Guatemala City, pled guilty to racketeering and falsifying documents in exchange for a reduced sentence of 23 years. CSE President Roberto Rivas insisted that Osuna had been working alone and that there was no wider scandal involving the CSE, though critics have suggested that is unlikely.

The constitution calls for a free press but allows some censorship. Radio remains the main source of information. Before leaving office in 1990, the Sandinistas privatized some radio stations and handed them to party loyalists. There are six television networks based in the capital, including a state-owned network, and many favor particular political factions. Three national newspapers cover the news from a variety of political viewpoints. The Communications and Citizenry Council, which oversees the government's press relations and is directed by First Lady Rosario Murillo, has been accused of limiting access to information and censoring the opposition. Access to the internet is unrestricted.

The press has faced increased political and judicial harassment since 2007, and the Ortega administration engages in systematic efforts to obstruct and discredit

media critics. Journalists have received death threats, and some have been killed in recent years, with a number of attacks attributed to FSLN sympathizers. Luis Galeano, a reporter for *El Nuevo Diario*, received death threats in February 2011 following a series of articles on government corruption that included allegations against CSE president Roberto Rivas Reyes. Another *El Nuevo Diario* reporter, Silvia González, reported receiving death threats following a series of articles on corruption and the mysterious death of a former Contra leader; she fled the country in September 2011. Though the Ortega administration condemned the attacks, González ultimately fled the country. In addition, members of the ruling elite have acquired stakes in media outlets and used their ownership influence to sideline independent journalists.

Religious and academic freedoms are generally respected.

Freedoms of assembly and association are recognized by law, but their observance in practice has come under mounting pressure. While public demonstrations are generally allowed, opposition members have accused the police of partisan behavior and failing to protect demonstrators. Although nongovernmental organizations are active and operate freely, they have faced harassment in recent years, and the emergence of the CPCs has weakened their influence. The FSLN controls many of the country's labor unions, and the legal rights of non-FSLN unions are not fully guaranteed. Although the law recognizes the right to strike, unions must clear a number of hurdles, and approval from the Ministry of Labor is almost never granted. Employers sometimes form their own unions to avoid recognizing legitimate organizations. Employees have reportedly been dismissed for union activities, and citizens have no effective recourse when labor laws are violated by those in power. Child labor and other abuses in export-processing zones remain problems, though child labor occurs most often in the agricultural sector.

The judiciary remains dominated by FSLN and PLC appointees, and the Supreme Court is a largely politicized body controlled by Sandinista judges. The court system also suffers from corruption, long delays, a large backlog of cases, and a severe shortage of public defenders. Access to justice is especially deficient in rural areas and on the Caribbean coast.

Despite long-term improvements, the security forces remain understaffed and poorly funded, and human rights abuses still occur. Forced confessions are also a problem, as are arbitrary arrests. Though Nicaragua has generally been spared the high rates of crime and gang violence that plague its neighbors to its north, the country—specifically the Atlantic coast—is an important transshipment point for South American drugs. The police have been active in combating trafficking and organized crime. Prison conditions are poor.

The constitution and laws nominally recognize the rights of indigenous communities, but those rights have not been respected in practice. Approximately 5 percent of the population is indigenous and lives mostly in the RAAN and the Southern Atlantic Autonomous Region (RAAS). In 2009, the Miskito Council of Elders in the RAAS announced the creation of a separatist movement demanding independence, citing government neglect and grievances related to the exploitation of natural resources. In 2012, the Constitution was translated into Miskito and Mayangna for the first time.

Violence against women and children, including sexual and domestic abuse, remains widespread and underreported; few cases are ever prosecuted. Additionally, the murder rate among females increased significantly in recent years. In January 2012, the Comprehensive Law Against Violence Toward Women was passed by the National Assembly. The law, which went into effect in June 2012, addresses both physical and structural forms of violence, and recognizes violence against women as a matter of public health and safety. The law also sets forth sentencing guidelines for physical and psychological abuses against women, as well as the newly established crime of femicide. Abortion is illegal and punishable by imprisonment, even when performed to save the mother's life or in cases of rape or incest. Scores of deaths stemming from the ban have been reported in recent years.

Nicaragua is a source country for women and children trafficked for prostitution. In September 2010, the government passed a law that classifies human trafficking as a form of organized crime. In 2012 Nicaragua moved from Tier 2 to

Tier 1 in the U.S. State Department's Trafficking in Persons Report, which stated that Nicaragua fully complied with minimal standards. The report noted that the number of investigations and prosecutions of trafficking rose and penalties for trafficking-related offenses were increased.

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