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7

Dominant Power and Personalistic Rule, 2011–Present

In the 2011 elections Nicaragua's Liberals again split into two camps: the PLI, whose candidate was Fabio Gadea, officially took 31 percent of the vote; and the PLC, led by Arnaldo Alemán, fell to 5.9 percent. With the collapse of the PLC vote in 2011 (see Table 7.3), Nicaragua's experiment with official political duopoly ended. The pact still exists, as the PLC has received seats on the National Assembly's executive as well as positions on the collegial controller. However, these are given at the Sandinistas' discretion and give the emerging regime an exaggerated air of pluralism. In lieu of a duopoly, Nicaraguans now are governed by a regime that most closely resembles Carothers's dominant power system. This regime features

limited but still real political space, some political contestation by opposition groups, and at least most of the basic institutional forms of democracy. Yet one political grouping—whether it is a movement, a party, an extended family, or a single leader—dominates the system in such a way that there appears to be little prospect of alternation of power in the foreseeable future.¹

Nicaragua's version of a dominant power system naturally has its own traits and reflects Daniel Ortega's mode of governing. This appears to be based on a triad of forces: a single leader, him; his wife Rosario Murillo as an equal partner, with some of their children assuming supporting roles; and the FSLN. Together, these provide a formidable base for the emerging regime, as well as a daunting obstacle to challengers, whether parties, movements and civil society organizations, or individuals. Moreover, developments since the beginning of Daniel's third term have brought the military and police into his orbit and perhaps under his sway. As a result, Nicaragua's political system has taken another step away from not just elec-

toral democracy but also from political pluralism and toward monism, a too familiar Latin American standby.

Chapter 7 describes this system and analyzes its operation. Nicaragua is not the only country that has made such a transition, nor is it alone in possibly continuing toward a decreasingly competitive and democratic regime. This latter issue will be addressed in Chapter 8, but the essential point is that movement away from democratic pluralism is not uncommon. That aside, it is clear that Nicaragua's political system is not working as numerous observers would have forecast in 1990, when the then-six-year-old electoral democratic regime transferred power from one party to another. Few would have predicted that in ten years anti-Sandinistas and Sandinistas would find common ground in a project to systematically undermine democratic rule or that in sixteen the FSLN would be well along the road to single-party hegemony.

For the first seventeen years of democracy's third wave, from the Portuguese revolution of April 1974 to the fall of the Soviet Union in December 1991, many analysts, commentators, and participants saw bright futures for the newly minted democracies. Those analyzing this remarkable process discerned a "transition paradigm."² This envisioned a multistep process that showed the path the emerging democratic states would follow to take their places alongside the world's established democracies. Such was the optimism of the times that sober scholars of world affairs could speak confidently of the advent of a nearly universal democratic age, when the vast majority of the earth's peoples would enjoy the fruits of political freedom.³

There were plausible reasons for this optimism. Even the once communist states of Europe, including the constituent elements of the former Soviet Union, organized free and fair elections where voters could actually choose their government, instead of ratifying the Communist Party's slate. Along with competitive elections came free media providing alternative views on issues and personal liberties that could be put into practice. Yet it was not long before adjectives were being added to describe these new democracies.⁴ Terms like *illiberal democracy*,⁵ *electoral authoritarianism*,⁶ and *competitive authoritarianism*⁷ were used to describe the evolving political systems, which were not exactly democracies but neither were they textbook dictatorships. *Hybrid* was the portmanteau term applied to these regimes that "adopted the form of democracy with little of its substance."⁸ This literature treating the politics of less than democratic systems is examined in the next chapter. For the moment it is enough to know that Nicaragua did not make this transition alone.

To this point, we have seen how three changes of regime have been brought about in Nicaragua since 1979. All were consciously wrought and reflected the vision of a political elite. The first came after a revolutionary insurrection overthrew a long-standing dictatorship, and the vanguard

regime that was established reflected the preferences of the victorious Sandinistas, especially those of the nine *comandantes de la revolución*. Just five years later, those same Sandinistas decided that an electoral democracy was the system best able to give their revolution a long political life. This led them to make a second complete overhaul of the political system. Electoral democracy lasted for sixteen years before Arnoldo Alemán and Daniel Ortega struck a deal to bring the PLC and FSLN into a power-sharing duopoly, the third new regime. Their preferred system began tottering within two years, but endured until 2011, before finally falling. Its demise was in large part the work of Daniel Ortega. The regime that succeeded it, Nicaragua's current polity, reflects his aims and values.

Of course this does not imply that this current iteration of Nicaragua's political regime leaves Daniel Ortega an autocrat. He has advisers, all of the state's machinery, and a well-organized party to count on and work through. The president must also deal with an array of active and independent if often ineffective opponents. Yet he is the final arbiter. Thus this chapter's analysis of the dominant power, personalistic regime is also necessarily the study of how Daniel Ortega built a political system that reflected his vision of what a well-governed Nicaragua should look like.

Movement toward this fourth regime began well before the new order was consolidated in 2011. That process started in 2000 with the pact and grew stronger after Alemán's conviction in 2002. It continued through the rest of the Bolaños administration but really became unstoppable only after the 2006 elections returned Ortega to office. On regaining the presidency Daniel Ortega obtained the formal power to match his already substantial real power, a combination that allowed him to carry out this latest regime transition.

The New Regime's Traits

For anyone who remembers the FSLN of the 1980s it only takes opening the webpage of any Nicaraguan government department to see that things are not as they were. The red and black of the FSLN's flag, colors that symbolized the revolution, are nowhere to be seen. In their place is an arrestingly bright pink. Similarly absent is most of the radical discourse of revolutionary democracy that marked both the revolutionary vanguard regime and the first elected Sandinista government. The new system is Christian, socialist, and solidaristic. This rebadging of the Sandinista project, the work of First Lady Rosario Murillo, is just one sign that a new regime is present.

The power-sharing pact of 2000 laid the current system's foundation. Awarding the governing party (in practice the party of Nicaragua's president) a majority of places on the CSJ, the CSE, and the collegial controller

general placed exceptional authority in the hands of that party's leader. When the president has a legislative majority, there are few avenues for imposing horizontal accountability on the chief executive. Were this dominance of the machinery of state the only resource Daniel Ortega possessed he would be a very powerful president, even among Latin America's highly executive-centric governments. However, he has more tools at his disposal.

