



Nicaragua: Dealing with the Dangers of a One-sided Poll

An unrelenting crackdown on the political opposition by the Nicaraguan government has turned November's elections into a potential flashpoint and spurred a sharp deterioration in relations between President Daniel Ortega and other Latin American nations, the U.S. and the European Union (EU). At the start of 2021, almost three years after security forces met mass protests with violence – over 300 people, most of them demonstrators, died in the unrest – Ortega appeared to have consolidated his hold on power, in spite of the pandemic, and reaffirmed his political supremacy over a weak and fragmented opposition. Even so, the government has proven unwilling to take the risk of confronting an electoral challenge, opting instead for the iron fist. In recent months, state repression in Nicaragua has reached levels unseen in Latin America since the region's dictatorships waned in the 1980s, with the government arresting at least 37 high-level opponents, including seven presidential hopefuls, and compelling many others to flee into exile. The government has also proscribed the parties on whose ticket the opposition candidates would have run.

These draconian steps have brought Nicaragua back into the international spotlight, and on to the EU's radar, but as of yet outside powers have not mounted a concerted response capable of swaying Managua. Nor are they

likely to do so. To date, neither punitive measures from Western governments nor the more diplomatic approaches of left-leaning Latin American states like Mexico and Argentina have made inroads with Ortega, who has reacted furiously to what he perceives as interference. As election day draws nearer, it seems increasingly likely that Ortega will stroll to victory in a one-sided election, creating the conditions for further instability, humanitarian crisis and emigration, and setting a dangerous precedent for a region seeing increasing movement toward greater authoritarianism.

Against this backdrop, the EU has called on Ortega to halt his autocratic drift and imposed individual sanctions on eight of his allies, bringing the total of sanctioned persons since 2018 to fourteen. The Nicaraguan government has pushed back hard. Member states who have been vocal in their criticism of Ortega have been condemned publicly by Nicaraguan officials or received private threats that Managua will expel their ambassadors. The European Parliament has called on the EU to increase pressure on Ortega, including by suspending Nicaragua from its association agreement with Central America, which establishes a free trade area with the region.

With the aim of mitigating the risks of repression, deepening instability, diplomatic isolation and a migrant exodus from Nicaragua, the EU and its member states should design a sequenced approach comprising the following steps:

- Continue to press the government to stop arresting opponents, release political prisoners and meet certain basic electoral standards, such as allowing opposition campaigning, civil society observation of the polls and free press coverage of the process, with a view to rebuilding relations with European countries. The EU should also liaise with governments that still have communication channels open with Ortega in an effort to drive this message home to him.
- Work with the U.S., Canada and other regional governments on a coordinated response at the bilateral and multilateral levels in the event of a non-credible election, potentially including expanded targeted

sanctions and disciplinary measures by the Organization of American States (OAS) so long as these are calibrated to mitigate their humanitarian impact.

- In coordination with the U.S., Canada and other regional governments, draw up a roadmap including clear conditions for lifting sanctions and restoring better working relations with Ortega's government. The roadmap should include the resumption of dialogue with opposition forces on humanitarian and electoral issues, as well as a general framework for future political coexistence.
- Step up humanitarian aid and technical support to neighbouring countries facing a rise in arrivals of Nicaraguan migrants and refugees, as well as support to humanitarian agencies liaising with migration authorities, shelters and processing systems in those countries.

An End to Electoral Competition

Since mid-2019, when the second round of talks between the Ortega government and the Civic Alliance, an opposition umbrella organisation, ended, the tug of war between the government and its political opposition has been frozen. But the balance of power between the sides has progressively shifted. Despite their initially egregious mishandling of COVID-19, the ruling couple of President Ortega and his wife, Vice President Rosario Murillo, managed to reestablish a firm grip on the country by late 2020. Infighting between the two main opposition blocs, spearheaded by the Civic Alliance and the Blue and White National Unity, hindered efforts to create a cohesive political front that could stand up to the government. Meanwhile, most foreign governments engaged with Nicaragua became absorbed in their own pandemic-related woes.

Notwithstanding its already strong hand, the government has sought to quash anyone who might pose an electoral challenge to its rule. Mindful of the 1990 election, in which the Sandinistas led by Ortega suffered a surprise defeat at the tail end of a decade-long civil war, the government has rolled out an unabashed strategy of coercion and intimidation. Between late 2020 and early 2021, the Sandinista-controlled National Assembly took a number of steps to entrench the current government's power. It passed laws relating to foreign agents, cybercrime and treason that expanded its powers. It also extended the permissible pre-trial arrest period from 48 hours to 90 days. As 2021 proceeded, it appointed new loyalist magistrates to the Supreme Electoral Council.

