

THE CARTER CENTER



NICARAGUA

FRIENDS OF THE INTER-AMERICAN DEMOCRATIC CHARTER

Mission to Nicaragua May 2010

Preface

The concerns of the Friends relate primarily to the Inter-American Democratic Charter--its use, neglect or abuse--and the general condition of democratic governance in the Americas. However, in Nicaragua as in other countries, the issues of democracy are shaped and coloured by their national context. For this reason we have set the democratic challenges within a broad, albeit brief and inadequate portrait of the country as a whole. The mission (May 10-14) comprised Friends of the Charter Torquato Jardim and John Graham and was joined by Marcelo Varela, Associate Director of the Americas Program at the Carter Center and by Shelley McConnell, a scholar on Nicaragua and Marcelo's predecessor at the Center.

In Nicaragua the mission met with a broad range of opposition deputies, the private sector (COSEP and AMCHAM), the human rights organization CENIDH, the Catholic Church, a former president of the Supreme Electoral Council, local civil society representatives, the Dutch, Canadian and Brazilian heads of mission, the US deputy head of mission, and a foreign, but locally based expert. On arrival we learned that our request to meet with Sandinista officials and deputies had been refused. Before this prohibition came into effect, one team member was able to meet with a Sandinista mayor. The government's unwillingness to meet was unfortunate, but did not cripple our mission. We believe that the government position was directly linked to the April 22 public statement of the Friends recommending that the Secretary General of the OAS convene a meeting of the Permanent Council to consider allegations of abuse of the democratic process in Nicaragua, especially in light of incidents in April in which opposition deputies were beaten by a mob led by two magistrates of the Supreme Court of Justice. The legislators were entering the National Assembly to hold a session to overturn a presidential decree that extended the terms in office of 25 authorities whose appointment is the responsibility of the legislature.

We met also with our colleague, former vice president Sergio Ramirez, to whom we are deeply indebted for his counsel and time.

Introduction

It is impossible to pin Nicaragua with a simple political/economic label. Politically it is closer to the far left and closely aligned with Venezuela. Nicaragua joined the Bolivarian Alliance for the Americas (ALBA) in 2007 and became a strong regional ally of President Hugo Chavez of Venezuela. Since then the Ortega Administration has relied heavily on financial support from the Venezuelan leader. Economically, however, the IMF considers Nicaragua's conservative macro-economic policies to be reassuringly correct. Although a number of medium and small businesses are suffering from competition with ALBA subsidized/supported companies, major enterprises in the Nicaraguan private sector have made an accommodation with the

government and are relatively comfortable with present policies. The army remains independent, there is a free press, no political prisoners, and excellent cooperation with the United States on narcotics and gangs. Yet there is no doubt that the country is moving away from democratic norms. Recently the police stood by while opposition deputies were beaten by thugs understood to have been sent by the governing party. Worse, the erosion of democracy and the disappearance of checks and balances are steady and deliberate. Nicaragua follows neither the Venezuelan nor the Cuban model, nor can government policy be categorized as Sandinista. As many have suggested, its individuality can best be described as *Orteguista*. President Daniel Ortega is developing his own, increasingly authoritarian, model.

The path to the 2011 elections is not a straight line

Although Article 147¹ of the constitution prohibits immediate reelection of the sitting president or the reelection of anyone who has served two periods as president, Daniel Ortega is determined to remain in power and is trying in different ways to achieve that goal². Among his attempts to clear his way for re-election, Ortega floated the idea last year of holding a national referendum to reform the constitution, but the idea did not gain enough political and popular traction. As an alternate route, Ortega and 33 mayors jointly submitted a legal action known as *recurso de amparo*³ against Article 147 of the constitution, claiming that said article violates their constitutional right to elect and be elected as established in Article 51.

The Constitutional Chamber of the Supreme Court of Justice admitted the *recurso de amparo* and in a swift decision⁴ on October 19, 2009, with only the Sandinista members of the Chamber voting, declared Art. 147 inapplicable to Daniel Ortega and the 33 mayors. This decision ostensibly permits them to run for re-election in the elections scheduled for November 2011.