One of the first acts of his newly elected administration in 2007 was to issue a decree establishing the Consejos del Poder Ciudadano (CPC, Councils of Citizens' Power), a part of the *El Pueblo Presidente* (the People as President) plan. Set up to enable direct, participatory contact between the executive and the citizenry, the CPCs were to be the plan's organizational base. To ensure that the CPC worked as intended, there were FSLN party professionals orienting the councils at every step along a path that ended at President Ortega's desk. Moreover, Rosario Murillo was in charge of the entire CPC system. Although this model can facilitate access to decision-makers, it looks uncomfortably like ward heeler politics.⁹ It should certainly help the party extend its structures further into the community. In fact, as will be seen below, there has been a serious weakening of municipal authorities since Daniel Ortega's return to power. Beyond the institutional level, Ortega's return to power brought the return of violence as a political instrument, as Sandinista supporters began responding violently to peaceful protest, a matter treated later in this chapter. Further, the new government continued the overt harassment of opponents that marked the Alemán administration, targeting civil society organizations and opposition media.¹⁰ As well, the Ortega family's acquisition of television and radio stations and the president's refusal to talk to any media not controlled by the FSLN or the Ortegas seriously disadvantage independent or opposition-linked outlets. The latter still exist but work under difficult conditions.

This political system that the Ortega government has been constructing since taking office in 2007 is verticalist (power is structured and exercised hierarchically), hyperpresidential, personalist with a touch of Banfield's "amoral familism,"¹¹ and increasingly hegemonic. This is what a dominant power regime should look like. There remains room for independent political action, and nonpolitical activity is generally lightly regulated. However, space to challenge the government is restricted and the weight of an entire regime presses against challengers and protects those who govern.

To put this system into perspective, it can be compared to other forms of one-person rule. It has little in common with personalized military dictatorships, such as Pinochet's Chile, as Ortega's government is far more pluralistic. Neither is it anything like one-party regimes dominated by a single leader, such as the Castros' Cuba and the Kims' North Korea. This new Nicaraguan regime shares substantially more common ground with old-

fashioned, machine-style boss politics and conventional caudillismo, although not fully corresponding to either.

Bosses controlled the city administration, the city council, the local electoral machinery, and ordinarily had great influence over municipal courts. A boss also headed a potent party machine, with enough money to make sure the party faithful got their Christmas turkeys and maybe a job for voting the right way. Caudillos held similar levels of control over the government, but generally paid less attention to building an electoral clientele, because elections mattered less to them. They relied more on force and proclaimed, ignored, or amended their own constitutions when convenient. They were not hesitant to close opposition papers, the only important medium of their day; nor were they inclined to tolerate opponents.

Another way in which the two differed was that bosses could not control the state and federal governments, including the courts at those levels. Thus they had to live with the national and state constitutions as they were. Further, a boss almost always faced at least one newspaper that campaigned against him and he could not keep citizens from organizing the reform parties that eventually drove the bosses from power. Finally, bosses could not stop their clients from growing better off and no longer needing the patronage their machines provided.

To date, Daniel Ortega has shown greater control of the media than the bosses had but less than what most caudillos exercised. Unlike bosses but like caudillos, he can amend the constitution when and as he considers necessary. He can also use the CSE to keep unwanted parties out of the electoral arena. Equally important, early twenty-first-century Nicaragua does not have the material resources to eliminate people's dependence on clientelistic politics. In short, the dominant power regime is not at the point of putting itself out of business.

Daniel Ortega's Comeback

Entering 2006, Daniel Ortega's electoral prospects were good. He was doubtlessly the country's most powerful politician. He also commanded a political party that was not just well disciplined and organized but also on the rise since the 2004 municipal elections. His principal opponent Arnoldo Alemán was in and out of jail, depending on Ortega's orders, which made an Alemán candidacy impossible. That left this other modern caudillo and his PLC, the only party with the resources to take on the FSLN, distinctly weakened.

Also working to Daniel's advantage was being able to win the presidency with 35 percent of the vote and a five-point lead over the runner-up. Those numbers made it possible to imagine Ortega's retaking power, even

with his recent high-floor (over 35 percent), low-ceiling (under 45 percent) levels of electoral support. A split in the Liberal ranks between Alemán's pro-pact supporters, whose presidential candidate was José Rizo, and the antipact faction led by Eduardo Montealegre made the chances of an FSLN win even better. The only cloud on Ortega's horizon was former Managua mayor Herty Lewites at the head of an antipact, Sandinista movement that could cut into the FSLN vote. However, Lewites died just as the formal campaign period was starting, depriving the Sandinista dissidents of a skilled and popular campaigner, and probably giving Ortega the edge he needed to win.

In the presidential race (see Table 6.2), Ortega captured 38 percent of the vote and José Rizo got 27.1, making the pact partners the choice of 65.1 percent of Nicaraguan voters. If nothing else, those numbers suggest that duopolistic power-sharing had not completely alienated the citizenry. However, adding the 28.3 percent of the presidential ballots going to Eduardo Montealegre of the ALN to the 27.1 percent taken by the PLC's Rizo shows the main anti-FSLN option supported by 55.4 percent of voters, a solid majority. Summing all the votes for parties other than FSLN in the presidential race makes it clear that Ortega was rejected by five of every eight voters. These results led most observers¹² to predict that Daniel Ortega would have to accommodate his more numerous opponents to get anything done. The result would be a moderate administration. But that did not happen for at least three reasons.

First, Daniel had already shown himself a master at creating power "by using the means available to [him] more effectively than others [used theirs]."¹³ He did this during the Chamorro administration, turning a landslide defeat into a position of influence by becoming the president's ally. Then, after a second straight loss in 1996, Ortega marshalled the FSLN's resources to get a power-sharing pact where he and his party occupied key veto points in the system. Finally, as if to prove that those two times were not flukes, Daniel made himself Nicaragua's indispensable political figure during the administration of Enrique Bolaños, despite being on the opposition bench. If he could do that outside of government, he would certainly do no less from the president's office.

Second, for the first two years of Ortega's second term, whether Alemán went free or faced house arrest or even jail still depended on Daniel's decisions. As a result, for at least 2007 and 2008 Ortega could command the PLC votes when necessary. He had, that is, a legislative majority when he needed one.