At first, many observers assessed that the new legislation would be little more than a

latent threat. But, starting in late May, judicial authorities proceeded to order the detention of 37 high-level opposition figures, including seven possible presidential candidates, on conspiracy and treason charges, while the Supreme Electoral Council stripped three parties of their legal accreditation and the National Assembly did the same to 45 civil society organisations, including six international NGOs. The government has also targeted the free press: press associations have privately reported attacks on at least 98 reporters in the first semester, including 35 women who were also victims of gender-based threats and harassment. The arrested men and women were held incommunicado for months, until authorities finally allowed brief family visits in late August. The state held their hearings in secret and

sometimes in the absence of their lawyers, and relatives have alleged that prisoners are facing physical and psychological mistreatment – particularly women, according to the UN and Inter-American human rights organisations.

With politicians, business leaders, dissident Sandinistas and journalists among those detained, opposition groups find themselves in complete disarray. Most of their leaders are either in jail or in exile, while the remaining five candidates set to run against Ortega in November come from parties that most opposition forces consider to be government collaborators. The few opposition leaders who remain in Nicaragua have fallen silent and seem unable to agree on whether to boycott the polls or to ask supporters to spoil their ballots.

The Consequences of a Rigged Election

Ortega's authoritarian moves risk stirring up the grievances at the heart of the country's unresolved crisis. Enjoying only roughly half the popular support he enjoyed before 2018 (surveys show his ratings are stable at around one third of the population) and having damaged, perhaps irreparably, relations with the private sector and the Catholic Church after the crackdown on mass protests, Ortega is operating in an increasingly hostile environment. Three consecutive years of recession have piled ever more hardship on a population that was already among the poorest in Latin America.

The recent wave of arrests has fuelled discontent among Ortega's adversaries and may raise the prospect of episodic political violence, which tends to increase in election years. Urnas Abiertas, a civil society organisation that monitors elections, recorded 1,375 acts of political violence, most of them harassment, between 1 October 2020 and 15 August 2021. Even though mass protests are unlikely to resurface in the short term given the highly repressive climate, state violence and economic despair could rekindle the "protest spirit", in the words

of a Nicaraguan security expert. An additional uncertainty is that Ortega, who turns 76 in November, has reportedly been suffering health problems. His sudden demise could spark unrest as potential successors jockey for power, given that he has no heir apparent with strong support in Sandinista ranks.

The combination of economic stress and political persecution is also likely to prompt yet more Nicaraguans to flee. After three years in which Nicaragua's GDP contracted by more than 3 per cent, the World Bank predicts the country to be the third worst economic performer in the Western Hemisphere in 2021, behind Venezuela and Haiti. A rigged election would only isolate the government further, driving away more private investment (which has already nosedived in recent years) and hindering Managua's access to multilateral loans, as the U.S., the EU and other stakeholders are likely to vote against their disbursement.

Already, these conditions plus stepped-up repression are having an effect: more than 16,000 Nicaraguans booked hearings to file asylum requests in Costa Rica between June

and August, marking the start of a second wave of arrivals, according to a UN official. But with Costa Rica's migration system overwhelmed since 2018 with a backlog of 89,000 unresolved asylum requests, Nicaraguans are increasingly looking to other destinations, above all the U.S. The number of Nicaraguans apprehended at the U.S. southern border has dramatically increased in 2021, from 575 in January to 13,391 in July, when it topped the number of Salvadorans for the first time in decades. The Nicaraguan surge toward the U.S. border is set to hit a record for the 2021 fiscal year, with 43,327 apprehensions so far, many of them people travelling in family units.