Liberal party magistrates consider that the president of the Constitutional Chamber, Sandinista Francisco Rosales, illegally convened the Chamber to discuss the case when he failed to notify two Liberal magistrates and one alternate magistrate of the session. In addition, the Liberal magistrates argue that an *amparo* was not appropriate because it was filed referring to a hypothetical future case (Ortega and the mayors had not yet been denied the right to register as candidates). Moreover, and most important, the Liberal magistrates stated that writs of *amparo* are not applicable against articles of the Constitution.

The ruling of the Constitutional Chamber needs to be ratified by the Supreme Court of Justice to apply to everyone; otherwise it only applies to Ortega and the 33 mayors. The ruling has not yet been ratified by the Supreme Court.

The president's re-election strategy is dependent on the continuation in office of politicized and hence compliant electoral and judicial magistrates. Key to its smooth passage is control of the Supreme Court of Justice (CSJ) and the Supreme Electoral Council (CSE). The terms of the seven members of the CSE and five

¹ Art. 147 establishes that anyone who has served as President during the term in which an election is held or who has been President in two prior terms cannot run for re-election. "...No podrá ser candidato a Presidente ni Vicepresidente de la República: a)_el que ejerciere o hubiere ejercido en propiedad la Presidencia de la República en cualquier tiempo del período en que se efectúa la elección para el período siguiente, ni el que la hubiera ejercido por dos períodos presidenciales;..."

² Following the elections in 1990 and 1996, Daniel Ortega was persuaded by international election observers to cede defeat. It is evident to domestic actors that he regards this as a mistake that he intends not to repeat.

³ A *recurso de amparo* is a legal recourse for the protection of an individual's constitutional rights.

⁴ By means of Sentence 504 of October 2009.

members of the Supreme Court along with thirteen other senior institutional positions have by this point expired. Replacement or ratification is a function of the National Assembly, which presently has 91 total deputies, 38 of whom are Sandinistas, and six more are pro-government. Of the rest, the great majority belong to Liberal opposition parties--the Liberal Constitutionalist Party (PLC), the political movement Vamos con Eduardo (VCE), and the Nicaraguan Liberal Alliance (ALN). ALN deputies often cast their five votes in favor of the government for reasons that are not very clear or transparent.

A 60% vote (56 votes) is required for the election of new magistrates. The necessary votes have been withheld by the opposition in a demonstration of unity to protest the fraudulent conduct of the 2008 municipal elections by the CSE and their ratification by an FSLN-controlled Supreme Court of Justice. In November 2009, the opposition established an agreement known as Metrocentro II in which it committed not to re-elect any members of the current CSE. Opposition parties have been acutely provoked by the decision of the Constitutional Chamber of the Supreme Court on re-election of the incumbent president and by the conduct of the CSE in 2008. The CSE is considered a fourth branch of state whose decisions in electoral matters are final but whose integrity was tainted by complicity in the 2008 vote fraud.

To overcome this stalemate in the National Assembly, Ortega issued an executive decree (known locally as the *decretazo*) in January 2010 extending the mandates of these magistrates until such time as the Assembly elects new members or re-elects incumbents. At the time the January 2010 decree was issued, there were only two vacancies, one of a deceased magistrate of the Supreme Court of Justice and the other the Human Rights Ombudsman, whose term expired in December 2009. The other authorities were not set to expire until April and June 2010.

Only 47 votes (50%+1 of the members of the National Assembly) are required in order to place an item on the legislative agenda. On April 20, 48 opposition deputies planned to convoke a legislative session in which they would attempt to overturn the *decretazo*. The same day, a mob of Sandinistas blocked opposition lawmakers from entering the Assembly building. Several deputies were beaten and some injured by the mob. In direct consequence, the 48 deputies met in the Holiday Inn hotel, where they introduced a bill to begin a legal process intended to revoke the decree.