The final factor was Nicaragua's new foreign supporter: Hugo Chávez of Venezuela. Since 1909 all Nicaraguan governments have had a powerful foreign backer on whom they could depend. Until 1979 the United States assumed that role, ceding it to the Soviet Union and to a lesser degree Cuba

until 1990, before taking it up again from 1990 to 2007.¹⁴ In 2006, just before the electoral campaign officially started, Chávez offered Nicaragua chemical fertilizer and petroleum products at a discounted price, as well as free eye operations.¹⁵ The Venezuelan made it clear that he backed Ortega and that with Daniel as president Nicaragua could count on Chávez's assistance. Ortega therefore was well equipped to govern as if he had a majority mandate.

The Foundations of the New Regime

Examining three policy areas clarifies the logic and operational dynamics of the dominant power regime. Economic policy comes first. It was built on three seemingly incompatible bases: redistributing wealth to alleviate poverty (below the \$2.50/day threshold) and especially extreme poverty (under the \$1.25 daily threshold); following IMF standards and cooperating with Nicaraguan capitalists; and joining ALBA (Alianza Bolivariana para los Pueblos de Nuestra América [Bolivarian Alliance for the Peoples of Our America]), the regional organization built by Hugo Chávez. Next is foreign policy, whose centerpiece was Venezuela, but also featured good relations with Russia, Iran, and even the United States. The last piece is El Pueblo Presidente, a form of citizen participation that would link local-level organizations to the executive.

Economics

Table 7.1 presents Nicaragua's economic growth figures since 2007 compared to the rest of Central America and to Latin America as a whole. Nicaragua's economy shows the third highest growth in Central America and effectively matches the Latin American mean during the period considered here. This is a good result.

Table 7.1 Economic Growth in Central America, 2007–2012 (percentages)

	2007	2008	2009	2010	2011	2012	Average
Nicaragua	5.0	4.0	-2.2	3.6	5.4	5.2	3.5
Costa Rica	7.9	2.7	-1.0	5.0	4.4	5.1	4.2
El Salvador	3.8	1.3	-3.1	1.4	2.2	1.9	1.3
Guatemala	6.3	3.3	0.5	2.9	4.2	3.0	3.0
Honduras	6.2	4.2	-2.4	3.7	3.8	3.9	3.2
Panama	12.1	10.1	3.9	7.5	10.9	10.8	9.2
Latin America	5.6	4.1	-1.5	5.9	4.4	3.1	3.6

Source: Compiled by author from United Nations Economic Commission for Latin America and the Caribbean, *Statistical Yearbook, 2013* (Santiago, Chile: ECLAC, 2013), www.cepal.org.

The data presented in Table 7.2, which show how well Central America's nations have done in alleviating poverty in this century, also reflect well on Nicaragua. That only the much wealthier Costa Rica recorded a lower percentage of its population suffering from extreme poverty is truly impressive since Nicaragua is Central America's poorest country.

It is reasonable to assume that Nicaragua's success in combating poverty contributed to its overall economic growth, as more people had at least a bit more money to spend. Similarly, it was almost certainly the combination of growth and specific policies that reduced poverty.¹⁶ What allowed this to happen?

Nicaragua's cornerstone antipoverty policy since 2007 is *Hambre Cero* (Zero Hunger). This program targets extremely poor, mainly rural families, with a special focus on women. It aims to give recipients a capital base (animals, seeds, and training) to let them increase production. This should lead to greater food security both for families in the program and for all domestic consumers. *Hambre Cero* gives a cow, a sow, and some chickens to families with one to ten manzanas of land (roughly 1.7 to 17 acres, or 0.7 to 7 hectares). Those with less than a manzana get chickens and tools, and families with urban lots of at least one-quarter manzana (about 18,000 square feet or 1,600 square meters) receive a piglet, chickens, and feed for the animals.¹⁷

Hambre Cero's weak point is how participants are selected. Resources are obviously limited, so not all impoverished families can benefit from *Hambre Cero*. Given that the program includes the land-poor, the near-landless, and poor urban residents with large lots, it is difficult to define suitable poverty criteria. The default position has been to include subjective, often partisan considerations, determined and applied by representatives of the CPCs and local FSLN political secretaries.¹⁸

Table 7.2 Poverty and Extreme Poverty in Central America

	Poverty (US\$2.50/day)		Extreme Poverty (US\$1.25/day)	
	2002 (or nearest)	2012 (or nearest)	2002 (or nearest)	2012 (or nearest)
Nicaragua	69.4 (2001)	42.7	42.5 (2001)	7.6
Costa Rica	20.3	18.8	8.2	7.3
El Salvador	48.9 (2001)	45.3	22.1 (2001)	13.5
Guatemala	60.2	53.7	30.9	29.1 (2006)
Honduras	77.3	67.4 (2011)	54.4	42.8 (2011)
Panama	36.9	25.3	18.6	12.4

Sources: Compiled by author from United Nations Economic Commission for Latin America and the Caribbean, *Social Panorama, 2013* (Santiago, Chile: ECLAC, 2013), www.cepal.org; Fundación Internacional para el Desafío Económico Global, *Encuesta de hogares para medir la pobreza en Nicaragua* (Managua: FIDEG, 2012), www.fideg.org/investigaciones-y-publicaciones/107-2013-06-26-00-53-17; and World Bank, "Poverty and Equity," *Poverty Data* (Washington, DC: World Bank, 2014), <http://povertydata.worldbank.org/poverty/region/LAC>.

Operating alongside *Hambre Cero* as an antipoverty tool is *Usura Cero* (Zero Usury). *Usura Cero* is the Nicaraguan government's microfinance program, which specializes in lending to women. It too works in concert with local CPCs, suggesting again the potential presence of partisan oversight. From its founding in 2007 to the end of 2013 the program served some 467,000 women, who can currently access loans of up to 10,000 córdobas (approximately US\$400 in 2015) at a fixed interest rate of 5 percent,¹⁹ well below bank rates, at 11.6 percent in mid-2015.²⁰ Most of the loans go to finance small businesses that are run out of the home, such as *pulperías*, "mom and pop" grocery stores. Recent research on microfinance suggests that many microfinance loans do not go toward investments in business but rather support consumption or meeting unexpected expenses.²¹ The most plausible hypothesis is that the same applies in Nicaragua. *Usura Cero*'s low interest rate would make it an attractive source of loans for women looking to help their families overcome poverty.

