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The Evolution of Governmental Institutions

By Andrew Reding

Following two years of popular insurrection, the revolutionary triumph of July 19, 1979, was absolute. Dictator Anastasio Somoza Debayle fled first to Miami and then to Paraguay, where he was later assassinated by Argentine extremists. His praetorian National Guard disintegrated. While officers were rescued by a U.S. government DC-8 disguised with Red Cross markings, soldiers fled for the borders.¹ Thousands were captured and imprisoned by a population outraged by the slaughter of tens of thousands of their fellow citizens.

Many of the government institutions that did not collapse outright were so thoroughly discredited by their collaboration with the dictatorship that they were abolished after the triumph. Such was the case with local government, the courts, and the congress, all of which had been little more than sinecures for the dictator's family, friends, and supporters.² So strong was the popular revulsion that even the buildings in which these institutions had been housed—most notably the National Palace—had to be converted to other uses. Only the portions of the legal codes that did not conflict with the new revolutionary decrees were allowed to stand, pending preparation of new laws.

Most government institutions had to be created anew, beginning with those essential to restoring order: a provisional executive authority, a new army and police force, and new courts. These initially constituted the aptly named Government of National Reconstruction. By spring 1980 the revolutionary government was able to install a rudimentary legislative body, the Council of State, which by the following year had begun the complex task of translating the revolution's commitment to political pluralism into a Law of Political Parties. After extended debate and negotiation, a broadly acceptable compromise was reached in 1983, setting the stage for development of an Electoral Law and elections in 1984.

With the election of a president and legislature in 1984, Nicaragua became a representative democracy, in which seven ideologically diverse political parties began deliberations over a new constitution. After a two-year process that included broad public participation and international consultation, the new constitution was promulgated on January 9, 1987. The constitutional order was then completed over the next two years, with passage of a Law of Municipalities and a Law of Autonomy, creating local and regional democratic institutions, and with passage of a new Emergency Law, a new Law of Constitutional Safeguards (*Amparo*), and a new Electoral Law, setting the stage for the February 1990 general elections.

Lacking valid domestic models for institution building, Nicaragua devised its democratic structures and practices by combining elements adapted from progressive foreign models with its own innovations. In so doing, it produced several global precedents, among them formalization of an independent fourth branch of government to prevent electoral fraud,³

establishment of open forums for citizen participation in the drafting of a constitution, and empowerment of the Supreme Court to enforce international human rights treaties in the domestic legal process.

The revolution's commitment to political pluralism and to popular sovereignty through free elections was put to the ultimate test with the Sandinista loss to the U.S. government-backed National Opposition Union (UNO) in the February 25, 1990, general elections. Contrary to the prognostications of U.S. pundits, President Daniel Ortega graciously conceded defeat to President-elect Violeta Chamorro, assumed the responsibility of leading the opposition in the National Assembly, and laid the way for the first peaceful transition of power in Nicaraguan history.

Provisional Government

Fundamental Statute of the Republic

In early 1979, as it became clear that the Somoza dictatorship was foundering after a year and a half of unrest and periodic popular insurrection, the FSLN formed a government-in-exile, the Governing Junta of National Reconstruction, in neighboring Costa Rica. Though two of the members of the JGRN (newspaper publisher Violeta Barrios de Chamorro and businessman Alfonso Robelo) were selected to represent nonrevolutionary forces that collaborated in the overthrow of Somoza, there was never any question as to who held the balance of power. The other three members—Moisés Hassan, novelist Sergio Ramírez, and Daniel Ortega—were known either to belong to, or to sympathize with, the FSLN; and Commander of the Revolution Daniel Ortega, of the Joint National Directorate (DNC) of the FSLN, emerged as coordinator. It was a combination of forces that, if anything, understated the overwhelming popularity and military advantage of the Sandinistas at the time. The state of affairs was described in the Fundamental Statute of the Republic of Nicaragua, issued the day after the revolutionary triumph, which formally established the JGRN, “designated by the revolutionary movement” (i.e., by the DNC), and “substitute[d] for the National Guard of Nicaragua a new National Army...to be formed by the combatants of the FSLN...provisionally commanded by the military chiefs and leaders of the armed movement that put an end to the dictatorship.”⁴