To thwart attempts by the opposition to annul the *decretazo*, the FSLN leadership in the Assembly filed an objection before the Constitutional Chamber of the Supreme Court whose intended effect was to stall the opposition's legislative procedures. The Constitutional Chamber declared that because the Sandinista deputies were not duly informed of the meeting in the Holiday Inn and because other parliamentary procedures were ignored, the meeting and its decisions had no legal standing. The Court moreover issued a writ of *mandamus* barring opposition members of the Assembly governing board from debating the bill and, in the event of "flagrant disobedience" of this judicial order, threatened them with arrest without benefit of parliamentary immunity. The document published by the Constitutional Chamber was signed only by four FSLN judges, two of whose terms had expired.

Partisan decisions by politicized judicial bodies and the roughing up of opposition deputies have played into an already venomous political climate. Although these provocations could have been expected to push the notoriously divided Nicaraguan opposition toward a united front, there was no evidence of opposition unity, nor prospect of such unity, during our visit. There was a bit of talk, reinforced by a clever video clip, about a movement that could draw the opposition threads together, and in fact a so-called Alianza Patriótica was formed shortly after the mission's visit. However, our own conversations and more importantly the views of seasoned observers offered no basis for believing that unity is possible between now and November of next

year. Montealegre (Vamos con Eduardo) has some integrity but lacks charisma, Alemán (PLC) has charisma and political skill but no integrity, Edmundo Jarquin (MRS) has much integrity but almost no support. Most pollsters report that the Sandinista support has a probable ceiling of 38-43% of the population. A Gallup poll released May 20 suggests that Ortega has approximately 37% 'popularity' and about 50% outright rejection, while former president Alemán, the most powerful of the Liberal leaders, has a 20% approval rate as against an outright rejection of 70%. In violation of his agreement⁵ with other Liberals, the much-indicted former president Alemán has informally declared his candidacy for president. Alemán is still regarded as a key player, despite elastic scruples which allow him to deal with both the opposition and the government.

Evident through the noise and fog of these manoeuvrings is Daniel Ortega's strategy for consolidating political control through a mix of judicial and legislative procedures as opposed to outright force. The means to this end are manipulated procedures. On May 27, Ortega released a more drastic trial balloon at a meeting with the private sector organization COSEP. Amidst trying to explain his policies and build trust among business people, Ortega reportedly floated the idea that one way to overcome the political stalemate would be to close down the National Assembly. The president of COSEP publically repudiated the proposal the following day. It appears unlikely that Ortega will spring this option again in the near term, but may keep it in his back pocket.

International and National Observation

As a presidential candidate requires only a plurality of 40% to win (35% assuming there is a five-percent spread over the runner-up), it is arguable that, now that the Constitutional Chamber of the Supreme Court of Justice has conveniently removed the constitutional obstacle to his candidacy, Ortega could win the 2011 election without further manipulation. This calculation may explain why, as one ambassador told us, a framework agreement has been reached between the European Union and the Nicaraguan government to invite a full scale EU observation mission. According to our informant, no unacceptable conditions have so far been attached and it is understood that long-term observers would be an integral part of the mission. However, the overriding view of our informants is that Ortega will take no chances. If electoral manipulation offers a more secure route to victory, his government's fraud in the 2008 municipal and 2010 Atlantic Coast regional elections suggests he will not shrink from it in 2011, and this would likely mean withdrawing any invitations to observers.

As far as we are aware, no assurances concerning issuance of observation credentials have been made to domestic groups. A member of our team met with Roberto Courtney, executive director of Ethics and Transparency (ET), the principal Nicaraguan civil society organization with observation experience. His organization has not been approached. ET was refused credentials for the 2008 municipal elections and for the elections this March in the Atlantic region. However, Courtney's position is that ET will observe with or