ALBA and Albanisa

Just after his inauguration in January 2007, Daniel Ortega worked with Hugo Chávez to draw up a plan to make more resources available to Nicaragua's government. The result was *Albanisa*: ALBA de Nicaragua, SA (ALBA of Nicaragua, Inc.). *Albanisa* is a private company, owned 49 percent by the Nicaraguan state petroleum company *Petronic* and 51 percent by its Venezuelan counterpart, *PDVSA* (Petroleos de Venezuela, SA, or Venezuelan Petroleum, Inc.). Actual control of *Albanisa*, though, rests with Daniel Ortega.²²

From 2007 through 2013, loans, grants, and investments from *Albanisa* brought roughly \$2.8 billion to Nicaragua, substantially outstripping other sources of foreign cooperation.²³ The greater part of *Albanisa*'s money comes from the sale of Venezuelan oil in Nicaragua. Half the value of the oil must be paid in ninety days, but the rest is financed at 2 percent interest over twenty-five years, with a two-year grace period. It is the latter that has served as a source of additional funds for the Ortega government. For example, a grant to subsidize electricity consumption by the poor and a \$30-per-month pay raise for state employees in 2010 were both initially financed by *Albanisa* money.²⁴ Further, as *Albanisa* is a private enterprise, the money it generates that is used by the state does not appear in the budget, hence is not subject to legislative oversight.

There are other concerns about *Albanisa*. One is the reach of its operations. *Albanisa* is a conglomerate of at least eleven companies,²⁵ an "octopus" according to Luis Galeano.²⁶ A special edition of the newsweekly *Confidencial* in 2011, titled "Albaleaks" because it was based on leaked documents, produced a long list of problems.²⁷ Among them were repeated

losses rung up by Albanisa, sloppy accounting and unclear lines of responsibility that reflected a general lack of transparency and accountability, the predominance of individuals who either work directly for the president or are senior figures in the FSLN, close ties between some of Ortega's children and Albanisa, and of course the relations existing between Albanisa and both the president and the FSLN. To put this in context, Albanisa and its ties to the Ortega administration can be seen as another example of the opaque operations, unclear lines of accountability, and generally top-down governing model that have characterized Nicaraguan politics for generations. Albanisa is just old-time politics in new clothes.

Foreign Policy

It is not uncommon for small, poor countries to seek a larger, wealthier ally. Sometimes this ally becomes a patron, a trustworthy source of both material and symbolic support. Nicaraguan foreign policy has worked in this way since at least 1909, when US backing was instrumental in bringing victory to a Conservative coup against the Liberal dictator Zelaya. Before Venezuela assumed the role, it had been filled by two great powers: the United States, to 1979 and again from 1990 to 2007, and the Soviet Union between 1979 and 1990.

In those earlier iterations, the great power held substantial influence over Nicaragua's foreign affairs, expecting Managua to follow its patron's leadership. Venezuela did not do this. This has let Nicaragua maintain good relations with Washington and develop closer ties with Russia and Iran, without damaging its special relationship with Caracas. As a result, Nicaragua has been able to realize one of the now forgotten aims of the Sandinista revolution, namely, "diversifying dependence" by sustaining a wide array of amicable relations. However, Ortega's foreign relations have not been trouble-free. Border controversies with Colombia and Costa Rica have been particularly difficult.

A maritime boundary was at issue in the Colombian case.²⁸ In 2001, Nicaragua took Colombia to the International Court of Justice (ICJ), claiming that a 1928 treaty transferring several Caribbean islands to the South American state was invalid. The ICJ rejected that claim in its 2012 decision but did grant Nicaragua an exclusive economic zone reaching 200 nautical miles from its coast and overlapping with formerly Colombian waters. Colombia rejected the ruling. Nicaragua responded in 2013 by bringing a new case to the ICJ asking the court to define exact boundaries.²⁹ The matter remains unresolved.

Nicaragua's dispute with Costa Rica is even more complicated. It began in 2005 and has come to center on contending claims to an island on the Caribbean coast, where the Rio San Juan enters the sea. Known as Isla

Calero to the Costa Ricans and Harbour Head in Nicaragua, the island is sought by both for its tourism potential and as a possible basis for claiming offshore oil reserves. But the issue goes well beyond that, with questions regarding who has rights of access to land along the Rio San Juan for purposes of development.³⁰ The dispute attracted international attention in 2010 when both states dispatched armed security forces to the border. The ICJ ordered both sides to withdraw from the frontier, thereby defusing tensions. This case too is unresolved. Nonetheless, the disputes with Colombia and Costa Rica at least lie outside the realm of great-power politics, which may make them easier to settle.

El Pueblo Presidente, Consejos del Poder Ciudadano, and Gabinetes de la Familia

Ortega's 2006 campaign made much of the slogan "El Pueblo Presidente." Exactly what that slogan means is not self-evident, although in political-ad English it would probably be "The People: President," or "The People as President"—something catchy but ambiguous. In practice, it has been the Ortega administration's way of promoting citizen engagement and participatory democracy, what it calls direct democracy. This system's foundation was set out in Decreto 3-2007.³¹ But Decreto 3-2007's main purpose was restructuring the executive, the normal, early-days reorganization that all new governments undertake. This placed El Pueblo Presidente squarely in the executive branch. Decreto 3-2007 also elaborated the duties of the Council of Communication and Citizenship, created by Decreto 2-2007.³² The executive director of the council has always been Rosario Murillo, the director of the CPCs. Direct democracy, therefore, works not through referendums, initiatives, or recalls, but through the CPCs, which give citizens direct access to the executive. However, the CPCs also give the executive unmediated access to citizens.

Accordingly, the CPCs assumed the role of "delivering public services in health and education, and in promoting the administration's Hambre Cero, Usura Cero, and Food for the People programs."³³ Using CSOs to deliver government programs is common, but in most places an existing CSO receives a contract to do the work. The CPC model differs in that the consejos were created by government to do this job as part of the government's version of direct democracy.³⁴

However, the CPCs did not flourish. Kelly Bay-Meyers analyzed twenty-three selected CPCs in 2008–2009 and found that no more than 7 percent of the population participated in them.³⁵ However, a nationwide survey in 2010 found that just over 12 percent of Nicaraguans reported some activity in these bodies, which were the only civil society groups to see participation grow from 2008 to 2010.³⁶ If the government's aim was to give

the FSLN an entry in the voluntary, community-based sector (VCBS) or to give Sandinista VCBS activists a branded platform for their activity, those numbers might suffice. If, though, the CPC were intended to engage a great mass of participants the results would disappoint. The latter appears to have been the case as the CPCs have now been supplanted by the Gabinetes de la Familia (GF) or Family Cabinets.³⁷ These new organizations came into being in February 2013 via an amendment to the Family Code;³⁸ their role is still in formation. Together, the CPC and GF constitute the FSLN's efforts to structure citizen participation in governing.