The fundamental statute also provided for an independent judiciary and for a “colegislative” Council of State, both to be named by JGRN. Accordingly, seven magistrates were appointed to the new Supreme Court of Justice on July 21, three Sandinista judges, three from other parties, and one unaffiliated. Yet agreement could not be reached on the composition of the Council of State. In June, the JGRN had made plans for a thirty-three member council with a similar balance of power. After the July victory, with the National Guard destroyed and U.S. plans for a multinational peacekeeping force rejected by the Organization of American States (OAS), the Sandinistas insisted on a council that would more accurately reflect their popular support. As the JGRN was sharply divided on the issue, the council remained in abeyance until April 1980, when both Violeta Chamorro and Alfonso Robelo resigned their seats. On May 2, the remaining Sandinista members of the JGRN approved the General Statute of the Council

of State, and two days later a forty-seven-member council held its first session, with revolutionary forces enjoying a safe two-to-one margin. Having passed this roadblock, the JGRN named two members of the Conservative party (banker Arturo Cruz and Rafael Córdova Rivas, a close associate of slain *La Prensa* editor Pedro Joaquín Chamorro) to fill its two empty seats.

The dispute over the Council of State was a revolutionary watershed. From that point on, there was no mistaking the predominance of the FSLN and its agenda of fundamental social change over the mildly reformist preferences of much of the opposition. The Chamorro family, publishers of what had until then been Nicaragua's principal daily newspaper, was profoundly affected. Violeta's resignation set off such a rift in the family that the newspaper ceased publication the following day. The impasse was not broken until five weeks later, when Xavier Chamorro, brother of the slain editor, cashed in his share of the enterprise and walked out with 180 (91 percent) of 197 workers, to found *El Nuevo Diario*, which maintained an independent position supportive of the revolutionary process. Xavier Chamorro's nephew Pedro Joaquín took over as editor of *La Prensa*, converting it into a sounding board for frustrated segments of the country's traditional elites as they coalesced into a counterrevolutionary opposition.⁵ At this point the Catholic hierarchy, led by Managua Archbishop Miguel Obando y Bravo, likewise broke with the revolution, setting off a parallel division between the traditional church led by the bishops and an emerging grass roots church led by revolutionary priests, nuns, and theologians. Soon the repercussions would extend to the defections of Edén Pastora, "Commander Zero," and Alfonso Robelo and the emergence of the armed counterrevolution, organized by the incoming Reagan administration in early 1981.

Fundamental Statute of Rights and Guarantees

Underlying the political confrontation was a conflict over the very purpose of government. Though many failed to realize it, the JGRN had laid out that purpose in the Fundamental Statute of Rights and Guarantees of the Nicaraguan People, issued on August 21, a month after the triumph. This remarkable document, comparable to the preamble of the U.S. Declaration of Independence and the Bill of Rights, incorporated, often verbatim, key provisions of the UN Covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights, recognizing these as binding in the domestic legal order. But it went beyond that by placing enormous emphasis on the "right to life" (Article 5), described as "inviolable and inherent to the human person." The death penalty, established in Article 38 of Somoza's constitution of 1974, was abolished for all crimes, even in times of national emergency.

For the first time in the history of major social revolutions, the *ancien régime* was spared violent retribution. Thousands of national guardsmen were imprisoned and tried—under Somoza's own laws—for crimes committed against the population. But there were no firing squads, scaffolds, guillotines, or any of the other paraphernalia of terror associated with past revolutions. The motto of new Minister of the Interior Tomás Borge, himself a victim of torture in Somoza's jails, was "revolutionary generosity." Confronting a lynch mob gathering immediately after the revolutionary triumph, he asked, "to what end did we carry out this revolution if we are going to repeat what they [the National Guard] did?"⁶ Beyond the proscription of capital punishment, Article 6 forbade "cruel, inhuman,

or degrading treatment” and, like the constitution and laws of neighboring Costa Rica, established a maximum prison sentence of thirty years. That these rights could not be suspended in war or for treason contributed to the integrity and durability of the revolution, as none of the tools of terror were available to be turned on new classes of “counterrevolutionaries.”