⁵ The Liberals are divided in a number of parties and movements (PLC, VCE, ALN, PLI and others). Aware of Ortega's low popularity, the PLC and VCE, have been talking for months about reuniting to support a single candidate to defeat Ortega and the Sandinistas. The original idea of the Liberal leaders Alemán and Montealegre was to hold a multiparty primary on July 4 to elect their common candidate. The common candidate would then be officially proclaimed on July 11 at the national convention of the PLC. The agreement was that those candidates defeated in the primary would commit to support the elected Liberal standardbearer and not run under any other party. But at this time no definitive agreement to hold this primary election is visible. If the primary is held with an open voter registry, there are fears that Sandinista followers may participate and vote for Alemán to defeat Montealegre. The Permanent Human Rights Permanent Council (CPDH) agreed in April 2010 to organize the primary, but the group lacks the financial resources or a logistical plan for this endeavour. The general expectation is that Arnaldo Alemán will officially proclaim his candidacy at his party's convention on July 11.

without official CSE sanction and will also conduct a quick count as was done in 2006. He has a message for potential international observers: “come to observe anyway, even if you know in advance that you cannot designate as ‘free and fair’ an election in which one candidate (and potentially the winning candidate) is in the race illegally...someone should be there to document whether it was a fine election in a bad framework or was a terrible election process in a bad framework”. Courtney anticipates results similar to those in 2006 with Ortega winning against a divided opposition field. A smaller, but also credible observer group, the Institute for Democracy and Development (IPADE), carefully documented the discrepancies in the 2008 vote count, and denounced the irregularities in the 2010 regional elections in the Atlantic Coast.

Are socio/economic conditions better or worse?

Most of our interlocutors were asked if the quality of life for the majority of Nicaraguans living at the poverty level was improving, remaining more or less the same or deteriorating. On this question there was no consensus. Several of those interviewed said that anti-poverty programming was targeted to traditionally Liberal areas where the FSLN captured the mayoralty (quite possibly through fraud) in 2008. Distribution within targeted areas was sometimes also portrayed as partisan. Two interlocutors said that ‘yes, there was improvement’ for the poor but that Sandinista supporters were being rewarded. This point was strongly disputed by the representatives of two donor organizations with whom we spoke. One said that the donors as a whole were very sensitive to accusations that assistance was not reasonably distributed in areas of acute need and for this reason it was closely monitored. He added that as far as he was aware the Sandinistas were fairly evenhanded in their distribution regardless of a community’s voting record. Representatives of both organizations said that their indicators suggested that overall there was some lifting of the quality of life in the very impoverished areas. An opposing argument, that a few points of improvement are outweighed by accumulated inflation of approximately 30% over three years, was countered by the view that the improvements had to do more with factors that are not readily measurable such as roads, abolition of school fees and health facilities. The government’s critics contend that the anti-poverty programs such as Hambre Cero have not been effective because they are “one size fits all”, applied without adaptation to the needs and capacity of recipients, and rarely constitute sustainable development.

Possible improvements notwithstanding, no one suggested that Ortega’s popular base was widening. There was complete agreement that the air would come out of Ortega’s balloon if something happened to halt Venezuelan aid. According to official sources such aid has amounted to about \$450 million annually in 2008-2009, equivalent to approximately 7% of GDP and flows largely through the Petroleos de Venezuela (PDVSA) petroleum facility. However, there is little public accountability for Venezuelan funding, as it is not channeled through the public budget. The withdrawal of bilateral funding following the election fraud of 2008, including commitments of \$63 million from the United States Millennium Challenge Corporation, has been more than made up by the Venezuelans⁶. Interestingly, massive Venezuelan aid is not accompanied by technical assistance. Cuba helps, but only through small scale medical assistance.

Leverage

The reduction of bilateral development assistance has had little impact on external leverage on Nicaragua because this leverage has been minimal for several years. Several interlocutors told us that to the extent that there are any brakes on Ortega, they are to be found within the country. The army (plus air wing and navy) is

⁶ On June 2010 the Netherlands Embassy announced the closure of the Managua-based donor support group known as the Grupo de Apoyo Presupuestario. Coincidentally, it was announced that Russia will provide \$10 million for ‘budget support’ to the Ortega government.

highly professional and independent. Unlike Cuba and Venezuela, the army promotes its own, including all but the most senior officers. It is courted by Ortega but remains carefully apolitical and non-provocative.

