

Second Report
The Carter Center Mission to Evaluate Electoral Conditions in Nicaragua
November 1-8, 2000

Responding to an invitation from Nicaragua's Supreme Electoral Council (CSE), The Carter Center organized a three-part election observation mission to that country in the fall of 2000. The first visit in September of 2000, evaluated the preparations for Nicaragua's municipal elections just as the campaign began, and also assessed developments related to the national elections to be held in 2001. The Carter Center conducted a second evaluatory visit by an eight-person team that visited Nicaragua the first week in November to observe the November 5 municipal elections and further preparations for national elections the following year. This report summarizes the findings of The Carter Center's second mission to evaluate electoral conditions in Nicaragua. The Carter Center's mission and this report were made possible through support provided by the U.S. Agency for International Development (USAID/Nicaragua), but do not necessarily reflect the views of USAID.

The main conclusions of the mission were:

- (1) That the elections were procedurally acceptable and took place in a non-violent political climate where parties were able to communicate their messages freely to the voters, and the vote was secret. Prior to the elections in 2001, the Supreme Electoral Council should correct problems in the voter list, assure that all voters have a permanent identification card rather than a substitute document, distribute to their owners the voter identification cards that the CSE has produced but not distributed, and remedy the procedural problems that slowed the announcement of final results.
- (2) That the elections in the North Atlantic Autonomous Region (RAAN), were flawed by poor turnout related to the CSE's decision to exclude the coastal party Yatama, which may have deprived a substantial portion of the Miskito electorate the opportunity to feel adequately represented.
- (3) That the decision to delay a decision on granting status to the National Unity Movement (MUN) was prudent, but that a date should now be set for that decision and the MUN's application must be accorded the same treatment under the law as were previous applications.
- (4) That the Supreme Electoral Council can substantially enhance the transparency it has promised by responding to the request from the Sandinista Renewal Movement (MRS), Democratic Liberal Party (PLD) and others for clear and timely information explaining the reason why their application for party status has been rejected.

The Second Evaluation Mission

Led by former Dominican Republic President Leonel Fernández, who is a member of the Carter Center's Council of Presidents and Prime Ministers of the Americas, the Center's election observation team also included the three experts who conducted the first study mission -- Dr. Shelley McConnell, associate director of the Center's Latin American and Caribbean Program (LACP); Dr. Luis Alberto Cordero, former director of the Center for Electoral Promotion and Assistance (CAPEL); and Dr. George Vickers, director of the Washington Office on Latin America (WOLA). They were joined by Mr. Celio Santos, a technical expert from the Brazilian electoral tribunal; Ms. Faith Corneille, program assistant for the LACP; Mr. Danilo Perez, assistant to Mr. Fernández; and Ms. Sarah Bush, a Carter Center intern.

The observer team met with Lic. Roberto Rivas, president of the CSE, and other election authorities directing technical aspects of the election process, including Dionisio Palacios, Manuel Palma and Jorge Incer. Team members also met with President Arnoldo Alemán, leaders from six political parties, candidates for the mayorship of Managua, representatives of political groups seeking legal recognition as parties, former Presidents Violeta Chamorro and Daniel Ortega, domestic and international observers, the donor community, and the U.S. Embassy.

Nicaragua is one of many countries which underwent a transition to democracy since the mid-1970s, and it is still in the process of consolidating that transition. It is important for the international community to support the Nicaraguan people as they work to make democracy more meaningful through their participation in civil society organizations, the private sector, ethnic organizations, political parties and government institutions. As we noted in our first report, the November 5 municipal elections were the first to be held separately from national elections, and offered an opportunity to gauge support for mayors and city council members without "coattail" effects. The elections were also an important test of Nicaragua's new electoral law and reformed constitution, and the results were expected to shape the politics of the national elections in 2001. The Sandinista and Liberal party composition of the Supreme Electoral Council produced concerns that electoral procedures might discriminate against other political parties, making transparency in electoral administration vital to the legitimacy of Nicaragua's electoral processes.