Thus far there was little to which the opposition could object. But the revolution’s conception of the right to life was comprehensive, encompassing rights to basic needs without which life could not in fact be sustained. Thus Article 33 of the statute established that “every person has the right to social security...to an adequate standard of living for oneself and one’s family, which ensures health, well-being, and in particular, food, clothing, shelter, medical assistance, and necessary social services.” Since these rights are recognized in the UN Covenant on Economic, Social, and Cultural Rights, it would have been impolitic for the minority on the JGRN to object. Moreover, such rights have generally been considered unenforceable in all but socialist and social democratic states. Yet the Sandinistas never disguised their identity as social revolutionaries. As sole surviving founder of the FSLN and leading articulator of Sandinista ideology, Tomás Borge scandalized the opposition by linking “the defense of human rights” with “the defense...of the right to life...There can hardly be human rights in a country where children suffer from hunger...where children don’t go to school...where children don’t receive love, and love in practical terms is also bread and education.”⁷

Such a commitment to the basic needs of the most vulnerable members of society entails reallocation of material resources from the wealthy to the poor. That means the right to property must be seen as a secondary right, conditional to fulfillment of every human being’s “inviolable and inherent” right to life. As expressed in Article 27, “property, whether individual or collective, fulfills a social function, in virtue of which it may be subject to limitations in regards to ownership, benefit, use, and disposition, for reasons of security, public interest or utility, social interest, the national economy, national emergency or disaster, or for purposes of agrarian reform.” The Sandinistas interpreted this as a mandate for profound social change, beginning with the Literacy Crusade of 1980.

Though this limitation on property rights was unacceptable to much of the opposition, there was no denying its conformity with the language of the principal international human rights treaties, which Nicaragua endorsed on March 12, 1980. Thus the Superior Council of Private Enterprise (COSEP) could resort only to tortured argumentation to suggest that an inviolable right to property was essential to the right to life “If Man is deprived of the right to hold onto the product of his own effort, it is the same as depriving him of the right to make the effort; and depriving him of the right to make the effort to sustain his own life is the same as depriving him of the right to life, which is the fundamental right of Man.”⁸

Although the Sandinistas’ elevating the right to life over the right to property was distasteful to their opponents both within and outside Nicaragua, it nonetheless established much of the ideological common ground for the enduring alliance between Marxist and Christian Sandinistas. It was no coincidence that whereas Christian activists in other Latin American countries were coalescing around a “theology of liberation,” Christian revolutionaries in Nicaragua (and elsewhere in Central America) preferred to

emphasize a “theology of life,” grounded in Gospel commandments to attend to the basic needs of the neediest, as in Matthew 25. Correspondingly, Sandinista Marxists tended to set aside ideological orthodoxies in favor of a return to the empirical, more genuinely “scientific,” method of Marx, deriving working hypotheses from the experience of efforts at revolutionary transformation. This enabled them to cast aside outdated observations on the church’s role as the “opiate of the masses,” as well as to realize that socialism properly understood required greater and freer democracy than capitalist alternatives that depend on the management of public opinion.⁹

Formal and Informal Government

The convergence of Sandinista ideology and revolutionary theology had immediate and lasting consequences for the development of the formal and informal structures and policies of the revolutionary government. From the beginning, both the Marxist and the Christian Sandinistas controlled key government ministries, even though U.S. analysts, viewing Nicaraguan reality through the prism of past experiences of global “communism,” tended to misunderstand the motivations of the former group and to underestimate the significance of the latter.

Members of the nine-person Joint National Directorate (DNC) of the FSLN indeed held some of the prominent positions in the government. Daniel Ortega served as coordinator of the JGRN. His brother Humberto Ortega was made minister of defense (in charge of the army), while veteran Sandinista Tomás Borge became minister of the interior (in charge of police, state security, and prisons), with Luis Carrión as his deputy. That assured the DNC undisputed control of all armed forces, yet in practice only formalized the status quo following the collapse of the National Guard. DNC member Jaime Wheelock, author of a major study on the relationship between dictatorship and export monoculture, was named minister of agriculture. Henry Ruiz became minister of planning. After a short stint as president of the Council of State, the polemical and confrontational Bayardo Arce was replaced by Carlos Núñez. Arce was reassigned to the task of developing the FSLN party structure, as chairman of the three-member Political Commission of the DNC. The only member of the DNC who never assumed a government post was Víctor Tirado, a Mexican by birth.