The army's institutional credibility in Nicaragua is exceeded only by the Catholic Church, which unlike the army, can be outspoken about what it considers to be government abuse. In a pastoral letter released April 23, the Archbishop of Managua and other bishops representing the Episcopal Conference expressed "profound preoccupation over the unconstitutionality and illegality into which our democratic institutions have fallen". Emphasizing that authentic democracy is only possible within respect for the law, the letter points out that "a democracy without values is readily converted into visible or clandestine totalitarianism..." In this remarkably strong shot across Ortega's bow, the bishops underlined the importance of independent state institutions and the separation of powers. The voice of the Church, which has distanced itself from the political games of retired Cardinal Miguel Obando y Bravo, is one of the factors explaining the failure of the Sandinistas to reinforce their popular base. However, while the Church may sometimes restrain Ortega, there is little evidence that it can stop his authoritarian impetus.

Third on the ladder of respected institutions comes the police. By the standards of many neighbours it is modestly professional. The US Southern Command praises the effectiveness of anti-drug and anti-gang cooperation with Nicaraguan security organizations, including the army, and Nicaragua is the safest country in Central America after Costa Rica. However, the credibility of the police and its well-regarded chief have been diminished by their compliance with political instructions to stand back while thugs understood to be affiliates of the governing party harassed opposition deputies. Surprisingly, Police Commissioner Aminta Granera agreed to a press conference May 14 at which she limply defended criticisms about this incident from Eric Sottas, Secretary General of the World Organization against Torture and by Souhayn Belhassen, president of the Inter-American Human Rights Federation⁷. There is expectation that the police will be unable to resist being pushed further down the path of compliance as the 2011 elections approach. Ortega will choose a replacement for Granera in September 2011.

Major Nicaraguan business and financial enterprises are unlikely to actively engage with the opposition in the election campaign, except in the event that they see a good chance of defeating Ortega. They have few complaints about the president of the Central Bank, who is the most influential economic policy official. As indicated above, there is broad understanding that they have made an accommodation with the government and are surviving reasonably well. Foreign investment is not strong, but is actively encouraged.

As many interlocutors repeated, democracy in Nicaragua remains shallow and fragile. Some (by no means all) argue that the drift away from existing democratic standards has not so far greatly affected the quality of life of the majority of citizens, whose own culture contains little focus on civic freedoms. However, even if this thesis is accepted, it should not be allowed to obscure real dangers:

- (a) The consequences of increasing authoritarianism. While Lord Acton's epigram "power tends to corrupt and absolute power corrupts absolutely" has become a cliché, its message, with its implications for human as well as civil rights, remains as apposite as ever.

⁷ Paradoxically, it appears that neither Sottas nor Belhassen addressed what we understand to be Nicaragua's most serious abuse problem, which is domestic violence, especially committed against women. Nor was much said on this issue by the Nicaraguan Human Rights Center (CENIDH). We were told that the scale of this domestic violence is greater than in South America and among the highest in Central America.

(b) Precedent for the hemisphere. The weaknesses of the Charter together with stultifying political division have prevented the OAS from taking any action or even sending a collective warning about Nicaragua's flight from democracy. If Nicaragua is permitted to proceed without censure on a path toward authoritarianism, what is to prevent other countries from taking the same course?

ANNEX

The 2000 Alemán – Ortega Pact and its consequences for democratic governance in Nicaragua

The partisanship and politicization of the branches of government and the influence of the executive over the judicial and electoral branches can be traced back to 1999, when Daniel Ortega of the Sandinista National Liberation Front (FSLN) and then president Arnaldo Alemán of the Liberal Constitutionalist Party (PLC) established the political agreement known as the *pacto*. This pact has been instrumental to both leaders in establishing a political system that until recently has operated largely under their control but is now increasingly dominated by Ortega alone.

In early 2000, their joint control over 90% of the National Assembly (legislative branch) allowed the two caudillos to pass legitimate reforms to the legal and institutional framework of the Nicaraguan state. The reforms underpinned a power-sharing arrangement between the two leaders in key institutions that was expected to last over time even as their respective parties continued to vie for power in elections. The integrity of the pact thus depended on maintaining a power balance between the PLC and FSLN in the Supreme Electoral Council (CSE), a prerequisite that has now eroded to the point of putting the future of the pact in jeopardy.