From a procedural standpoint, Nicaragua's municipal elections went smoothly with the notable exception of the North Atlantic Autonomous Region (RAAN). Shortcomings in the voter list left some citizens confused about where to vote, and turnout was lower than in past elections. Nonetheless, polling stations opened with only short delays and functioned cooperatively and in accordance with the procedures prescribed by law in order to assure a secret ballot. Strong coverage by party pollwatchers and domestic observers increased confidence in the process. As we went to press, results were pending in several close races where handling of challenges

(*impugnaciones*) could decide the winner, but there were no sustained claims of fraud. Politically, the elections met the minimal aspirations of three of the four competing parties.

We were pleased to find that The Carter Center's first report, stemming from its September 26-October 1 visit to Nicaragua, was well received by the CSE, the parties and the media. At their breakfast together, President Fernández inquired with President Alemán concerning his views on campaign finance, and President Alemán told President Fernández that it was incorrect for campaign contributions to be deducted directly from paychecks. The two agreed that government employees should receive their wages in full, and only afterwards make any voluntary contributions to their preferred political party. We hope that President Alemán will personally see to it that no campaign contributions are deducted from government paychecks in Nicaragua.

The Municipal Elections

The November 5, 2000 elections for mayors and city council members met international standards for free and fair elections and the results have been broadly accepted by domestic and international observers and by political parties.

The electoral authorities performed well in accomplishing many technical tasks required to hold local elections. The ballots were printed and distributed on time and under proper security with opportunities for party poll watchers to monitor their production and delivery. The other electoral materials, such as indelible ink and tally sheets, were packed and delivered efficiently, such that very few complaints emerged concerning lack of materials. The voting stations, or *Juntas Receptoras de Votos* (JRVs) opened with minor delays of less than hour, and operated throughout election day, with only one major incident in which a polling station was burned in the North Atlantic Autonomous Region (RAAN). Election officials in the voting sites cooperated well with one another. Our conversations with the armed forces and the national police indicated that they had adequate plans to maintain safety, including electoral police who our observers found well trained in each JRV. Domestic observer groups found that poll watchers from at least two political parties were present in over 98% of the voting stations.

Thousands of domestic observers deployed to monitor the vote in a partially coordinated distribution that provided impressive coverage, including quick counts in five cities. International observers from the Organization of American States, local embassies and others helped in this monitoring effort, and were provided a high level of access at all levels of election administration. Both domestic and international observer performed well, providing an essential service in verifying the election process in a neutral manner supportive to democracy.

Although the election results were reported slowly over the course of the weeks following the vote, domestic observers told The Carter Center team that they did not

know of any case in which the reported totals did not match those their observers recorded in the voting stations on election night. The fact that copies of the tally sheets were posted on the JRV buildings and given to party poll watchers helped reassure Nicaraguans that the vote counting procedures would be honest.

That said, no election is perfect, and we wish to point out some areas where improvements can and should be made.

Updating the Voter Rolls: The electoral rolls in Nicaragua had been updated in the spring of 2000, but remain inaccurate in important respects and must be corrected prior to the 2001 national elections.

As in past elections, problems with Nicaragua's civil registry were reflected in the voter list. Deaths were not reported, in part because of minor costs that deter poor citizens from reporting changes in the civil registry, and an unknown quantity of deceased persons therefore remained on the voter list. Some citizens may not have registered due to disparities between their legal names and common names, an old problem with the civil registry related to stigmatization of children born out of wedlock and the still high number born outside hospitals.

Other citizens registered but did not verify their names on the voter list, so that their information was inaccurate or missing. This was due in part to the short notice given to citizens concerning verification of electoral rolls, and weak civic education about the importance of verification. Voters whose names were not on the list but whose identification confirmed their residence in the district were allowed to vote by writing their names into the list at the voting site if they surrendered their voter identification for several days. Our observers noted substantial numbers of citizens taking advantage of this opportunity, which attested to serious deficits in the voter rolls that must be corrected. Some voters were reluctant to surrender their voter identification in order to vote, especially since receipts were not consistently offered. They expressed skepticism about the ease and timeliness of re-obtaining the surrendered card given that many had been forced to visit election authorities multiple times to obtain their identification. The inaccuracies in the voter list thus had the potential to deter voters.