Less noticed was the pattern of appointments of Christian Sandinistas to prominent policy-making positions in the government. Maryknoll priest Miguel d’Escoto was placed in charge of foreign policy as minister of the exterior, while fellow priest Edgard Parrales was dispatched to Washington as ambassador to the OAS. The sensitive position of minister of education, charged with developing policies that would profoundly affect the future of the revolution, was entrusted to Carlos Tünnerman, a former president of the National Autonomous University of Nicaragua (UNAN) and a prominent Catholic layperson. When named ambassador to the United States in 1984, he was succeeded by Jesuit priest Fernando Cardenal, who had helped organize an ecclesiastical base community (CEB) in Managua’s Barrio Rigueiro that had fostered such revolutionary leaders as DNC member Luis Carrión and Army Chief of Staff Joaquín Cuadra. Priest and poet Ernesto Cardenal, whose contemplative community on the Solentiname Archipelago in Lake Nicaragua had become a focal point of resistance to the dictatorship, was named minister of culture. Among other Christian revolutionaries appointed to top

positions were Roberto Argüello, president of the Supreme Court, Reinaldo Antonio Téfel, minister of social security and welfare, Miguel Ernesto Vigil, minister of housing, and Emilio Baltodano, comptroller-general of the republic.¹⁰ Even Tomás Borge would have to be counted in this group, both for his close links to the revolutionary priests and for his own proclivity to articulate public policy in terms of a “theology of life.”¹¹

Beyond the formal structures of government, revolutionary Christian institutes played a major role in interpreting developments through rigorous multidisciplinary (political, economic, legal, cultural, and moral) analysis, which at once fostered and helped frame internal debate within important segments of the policy-making elite. Prime examples included the Jesuit-run Central American Historical Institute, with its monthly magazine, *Envío*, and the Antonio Valdivieso Ecumenical Center, which published books, pamphlets, and the magazine *Amanecer*, in addition to weekly columns in *El Nuevo Diario*. The output and originality of these institutes far outpaced that of corresponding Sandinista party institutes and publishing houses, such as Editorial Vanguardia. Revolutionary Christians also produced some of the most provocative and best-selling titles of the government publishing house, Editorial Nueva Nicaragua, among them Ernesto Cardenal’s four-volume *The Gospel in Solentiname*, and theologian Giulio Girardi’s *Faith in the Revolution and the Revolution in Culture*.

The influence of the revolutionary Christian ethos on government policies was substantial. Nicaragua’s social revolution was the first one to abolish the death penalty.¹² The Foreign Ministry set an international precedent for the peaceful resolution of disputes by submitting Nicaragua’s armed confrontation with the United States to the compulsory jurisdiction of the World Court, whose Western-dominated bench voted twelve to three in favor of Nicaragua. Later, it would be the Christian Sandinistas in the National Constituent Assembly who would provide the margin of victory for an article incorporating major international human rights treaties into the Nicaraguan constitution, another global precedent. Since such achievements did not fit the image of “communist totalitarianism,” they were generally ignored in the United States, and when noticed at all, they were dismissed as the clever and “pragmatic” posturings of “Marxist-Leninists” intent on deceiving public opinion. The reality was much simpler: Each of these initiatives was a logical corollary of the “right to life” ethos first expounded in the Fundamental Statute of Rights and Guarantees.

Revolutionary Transformations, Counterrevolutionary Reactions

Some of the other logical corollaries of the “right to life” ethos, however, mandated conflictive and controversial measures. To redirect a national economy designed to concentrate wealth in the hands of elites toward securing the basic needs of the majority, the Sandinistas planned to seize the “commanding heights” of the economy by nationalizing the banking system, the mines, foreign commerce, and the vast network of holdings of the Somoza family. In addition, they planned a land reform to distribute more equitably the primary means of production in a still largely agrarian society. Only in this manner, they argued, could the foundations of genuine democracy be laid.

Such broad transformations, however, have seldom been achieved through the protracted give-and take of legislative processes; and timing was critical as the Sandinistas had to anticipate the mounting counterrevolutionary efforts of the Reagan administration with a

series of *faits accomplis*. For this reason, the Council of State was initially designed as a merely “colegislative” body, able to advise the JGRN but unable to alter or reject legislation on its own. Unencumbered, the JGRN made use of its decree-making powers to issue a quick succession of revolutionary laws in 1981, including the Agrarian Reform Law, the Law of Cooperatives, and, in anticipation of reactions to these, the Law to Prevent and Combat Decapitalization and the Law of Social and Economic Emergencies. The enactment of these fundamental socioeconomic transformations marked a second revolutionary turning point. Although the government rapidly gained support among beneficiaries of land reform and of the formation of cooperatives, it just as rapidly alienated traditional elites, many of whom fled to Miami, slashed investment and production, or swung their support to the counterrevolution. By early 1982, armed counterrevolutionary incursions across the Honduran frontier began to inflict serious damage in northern zones.