Electoral Council

As a result of the *pacto*, the Electoral Council (CSE) was expanded from five to seven magistrates (**Article 170 of the Constitution reformed in 2000**), allowing the PLC and FSLN to each appoint three members, with a supposedly neutral president. In March 2000, Liberal Silvio Calderón and Sandinista Emmet Lang were added to the CSE and Roberto Rivas replaced Rosa Marina Zelaya as president. Rivas later became a loyal Orteguista, although he is not a member of the FSLN. A relative balance of forces between the two sets of magistrates was maintained in subsequent elections. However, the FSLN bloc slowly took control of the lower levels of the institution and is now believed to exercise near total control.

As a result, the CSE has faced multiple accusations of biased voter registration and fraudulent vote procedures, particularly in the 2008 municipal elections. The CSE awarded 105 of the nation's 153 municipalities to the FSLN, and did not permit the presence of international and independent domestic observers. An alliance of Liberal parties that contested that election claims that fraud was committed in 40 of the municipalities allotted to the FSLN. Although the National Assembly has the power to pass a bill to annul elections, the opposition was unable to mobilize its members to do so because of internal divisions within the Assembly itself. The CSE furthermore refused to conduct a ballot-by-ballot review of the elections.

Supreme Court

The pact also allowed the Supreme Court of Justice (CSJ) to be expanded from 12 to 16 magistrates, permitting Alemán and Ortega to allocate eight posts to each of their parties. The terms of the magistrates were shortened from seven to five years and all members were granted immunity (**Article 162 and 163 of the Constitution**). Substitute magistrates were added to replace absent principal magistrates (Alemán's brother, Antonio Alemán, was appointed as a substitute (*suplente*) magistrate to the CSJ). The National Assembly appointed four new CSJ members in 2000, Sandinistas Armengol Cuadra and Rafael Solís, and Liberals Carlos Guerra and Guillermo Selva. Later elections again maintained a balanced line-up of eight Sandinistas

and eight Liberals on the high court. But as in the CSE, Sandinistas have slowly taken control of the majority of appellate courts and most of the local tribunals in the country. On January 16, 2009, the CSJ dismissed corruption charges against Alemán, who was facing a sentence of 20 years in prison for fraud and money laundering.

General Comptroller

When the *pacto* was arranged in 2000, General Comptroller (Agustin Jarquín), who was conducting investigations of corruption against Alemán, was replaced. The Comptroller's office (CGR), which was traditionally led by a single-person chair, was reformed to consist of a collegial body of five members called the Council of Comptrollers. The five posts have again been divided between Sandinista and Liberal representatives, ensuring the politicization of major decisions concerning cases of corruption.

National Assembly

The number of representatives (*diputados*) in the National Assembly was expanded from 90 to 92 to include the most recent former president and vice-president (substitute) and runner-up president and vice-president (substitute) candidates from the last election (**Article 133 of the Constitution**). In the event Ortega does not manage to be reelected in 2011, he will also join the National Assembly, helping him maintain his political influence. The reform also granted National Assembly representatives immunity from criminal prosecution. Based on this reform, Alemán automatically became a member of the National Assembly in 2002 and briefly gained protection from eventual corruption allegations. But after political infighting between the Bolaños and Alemán factions of the PLC resulted in a split of the congressional group, the Bolaños and the FSLN benches amassed the 47 votes required to remove Alemán's immunity in December 2002, opening the way to his conviction on corruption charges a year later.

Presidential Elections

The pact lowered the threshold required to be elected president to only 40% of valid votes, or 35% if there is at least a 5% difference between the frontrunner and the runner-up candidate (**Article 147 of the Constitution reformed by Law 330**). This constitutional change directly benefited Ortega, allowing him to be elected president in 2006 with 38% of the total vote. If the previous requirements had existed (45% or more of votes), there would have been a run-off between Ortega and Eduardo Montealegre, who received 29% of the vote. Although the original intent of the pacters appeared to be to restrict participation in elections to their own two forces, thus creating a bipartisan system, Ortega's desire to split the opposition eventually resulted in elections contested by three (2001) and then four (2006) distinct forces.