Because the GF are very new, analysis of how these bodies work must center on the CPCs. Bay-Meyers found that the *consejos*' close links with the state, which they needed to deliver government programs, led to concerns about partisan favoritism in the distribution of benefits. The CPCs generated opposition and stonewalling from non-FSLN mayors, whereas Sandinista mayors were supportive but as openly partisan as their opponents. The end result was limited participation by citizens who did not support the Ortega administration. However, Bay-Meyers also reported that where a history of bipartisan cooperation existed, participation in the CPCs crossed party lines and access to benefits was equitable.³⁹ Although the initiative was intriguing, its partisan identity was too strong for it to work in Nicaragua's polarized political environment.

The Turning Point in 2008

Most observers expected the FSLN to do well in the 2008 municipal elections. However, it seemed likely that the Sandinistas would lose control of the capital to former ALN presidential candidate Eduardo Montealegre. This did not happen and Montealegre and his followers suspected fraud. The Sandinistas responded with violence. That the CSE never published detailed results of any of the races strengthened the suspicion that some elections were stolen by the FSLN. These events marked a shift toward hegemonic politics.

Giovanni Sartori identified two distinct party systems in politics where one party won consistently but allowed other parties to compete.⁴⁰ He labeled one system one-party predominant. In that system one party wins repeatedly (four straight wins is a reasonable threshold) without resorting to systematic fraud. Botswana (Botswana Democratic Party, 1966–present) leads the current field. Among the industrialized democracies, the best-known cases are Sweden (Social Democrats, 1936–1976), Japan (Liberal Democrats, 1955–1993), and the US Solid South (Democrat, 1876–1972; Republican, 1980–present). However, Alberta, a Canadian province, deserves a mention because the current national record holder (Progressive

Conservative Party, 1971–2015) began its streak by defeating another pre-dominant party (Social Credit Party, 1935–1971). These parties take advantage of their incumbency and seek to split the opposition but rarely resort to massive fraud. If they can govern for over three decades straight without blatant illegality, why would they risk committing fraud?

Systems where fraud is regularly present Sartori called hegemonic. The best example of such systems is Mexico from 1929 to 1997. The FSLN's success since the municipal elections of 2008 suggests that Nicaragua has some of the traits of one-party hegemonic systems. In Chapter 3, I suggested that one of the reasons the Sandinistas might have moved from revolutionary vanguardism to electoral democracy was that their strength and the weakness of all the other parties had convinced them that they would never face a serious electoral challenge. They learned in 1990 that such was not the case. Could losing the presidency and remaining Nicaragua's equivalent of an official opposition in 1996 and 2001 have convinced Daniel Ortega that elections he cannot lose are better than elections he will probably win?

Municipal Elections, 2008

The Municipal Elections of 2008 produced the greatest controversy of any vote held since 1984. Of 146⁴¹ city halls (mayors plus majorities on council), the FSLN took 105 (72 percent) to 37 (25.3 percent) for the PLC and 4 (2.7 percent) for other parties. This is an impressive result, but final totals, broken down to show the outcome at every 400-voter JRV (Junta Receptora de Votos, or poll), were never published. Further, projecting from nearly complete results (roughly 90 percent) Martí í Puig and Close calculated that the FSLN would have taken about 50.2 percent of the vote, the PLC 46.8 percent, and the rest some 3 percent.⁴² It is both possible and plausible that a 3.4 percent margin in the vote can yield a disproportionate number of wins to one side, especially if turnout is low, as it was here at 56.4 percent.⁴³ However, without having the full results, poll by poll, the final tally could not be confirmed.

Beyond those curious overall results, the mayor's race in Managua provoked open protest that led to a violent response by FSLN supporters. Eduardo Montealegre, one of the losing presidential candidates in 2006, sought the job of mayor of Managua for a coalition led by the PLC. His principal opponent was Alexis Argüello, a former world champion boxer and vice mayor of the city from 2004 to 2008. Argüello was declared the winner with 51 percent of the votes to 46 percent for Montealegre. However, Montealegre's poll watchers had results, signed by all the poll watchers of all the other parties and the presidents of all the polling stations in Managua, showing that he had actually won. Based on this evidence he

claimed that the CSE failed to count ballots from opposition strongholds in Managua and so let the Sandinistas capture the capital.⁴⁴ Later analysis by political scientist José Antonio Peraza,⁴⁵ examined below, confirmed this.

When his complaints were rebuffed, Montealegre and his followers organized protest marches only to be attacked by Sandinista partisans. The same thing happened when the opposition sought to present claims of fraud at CSE headquarters.⁴⁶ In response, the government claimed that these were not instances of Sandinista-sponsored intimidation, but rather FSLN supporters acting spontaneously to “defend the vote” and so prevent fraud.⁴⁷ However, with their control of the CSE, Ortega and the FSLN could have let the CSE carry out a pro forma investigation, even cede more votes to Montealegre to tighten the results, yet leave Argüello victorious. And a word from Daniel Ortega presumably would have stopped any violent counterdemonstrations cold.

However, the 2008 municipal elections were not the last word in controversies surrounding Nicaragua’s municipalities. Since June 2010, a number of FSLN mayors have been removed from office by the FSLN itself. Managua mayor Daysi Torres explained the process this way: “Sandinista mayors must accept what the party sends them because the offices are not theirs, but the Sandinista Front’s.”⁴⁸ This rather unorthodox reading of the function of local elections marked the end of fourteen years of increasing municipal autonomy and growing decentralization of power in Nicaragua.⁴⁹ Considering that it was the performance of autonomous Sandinista mayors that sparked the comeback of the FSLN as a winning electoral force, seeing the party declare that mayors are effectively its employees is incongruous. It certainly left no doubt where real power rested.