Citizens suffered some confusion as to where they should vote. The CSE had made a reasonable and cost-cutting decision to reduce the number of voting stations by approximately five percent, to a total of 8,483 *Juntas Receptoras de Votos* for Nicaragua's 2,786,866 registered voters, an average of just 323 voters per voting site. The reassignment of voters from the eliminated polling stations to operative ones meant that some voters did not vote in their traditional location and were left unsure of their voting location. In addition, citizens reported discrepancies between the voter list and the list posted outside the voting site as a guide concerning where to vote, and this increased confusion about where to vote.

The voter list should be purged of deceased voters. Conversely, citizens whose names were left off should be added in, together with the names of new voters, especially

those who will reach age 16 in time to vote in the next elections. An improved verification process should be held, with broad public education to persuade citizens of the importance of verification. Special efforts should be made to notify citizens from eliminated JRVs concerning where they should vote, and any discrepancies between the posted lists and the voter rolls should be investigated and resolved. The Supreme Electoral Council may wish to partner civic organizations such as Ethics and Transparency and Institute for Development and Democracy (IPADE) in order to get the word out concerning how citizens can verify the information on the electoral rolls, and to orient citizens concerning where to vote.

Voter Identification Documents: Nicaraguans carry a permanent identification card with which they vote, but a substantial number of citizens did not have their card and therefore had to vote with a substitute document (*documento supletorio*) in the November 5, 2000 municipal election. These *documentos supletorios* should be replaced with permanent credentials before the 2001 national elections. Furthermore, the CSE is in possession of a substantial number of credentials that it has not distributed. The general director of cedulaization, Dionisio Palacios, reported that approximately five percent of identification documents, both permanent and substitute ones, were not distributed, and placed the figure at approximately 140,920 documents. Renewed efforts should be made to get those documents to their owners, and where that proves impossible, documents that have not been picked up after a well-publicized period of time as determined by law should be destroyed. Here again the CSE could form partnerships with civic organizations to help citizens to pick up their voter documents.

Delays in the Counting Center: On election night, the vote totals were transmitted from Municipal Electoral Councils (CEMs) to a National Computing Center at the Olof Palme Convention Center. Some 220 telephone lines were connected to a server feeding three high speed fax printers capable of printing 130 faxes per minute as the results for each JRV were sent via fax from Nicaragua's 151 municipalities. The system was designed not to accept faxes from unauthorized sources. Six copies were made of each authenticated faxed tally sheet, and political party pollwatchers verified each document. Then 160 operators working in shifts typed the results into the computers. The results were periodically posted to a website, but there was no physical connection between the file server and the Web server, thus preventing hacking and data corruption. Despite this impressive technology, the CSE was slow to report results of the elections because the data was unavailable.

The delays occurred at two points. First, there were some delays in the municipalities due mostly to faults in the system for transporting the tallied results from the JRV to the CEM. Vehicles contracted to transport the electoral results did not always arrive as scheduled. There is no reason to suppose these delays resulted in inaccuracies given that each party pollwatcher was already in possession of a copy of the tally sheet making any attempted alteration of the results easily detectible. A second source of delays was within the Olof Palme computing center. It took longer than anticipated for the party pollwatchers to verify each incoming fax, and for the copies to be made and

provided to each party, especially given the necessity of on-the-spot repairs of at least one copying machine.

These problems can be easily remedied for the 2001 national elections. Party poll watcher verification of incoming faxes is just one of many guarantees against fraud, and may be viewed as excessive, such that an accord among all participating parties could eliminate that step as long as copies of the faxes are made available promptly to the parties for comparison with the copies of the actas their poll watchers received in the JRVs. Alternatively, rather than eliminating poll watcher verification in the computing center, the CSE could demand that parties provide additional poll watchers so that the work will go faster. The CSE should also contract sufficient copying capacity such that provision of copies to the parties does not become an impediment to rapid entry of data.