Political Parties

The pact also increased obstacles for political parties to obtain legal status (**Article 65 of Electoral Law 331**). As a result, legal status can be cancelled if a party fails to receive more than 4% of the votes in general elections. Independents and political candidates or organizations not associated with an established political party are not allowed to participate. In June 2008, just months before the municipal elections, the CSE arbitrarily cancelled the legal status of the Conservative Party (PC), the Multi-Ethnic Indigenous Party (PIM), the Multi-Ethnic Party for Caribbean Coast Unity (PAMUC) and the Movimiento Renovador Sandinista (MRS). Additionally, the CSE cancelled the standing of conservative representative Alejandro Bolaños Davis, alleging that he had double citizenship (Nicaraguan and US) and had thus not complied with requisites established in the constitution to be a candidate. In February 2008, the CSE also stripped former presidential

candidate and deputy Eduardo Montealegre of legal control of the Nicaraguan Liberal Alliance (ALN), after which that party passed into other hands.

Current state of affairs

As mentioned, since 2000, Ortega and Alemán have dominated the composition of two of the four branches of government, the CSE and CSJ, along with the CGR, making all heavily partisan. The current state of affairs is therefore hardly a new phenomenon. However, the internal dynamics of the *pacto* have never been smooth, as reflected by several crises and legislative dynamics that have become increasingly unstable. Over the last three years, Ortega has worked strenuously to get the PLC to agree to constitutional changes permitting his re-election, but has constantly been rebuffed. In addition to his drive for complete control over institutional spaces and local governments, the authoritarian tactics the Sandinista leader is now employing to impose his re-election over any and all opposition are now undermining the basis of his original arrangements with his Liberal rival.

The renewal of the Ortega-Alemán pact expected in 2010 may currently be considered as on hold. While Ortega wants to retain complete control over the CSE to ensure authorization for his candidacy, Alemán is seeking to re-equilibrate the power balance in the electoral institution in order to secure guarantees that fraud will not be committed against the PLC in 2011. The liberal parties in the Assembly have so far been unwilling to negotiate the election of authorities for the vacant posts in other institutions until the CSE's composition is settled. Most observers believe that Alemán and Ortega will eventually come to some agreement on this matter, but when and in what form are hard to discern.

Nicaragua's Liberal forces have gone through their own crises. Political disaster for the Liberals started in 2004 with their fragmentation into two major groups competing for power and representation. This process began when a number of his followers distanced themselves from Alemán after he was convicted for corruption. Dissident Liberals then established the ALN, which took its place alongside other smaller groups which over the years have failed to challenge the PLC (Alemán's party) as the main Liberal force. Then ALN candidate Eduardo Montealegre managed to win 29% of the 2006 vote to 27% for PLC candidate Jose Rizo, but has not been able to consolidate his political movement (now called Vamos con Eduardo or VCE) and wrest control of the Liberal electorate from Alemán.

The legislature is currently the only branch of government over which Ortega does not have near absolute control. However, he is attempting to assert his influence over the lawmakers by means which might appear legal to a casual observer but which do not bear scrutiny. Needing 60% of votes in the National Assembly (56 representatives) in order to re-elect the CSE and CSJ magistrates and silence voices decrying the January "decretazo" as illegal, Ortega is presently maneuvering to gain or buy opposition votes in the Assembly, as well as further fragment the opposition field. Apropos of the first objective, on May 19, 2010, the CSE reinstated conservative deputy Alejandro Bolaños Davis and installed former vice-president Alfredo Gómez Urcuyo as representatives in the Assembly. In regard to the second, the Council furthermore restored the legal status of the Partido Conservador (PC). Some observers suggest that the CSE is likely to do the same with the MRS and could even restore Eduardo Montealegre as the legal head of the ALN.