Other Examples

Municipal elections in 2012 gave the Sandinistas control of 87 percent (134/153) of Nicaragua’s municipalities, with 67.9 percent of the vote. The PLI took 21.1 percent and won twelve city halls; the PLC, 8.5 percent and three; Yatama, the regional party of the North Caribbean Coast Autonomous Region, took three municipalities, and the ALN one, each of these last two with less than 1 percent of the national vote.⁵⁰ Although Mauricio Zúñiga concluded that the FSLN’s result was legitimate in the main,⁵¹ there were still many charges of irregularities. Roberto Courtney, director of the national observer group *Ética y Transparencia* (Ethics and Transparency), declared these elections worse than those of 2008, saying “that there was fraud in 70 municipalities,” 45 percent of the total.⁵² Worse, postelectoral violence claimed three lives.⁵³ However they got it, the Sandinistas’ control over Nicaragua’s local governments is close to complete. The inability of

the two Liberal parties to unite diluted their 29.6 percent of the local vote, handing more victories to the FSLN.

Building political hegemony cannot stop at elections, however. The last chapter described the two court cases in 2009, which demonstrated how the FSLN president could work his way around supposed black letter law: the decision that freed Ortega and the FSLN mayors from the constitutional constraints on reelection. These can be seen as putting the state above the law, something anathema in any constitutional polity.

More recently, the FSLN has started to pressure government employees to join the party, even if the individual is formally a member of another party, bringing 3 percent of the worker’s pay to the Sandinistas.⁵⁴ Commenting on the same phenomenon, the US State Department noted that “employees in various state institutions were required to affiliate with the FSLN and that to apply for a government position, an applicant must receive a written recommendation from the FSLN.”⁵⁵

Although all political systems reserve places for political appointees, this variation on patronage politics takes a large step toward making the civil service into a Sandinista closed shop, where membership in the FSLN becomes a prerequisite for holding a civil service appointment. As such, it goes beyond the usual mix of government jobs, appointments to boards, and contracts to friends and supporters that characterizes spoils-system politics. In fact, it recalls the Sandinization of the public service after the revolutionary triumph, an action that was then necessary to ensure that the government’s programs would be enacted as intended. That does not appear to be the rationale in the present case, which looks more like a means to finance the party and gain more leverage over public sector employees.

General Elections, 2011

General elections in 2011 (see Table 7.3) once again raised doubts and sowed suspicions of electoral improprieties. The results generated charges of fraud from the largest opposition party,⁵⁶ and neutral observers identified numerous irregularities.⁵⁷ The government rebuffed the allegations and the CSE declared the results official in record time.⁵⁸ Interestingly, the alleged manipulations only affected a handful of legislative seats, enough to return the majority needed to amend the constitution without support from other parties.

Regarding the critiques, no one but PLI presidential candidate Fabio Gadea denied that Ortega and the FSLN won. Indeed, late in the campaign at least two polls, CID-Gallup of Costa Rica and *Siglo Nuevo*⁵⁹ of Nicaragua, showed the Sandinista with nearly 60 percent of the decided vote and the Liberal with just under 20. However, despite the general cor-

Table 7.3 2011 Nicaraguan General Election Results

Party/Presidential Candidate	Votes for Presidential Candidate (%)	National Assembly Votes for Party (%) / Number of Seats Won
FSLN/Daniel Ortega	62.5	60.9/63 ^a
PLI/Fabio Gadea	31.0	31.6/27 ^b
PLC/Arnoldo Alemán	5.9	6.4/2
Others	0.6	1.1/0
Totals	100	100/92

Sources: Compiled by author from Political Database of the Americas, "República de Nicaragua/Republic of Nicaragua, Resultados Elección Presidencial 2011/2011 Presidential Electoral Results," <http://pdba.georgetown.edu/Elecdata/Nica/pres11.html>; and International Parliamentary Union, *Nicaraguan Election Archives, 2001*, www.ipu.org/parline-e/reports/2235_E.htm.

Notes: a. FSLN received an extra seat for having the past president; taken by the past vice president.

b. PLI received an extra seat for having the presidential runner-up.

respondence of polling data and the final result, observers found a great deal wrong with Nicaragua's electoral administration. The organization of the elections,⁶⁰ the administration of the vote, and how the vote was counted were all called into question. This comment from the European Union's Election Observation Mission is representative of the tone of the criticisms:

The 6 November elections constituted a deterioration in the democratic quality of Nicaraguan electoral processes, due to the lack of transparency and neutrality with which they were administered by the [CSE]. Throughout the process, [this was] a CSE that was virtually monocolour [and] at each of its levels demonstrated scant independence from the ruling party and created unequal conditions for competition as well as outright obstruction to the opposition, who were prevented from having any effective representation within the electoral administration. Some experienced national observation organisations were not accredited and auditing of the process was impeded by the [CSE].⁶¹

And these observations omit the postelectoral violence that claimed eight lives.⁶²

None of the above, though, explains how the Sandinistas added twenty-two points to their 2006 total in 2011, a 60 percent increase. Part of the improvement is surely due to the FSLN's antipoverty policies bringing more of Nicaragua's poor into their ranks. There might also be a bandwagon effect where poor and working-class voters backed the Sandinistas to make sure that their 400-person JRV showed enough support to keep the benefits flowing. However, the results also appear to owe something to manipulation.

José Antonio Peraza argues that the FSLN used its control over the CSE for biased vote counting in both 2008 and 2011;⁶³ JRVs where the Sandinistas lost by large margins in prior elections were excluded from the count. Peraza noted that from 1990 to 2006 most JRVs returned extremely regular and predictable percentages of Sandinista and anti-Sandinista votes. Seeing those patterns alter markedly in 2008 and again in 2011 led Peraza to search for an explanation.

He discovered that the results of certain JRVs were excluded from the final tallies and that the vast majority of those JRVs returned large majorities against the Sandinistas. On the other hand, polls whose results were counted either recorded large FSLN majorities or produced close wins by either side. In 2008, Peraza found, the skewed results came mostly from municipal counting centers, where illegal challenges and exclusions of opposition-friendly JRVs occurred. However, the author concluded that in 2011, the FSLN and two tiny allied parties (ALN, Alianza Liberal Nicaragüense [Nicaraguan Liberal Alliance] and ARPE, Alianza por la Republica [Alliance for the Republic]) attained such complete control over the operations of so many JRVs that they could exclude accredited opposition poll watchers from the count. Peraza's analysis is careful and his argument sufficiently persuasive to raise serious doubts about the validity of the results of those two elections.⁶⁴ His evidence strongly suggests that Nicaragua's party system should be classed as one-party hegemonic and that the regime itself is decreasingly pluralistic.