Minor Issues: In addition to these broad problems, there are a number of minor elements of electoral administration that could be improved. Citizens had some difficulty in distinguishing the black from the brown stripes on the ballot boxes and the backs of the ballots, leading some to deposit their mayoral ballots in the city councilman box and vice versa. It would be best to use colors that more clearly distinguish the ballot types. Another minor problem was the late opening of the polls, which has been so consistent in each election since 1990 that perhaps election personnel should be required to report earlier for their duties. Our delegation also heard complaints concerning mixed messages about how much election workers would be paid, including fears that they would receive only half of the amount promised. We also encountered confusion over how to replace election officials who did not report for duty if their substitute also did not report. Some party leaders complained that an eleventh-hour decision to draw replacements from the line of voters would allow partisan control of the voting, but in practice we found that some JRVs simply did not replace their second member, and operated with only a president and first member. Clarification of the rules and procedures well in advance of voting day would allow appropriate training of election officials and bolster confidence that electoral administration is not arbitrary.

Results of the Elections

The preliminary results of the municipal elections indicate that three of the four competing parties could feel satisfied with their performance, and the elections were broadly accepted by all parties. The Sandinista National Liberation Front (FSLN) gained ground, giving the party new energy with which to engage the national elections next year. It increased the number of Sandinista mayors, and captured 11 of the 17 municipal capitals, including the capital city. The FSLN's percentage of the overall vote suggests they will be a serious contender for the national elections, and the success of relatively independent candidates who emerged from local constituencies may hold important lessons for the party. Running on its record, the Constitutionalist Liberal Party (PLC) made a strong showing after four difficult years in government, capturing many more municipalities than the FSLN, especially small towns. The overall totals suggest that the support for the liberals will keep them an important political force in Nicaragua's future.

The Conservative Party established itself as a third force by winning the mayoralty of historically Conservative Granada and several smaller towns, and by polling well in Managua. Only the Christian Road party suffered a substantial setback in this election. Ongoing disputes concerning individual JRVs could alter some close races, and the Supreme Electoral Council has until November 27 to decide these contested votes. The Carter Center will send a follow-up mission to Nicaragua to evaluate the handling of complaints.

Throughout Nicaragua the participation rates were lower than they had been in prior municipal elections. Preliminary results suggest approximately 60%. This may simply be due to the separation of the municipal and national elections, as municipal races elsewhere in the Americas do not draw as high levels of voter turnout as do national elections. Part of the decline may be due to the reduction in the number of parties competing. Another hypothesis is that the requirement for voters whose names were omitted from the voters list, to turn in their identification card to vote, led an unknown number of them to decide not to vote. Further analysis of the patterns of participation may help us to understand whether civic education reached voters and made them aware of the election and their right to vote.

The Yatama Case and Elections in the RAAN

One localized problem occurred in the North Atlantic Autonomous Region, where analysis by IPADE placed voter turnout at just 22% and could be less in the final results. In some JRVs in the RAAN, fewer than 10 votes were cast.

Abstention in the RAAN is no doubt linked to the CSE's decision to deny Yatama, a regional political party, the right to participate in the municipal elections. The history of this decision is complex, linked to a failed effort by Yatama to present candidates with a group in the South Atlantic Autonomous Region (RAAS). Nonetheless, the CSE indicated to us that the technical basis for elimination was the slightly late submission of required documents, and their submission in Puerto Cabezas rather than to the CSE in Managua. The CSE noted that Yatama would be allowed to participate in the national elections in 2001, but this did not satisfy the party, which is a regional party whose political advantage was perceived to be strongest in municipal races rather than national ones. Yatama appealed the decision to the courts and won an initial decision allowing Yatama to participate in the election at a point in time when it was still barely feasible to reprint the ballots for the RAAN. However, the CSE appealed that decision to a higher court and in the end Yatama was not permitted to field its candidates.

Tension surrounding this decision was very high in the days preceding the election, and there was sporadic violence in the RAAN connected to this issue. Efforts by the Moravian Church to mediate the conflict proved futile, and the Organization of American States was only able to encourage Yatama to avoid violence. Yatama called for a delay of the elections in the RAAN, an option which received some popular attention, since under Art. 4 of the electoral law the CSE can postpone an election due to *force majeure*. However, the CSE insisted that such a situation did not exist, and that the

election could only be postponed if the National Assembly convened and amended the electoral law to allow it, via a two-thirds majority vote requiring the cooperation of the FSLN and PLC. The FSLN had declared itself in favor of a postponement, and called on its supporters not to vote in the RAAN on November 5, but the PLC remained silent and no consensus could be reached.