Events in Nicaragua could well resonate beyond its borders. Other political leaders in Central America may feel emboldened to follow in Ortega's footsteps, particularly if the U.S. prioritises cooperation on migration control and counter-narcotics and imposes few costs for democratic backsliding. In El Salvador,

President Nayib Bukele has already been concentrating power and chipping away at judicial independence; among other things, the Salvadoran Constitutional Court – newly packed with the president's political allies – has overturned a constitutional prohibition on presidents running for immediate re-election at the end of their term. In Honduras, voters will also head to the polls within weeks of the Nicaraguan elections to choose a successor to President Juan Orlando Hernández, who has been cited several times as a co-conspirator in drug trafficking trials in New York courtrooms – including that involving his brother, sentenced to life imprisonment in March. (Hernández has denied all accusations of involvement in the drug trade.) Although he is not eligible to stand for election again and has publicly ruled out doing so, Honduran analysts fear that Hernández may meddle in presidential politics, either to impose his preferred candidate, Nasry Asfura, or to keep a grip on state and judicial institutions.

The Way Forward: A Sequenced, Coordinated Approach

Against this backdrop, the EU and its member states, along with other outside actors with influence in Managua, should step up their engagement in Nicaragua. While there is little if anything outside actors can do to change Ortega's immediate electoral strategy, looking away is not a good option, either. A failure to criticise increasing repression or impose costs for election fixing would send a dangerous signal, and increase the risk that other Latin American leaders resort to destabilising anti-democratic tactics in their own countries. Although the targeted sanctions and critical messaging that the EU has deployed to date have prompted a bristling response from Managua, Brussels should not back down. It should, however, choreograph its next steps carefully.

First, Brussels and EU member states should work with the U.S. and regional partners to prioritise the demands that they will be making in advance of the elections. They should continue to call on Ortega to halt the crackdown against political dissent; to release political prisoners; and to allow national and foreign journalists and civil society organisations to monitor the election. They should work through their few remaining diplomatic channels and with parties to which Managua might be receptive (including the Vatican and friendly regional governments such as Bolivia and Peru) to persuade Ortega that his best interests lie in meeting minimum electoral standards in order to restore working relations with foreign partners and financial institutions, and to warn that

without improvements in these areas, they will respond robustly – including with additional targeted sanctions – to credible accounts of election rigging. Imposing additional sanctions before the polls, on the other hand, runs the risk of fuelling Ortega’s ire and attacks on the opposition rather than taming them. Once the vote has been cast and he has achieved his goals, the president’s calculations are likely to be different and pressure tools of greater use.

Meanwhile, the EU should work with the U.S. and others to prepare a firm and coordinated response to the election if (as is likely) it does not meet minimum international standards. That response should include the expansion of the existing sanctions framework to include targeted measures against individuals, businesses and institutions that contributed significantly to the election-related crackdown. Brussels and member states should additionally explore with the Organization of American States the possible activation of procedures for Nicaragua’s temporary suspension on the grounds of Ortega’s interruption of the country’s democratic order. But the EU and its partners, including the U.S., should calibrate the measures they take to mitigate the humanitarian impact they might have, particularly in light of Nicaragua’s ailing economy. In particular, they should refrain from ejecting Managua from free trade agreements such as the EU association agreement and the Central America Free Trade Agreement (CAFTA), which would severely affect the country’s export-oriented economy and could spur migrants to leave at an even greater pace. Because further migration seems inevitable, donors should also scale up financial and technical assistance – such as legal counselling to migrants – and humanitarian aid to neighbouring countries’ shelters and civil society organisations, as well as to multilateral agencies that support migration authorities and Nicaraguan migrants and refugees.

At the same time, the EU, U.S. and OAS countries should draw up a roadmap for how Ortega can revitalise declining diplomatic

relations, including eventual reintegration in the Inter-American system (should Nicaragua be suspended) and the lifting of sanctions. The milestones that they set forth should draw on the requests made by the EU upon adopting its sanctions framework in October 2019, namely: government compliance with the agreements struck with the Civic Alliance in March 2019, including respect for civil and political rights and release of political prisoners; access to Nicaragua for international human rights bodies; and resumption of talks with the opposition. These objectives should be coordinated with other concerned states, and all should make clear that their focus is on persuading Managua to end the crackdown and restart talks with the opposition.

As for future negotiations between the government and opposition, these should aim not only to address the country’s humanitarian emergency and achieve electoral reforms, but also to forge an agreement on political coexistence that could enable the two sides to begin overcoming their enmity. The sides could decide to create a truth commission with a broad mandate going beyond the events of 2018, for instance; such a body would have to ensure fair representation from both the government and opposition as well as international experts among its members. Signs of progress in negotiations facilitated by Norway in Mexico to heal deep rifts between the Venezuelan government and opposition may help lure Ortega into contemplating a similar process.