Why, though, would a party whose leader was the choice of almost 60 percent of voters toward the end of the campaign use fraud? Was it just to give his FSLN the 60 percent majority needed to approve constitutional amendments? The next section examines those amendments and other key points of Ortega's third term.

The Third Term and Democracy in Nicaragua

When Daniel Ortega was inaugurated for a third term in 2012 the old duopoly was no more. The elections of 2008 and 2011 and the freedom from constitutional law the CSJ granted Ortega in 2009 had already signaled its end was nigh. Now with a legislative majority sufficient to approve constitutional amendments without outside support, combined with preexisting control over the courts and electoral apparatus, Ortega and the FSLN were masters of the state's machinery. Soon the military and the police would fall under his sway. In January 2014, constitutional amendments took effect that secured the legal base of the dominant power regime. Opposition still exists in the formal political system, the media, and civil society, but it cannot do much to check the government.

Extending Control

In 2014 the Nicaraguan government substantially amended both the *Código Militar* (Military Code) and the *Ley de la Policía Nacional*⁶⁵ (National Police Law). Regarding the Military Code, the amendments appear aimed at reversing Nicaragua's twenty-plus years of experience with a professional, nonpartisan, constitutional military.⁶⁶ First, the military now reports directly to the president, not the minister of defense. Second, among its tasks the military now counts national security, a broader concept than national defense. Further, military personnel can now serve forty years before having to retire instead of thirty, which makes one wonder if President Ortega distrusts officers who have served only in a professional military.

Moving to the police law, that act takes the police from the *Ministerio de Gobernación* (equivalent to a Ministry of Public Safety) to the direct control of the president, its supreme chief (Art. 1). As well, the act authorizes the president to name the chief of the National Police (Art. 10) without having to consult with other bodies. This places exceptional power in the president's hands and creates conditions where the police could become loyal to the president, not the country.⁶⁷ Finally, the police now wear an insignia bearing the silhouette of Sandino, recalling the days before the 1995 constitutional amendments when the force was the *Policía Sandinista* (Sandinista Police), not the *Policía Nacional* (National Police).⁶⁸

These two amended laws give Nicaragua's president personal control over all the instruments of legitimate state violence in the country. However, Ortega can also mobilize FSLN supporters to apply less legitimate but ostensibly more informal partisan violence. An excellent example of how this works occurred in June 2013 when Sandinista toughs, many wearing the party's signature pink t-shirts, attacked seniors who were protesting being denied state pensions, despite having contributed to the fund, and the college students there to support them. Tellingly, the police who were present did nothing to halt the violence.⁶⁹

The 2014 Constitutional Amendments

Every change of regime since 1979 has brought either a new constitution or significant amendments to an existing document. The day after the Sandinistas toppled the Somoza government they proclaimed their *Estatuto Fundamental* (Fundamental Statute). Three years after the 1984 elections marked the birth of the electoral democratic regime, that political system got its own complete constitution. The significant amendments made to the 1987 document in 1995 did not introduce a new regime, but rather made changes to strengthen Nicaraguan democracy. Amendments adopted in 2000, how-

ever, did signal the arrival of a new regime, this one based on a power-sharing duopoly; further reforms in 2005 fine-tuned that system. Now in 2014 the dominant power regime has a constitution made to fit its needs.

There is a pattern here in which the constitution is adapted to the requirements of the government, rather than the government's adapting itself to the law of the constitution. Given Nicaragua's regime instability, this is probably inevitable. In any event, the latest amendments follow the established path. For example, Article 146 changes the rules for presidential elections to give the victory to the winner of a plurality of the vote: a simple first-past-the-post system with no provision for a second-round, runoff election.⁷⁰ This amendment reinstates the formula in the 1987 constitution and suggests that its drafters did not foresee any need to retain the complicated formula of the 2000 amendments. Perhaps more importantly, there are no longer any limits on reelection: a president can be reelected as many times as he or she can win, thus repealing Article 147a. Another interesting inclusion is Article 178, which stipulates that a party's list of candidates for local elections must have 50 percent female candidates, and that the ticket for mayor and vice mayor must reflect gender balance.⁷¹

El Gran Canal

Nicaraguans have long believed that their country, not Panama, should have been the site of the transisthmian canal. So when President Ortega and Wang Jing, the owner of the Hong Kong-based, Cayman Islands-chartered HKND (Hong Kong Nicaragua Development Investment) Group, announced plans to build a new canal across Lake Nicaragua, the news was joyfully received.⁷² Wang first broached the idea of an interoceanic canal to President Ortega in the fall of 2012.

Despite Wang and HKND's having absolutely no background in large-scale construction projects, in June 2013 the National Assembly approved the draft contract between the state and the firm. A few days later Ortega and Wang signed that contract. There were no calls for other bids and the government held no public hearings on HKND's proposal. Then on July 9, 2014, Wang revealed his canal's projected route and promised that, by December 2014, the environmental assessment and a thorough evaluation of the project would be submitted, allowing ground to be broken immediately for the \$50 billion megaproject.⁷³

The contract, Ley 840 of 2013,⁷⁴ lets HKND identify the lands, public or private, needed to build the canal; a Canal Commission, established by the government, will expropriate them.⁷⁵ It also makes the firm and its subcontractors exempt from all Nicaraguan taxes. HKND can also set and collect fees and tariffs for the canal and ancillary projects like the four resort hotels in the plan, and bring in as many foreign workers as it wants. Wang's

firm has a fifty-year contract, renewable for fifty more once it builds the canal. In return for this it pays the Nicaraguan state \$10 million annually and also remits 1 percent of its shares in the canal to the government every year until the latter has full ownership in 100 years. Critics of the deal have focused on the concessions made to Wang and the environmental risk involved in building a canal across Lake Nicaragua.⁷⁶ They have been ignored. Similarly, appeals to the CSJ were brusquely dismissed.⁷⁷

It is possible that a government from Nicaragua's electoral democratic regime would have done the same: the project would dazzle any administration. However, under that earlier system parliamentary and extraparlimentary oppositions had more room to operate. As well, critical media were less likely to be drowned out by progovernment voices. And more independent courts might have heard the case against the project with a more open mind, even if they rendered a similar decision. Wang's proposal could easily have been backed by earlier governments, but it almost certainly would have been vetted more thoroughly.