The Carter Center was unable to visit the Atlantic Coast on this study mission, but did review the elements of the Yatama case with representatives in Managua and with electoral authorities, Cardinal Obando y Bravo and others. It is clear to us that many coastal residents feel their opportunities for political expression through the ballot box were limited by Yatama's exclusion from the election, and that the opportunity to participate in national races is a poor consolation prize for a regionally based party. To the extent that it did not comply with procedures by the set dates, Yatama must shoulder responsibility for the disappointment of its supporters. Nonetheless, given that the alleged deviations from procedure were minor, that a court found in favor of Yatama, and that it was still feasible at that point to include Yatama on the ballots, Yatama's exclusion seemed unnecessary. That decision may well have rendered the election meaningless for a coastal minority whose political preferences may not be adequately represented by national parties. Although the coastal population is small, and the low participation in the RAAN cannot be grounds for condemning the election as a whole, some remedy should now be taken to allow for more effective representation in the RAAN. The Carter Center team was informed that the electoral law does not contemplate annulment of an election based on low participation, thus the remedy will likely need to be found outside of an electoral framework, perhaps via cooperative strategies with the new mayors and city council members as they seek to deepen their legitimacy by opening new channels for local participation in municipal governance.

Preparations for National Elections

November 4, 2000 was the deadline for the CSE to grant legal status to new political parties forming to participate in the national elections next year. The National Unity Movement had submitted the necessary documentation for the CSE's review, and in October the CSE determined that an adequate quantity of signatures was submitted. The next step was to verify that the signatures were authentic via a comparison to recorded signatures in the electoral registration list, and to verify that the applicant group had formed municipal boards with the appropriate quantity of citizens and certified by the election authorities. In light of the fact that the CSE's duties in holding municipal elections made this task difficult to accomplish by the deadline, we applaud the CSE's decision to postpone its ruling on the MUN, which will take effect as if it had been made at the time of the postponement. We now urge the CSE to set a date by which it will conclude its examination of the MUN case, and to remain in fluid communication with MUN leaders during its review. It is our understanding that other parties, such as the Conservative Party and Constitutionalist Liberal Party, were permitted to use the signatures of persons registered in the spring of 2000 who had not registered for the 1996 election. We insist that an equal standard be offered to the MUN so that the law is applied

equitably to all. We will follow this case carefully, and hope the CSE will make the principle of inclusion its point of departure and work with the MUN to provide that group every opportunity under the law to reach Nicaragua's high standards for party formation.

During our visit we also met with a second group seeking legal status as a party, the Democratic Liberal Party. Party leaders told us they had submitted a calendar for their assemblies, and had in fact held assemblies to form municipal boards, but that in a substantial number of cases the Departmental Electoral Council (CED) did not attend the assemblies to certify the board formation process. When we inquired with President Roberto Rivas of the CSE, he said that the electoral authorities did not have the capacity to meet the rigorous timetable submitted by the PLD in the short time available for registering municipal boards after the CSE regulated the law to require certification by the CEDs. In principle, where the CSE's capacity limitations are the source of a group's inability to comply with the law, the CSE should seek to remedy the situation, as it did by extending the dates for making a decision about the MUN's application. In this instance, the CSE noted that PLD leaders have filed suit against the CSE, and argued that its appeal to judicial authorities relieves the CSE of further obligation in the case, a legal thesis which we would like to see better explored. PLD leaders argue they have appealed as a last resort after receiving no answer to repeated letters sent to the CSE.

During our meeting, we urged the CSE to re-establish communication with the PLD and provide an official response to their complaints as citizens' rights to political organization cannot be abridged through bureaucratic silence. President Rivas promised us he would respond to written communication from PLD leaders. Further communication is also warranted with respect to the case of the Sandinista Renewal Movement, whose application was rejected without a full explanation being offered by the CSE, and which has consequently sought judicial remedy. By offering full and timely explanations for its decisions, the CSE can avoid giving the impression that governance is arbitrary, enhancing its own credibility through maximum transparency.