The Quality of Democracy

The quality of Nicaraguan democracy has declined steadily since Ortega's comeback. In his 2007–2012 term, violence returned to Nicaraguan politics and it continues to be used as a political instrument in the 2012–2017 administration. Also, after his return to power in the 2006 elections, the systematic electoral manipulation that came with the pact has continued and intensified. Politicized justice via Sandinista-controlled courts, which reentered national political life during the Bolaños presidency, also continues. Although some CPCs worked well, the institution was hampered by its reputation as a partisan Sandinista instrument. And intraparty democracy, never strong in any Nicaraguan party, suffered a reverse when the FSLN began removing Sandinista mayors, deputy mayors, and even whole city councils to replace them with more compliant officeholders. Government of, by, and for the people has been grievously undermined.

It could be argued that social policies, like *Hambre Cero*, that contributed to reducing extreme poverty partially offset those negative impacts. However, these policies face two limitations, one general and the other more specific. The universal problem confronting redistributive social policies as democratic instruments is that their effects on political democracy are hard to detect in the short term. Getting more resources to very poor families should let their children grow up healthier and go to school longer. That could make the next generation of Nicaraguans more engaged and effective political actors. That was one of the aims of revolutionary Sandinismo. Unfortunately, it cannot be realized overnight.

As to the more specific issue, it is one that Nicaragua unfortunately shares with other countries, perhaps many other countries. Even where a nation's poor are the recognized constituency of the governing party, as is the case in Nicaragua, it often happens that the poor and marginalized really do not get their share. A 2012 countrywide survey in Nicaragua⁷⁸ showed that 11 percent of households with medium-high and high levels of wealth received cash transfers from the government, whereas only 6 percent of the poorest segment of Nicaraguan society got such benefits. Further, 11 percent of FSLN sympathizers indicated that they had received government transfers, but among everyone else just 5 percent reported receiving them.

Another survey, this one conducted by the Nicaraguan government's Instituto Nacional de Información de Desarrollo (National Institute for Development Information),⁷⁹ reported that 70 percent of those participating in *Hambre Cero* and *Usura Cero* were not poor.⁸⁰ That does not mean that they were rich, as the \$2.50-per-day poverty level yields just over half of Nicaragua's annual per capita income, the lowest in Central America. It could reflect favoritism, as implied in the 2012 survey, or simply indicate that the programs were ill-designed,⁸¹ or probably both.

Conclusion

Political regimes have been fragile creatures in post-1979 Nicaragua. Will this dominant power system prove a longer-lasting, more stable governing model? Or will it shift more toward either democracy or authoritarianism?

As the Nicaraguan system is structured in 2014, the president exercises ultimate control over the executive parts of government, the legislature, the judiciary, the electoral authority, all but a handful of municipalities, and most of the ostensibly independent agencies. The dominant power regime in Nicaragua is working as Thomas Carothers predicted. It maintains the forms of democracy and is relatively pluralistic. Indeed compared to historic Latin American dictatorships it is quite open and tolerant. However, this regime does have a dominant power. Here it combines a person, Daniel Ortega; a family, the Ortega Murillos; and a party, the FSLN, that together control the polity "in such a way that there appears to be little prospect of alternation of power in the foreseeable future."⁸²

Arriving at a dominant power regime is the latest stop in Nicaragua's transition to, through, and from democracy. The current regime, however, is a hybrid. Its polity remains polyarchic: there is still competition and contestation, although these are increasingly constrained; and there are centers of at least potential political power outside the state's control. Its semiauthoritarian side is most evident in the fact that democratic elections, ones that

let citizens change their governors, are not a secure part of the political system. Even the possibility of turning one duopolist out to bring in the other one no longer exists. The FSLN is currently so much stronger than its opponents, Liberals and dissident Sandinistas alike, that it could expect repeated wins in an electoral democracy, perhaps for thirty years, but it currently has no reason to run that risk.

Complicating democracy's prospects in Nicaragua is the fact that the dominant power system does not rest solely on elections. It also has politicized courts, increasingly politically responsive security forces, and the sure support of a large and growing share of the media. What, though, do its long-term prospects look like?

Prospects for the Dominant Power Regime

Daniel Ortega enjoys high levels of popular support. Polls since the 2011 elections have regularly put his approval rating in the 60 percent range.⁸³ There are also two trends in Nicaraguan political culture that should sustain the Ortega government, although they threaten to undermine democracy's prospects. One of these is decreasing political tolerance, which could translate into the 60 percent who like Daniel and the FSLN bullying the 40 percent who do not. The other is the reluctance of a majority of those surveyed to talk politics in public, suggesting that the 40 percent may keep their counsel and limit their political participation to voting. Together they point toward a growing political polarization that could form the basis for a stable authoritarianism.⁸⁴

The system's outlook is also aided by the weakness of opposition parties. Having failed to take advantage of the strength the anti-FSLN forces had in 2006, those organizations are in decline. The government's control over elections has hastened their slide, but the parties' inability to articulate a comprehensive alternative to Ortega's system has contributed to their downfall. Moreover, the country's Liberals, who garnered 55 percent of the vote in 2006, are so riven by internal factions, often built around specific leaders, that they hardly represent a credible alternative. It will be difficult for the several opposition parties, not least the Liberals and the MRS, to regain the ground they lost, given the FSLN administration's control over the political system.

This is not to say that the dominant power regime faces no problems. Wherever power is personalized a succession crisis is always possible. Will Daniel be followed by his wife or one of their children? Or will the Ortegas follow the advice of Luis Somoza and withdraw the family from active politics, leaving the FSLN to run the country without their direct input? And since personal governments depend on the person governing, can Daniel's prestige and political acumen be handed on to his successor? Further, since this is a

hybrid system, the balance of democratic and nondemocratic traits and practices will doubtlessly change over time, but in which direction? If Daniel Ortega and his successors cannot be comfortable with democracy's uncertainty, will there be movement toward a more plainly authoritarian government?

Notes

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