The JGRN responded to these challenges with extraordinary measures. To counter the military threat, it imposed a State of Emergency on March 15, 1982. And to circumvent the exceedingly slow pace and more conservative tendencies of the regular courts, it created special courts with streamlined procedures and the participation of citizen-judges of known revolutionary sympathies. The People’s Anti-Somocista Tribunals (TPAs), modeled on the earlier special tribunals that had tried captured national guardsmen, were formed in 1983 to try captured contras and suspected collaborators. Similarly, Agrarian Reform Tribunals were established to review confiscations and expropriations carried out by the Ministry of Agricultural Development and Agrarian Reform (MIDINRA, formerly the Ministry of Agriculture). Also in 1983, the Law of Military Service established Nicaragua’s first universal draft.

To many U.S. observers, these drastic measures seemed to confirm their worst fears of the Sandinistas, that they were dedicated Marxist-Leninists intent on consolidating a Cuban-Soviet totalitarian dictatorship. Part of the problem was cultural and linguistic. The JGRN was commonly referred to as the *junta*, a term that in English usage has come to be associated with dictatorship by cliques of Latin American generals. To compound the problem, the junta was readily confused with the Joint National Directorate (DNC) of the FSLN; and the honorific title “commander of the revolution” held by each member of the DNC, was widely believed to designate military rank, a misconception reinforced by the olive green guerrilla garb that members of the DNC, including junta coordinator Daniel Ortega, habitually wore in public. Yet not a single member of the junta ever held a military rank, and only three members of the DNC were ever in active command of military or police forces (Humberto Ortega, Tomás Borge, and Luis Carrión); of these three Humberto Ortega alone held military rank as general of the army (Tomás Borge declined a similar commission). As for wearing olive green, the Sandinistas saw it as symbolizing a vocation of ongoing struggle alongside the “great majorities” and distinguishing the revolutionary leadership from the traditional elites in their white, elaborately pleated *guayabera* shirts.

For a more accurate and illustrative historical parallel, one must look not to the military juntas of South America, but to the all-but-forgotten precedent in neighboring Costa Rica, where another civilian junta ruled for eighteen months in 1948-1949. The Costa Rican crisis had been mild by comparison with the one that gave rise to provisional government

in Nicaragua. After irregularities in the 1948 presidential election there was a brief civil war, culminating in the triumph of social democratic forces led by José Figueres. To circumvent the legislature, which was dominated by Christian Democrats and Communists, Figueres suspended the constitution and established the Founding Junta of the Second Republic, with himself as its president. Armed with decree powers, he rapidly nationalized the banks and hydroelectric facilities and imposed a one-time 10 percent levy on all wealth valued above 50,000 colones. These were drastic measures: Until then, only Communist countries had nationalized their entire banking systems. Although the levy on wealth was ultimately revoked by his successor, Figueres also acted to abolish the army, extend voting rights to women, and form an independent Supreme Electoral Tribunal to prevent recurrence of fraud.¹³ These bold reforms, together with others that followed, contributed to the extraordinary stability of Costa Rican democracy in the decades that followed, after constitutional authority was restored.

When, in a parallel with the later Nicaraguan case, the reforms led to an invasion of Costa Rica's northern zone by counterrevolutionaries backed by Nicaraguan dictator Anastasio Somoza Garcia's National Guard, the Costa Rican junta suspended habeas corpus and created a censorship office. It also set up special courts: the Tribunal of Administrative Probity and the Tribunal of Immediate Sanctions, which judged the "political crimes" of adversaries; in neither case was there any right of appeal. Yet the Costa Rican junta took even more drastic measures against domestic opponents than did the Nicaraguan one. Teachers and other public servants whose loyalties were questioned were fired; and even before the counterrevolutionary threat materialized from the north, the junta banned Popular Vanguard (a Communist, but thoroughly constitutionalist, party that had won ten legislative seats in the previous election) and dissolved seventy labor unions, most for their Communist affiliations. Also unlike the Sandinistas, who periodically censored and suspended the opposition daily *La Prensa*, the Costa Rican junta permanently closed down both the Christian Democratic newspaper *La Tribuna* and the Communist newspaper *Trabajo*.¹⁴ Even during the worst periods of national crisis, the Sandinistas showed greater respect for civil liberties and political pluralism than had their Costa Rican counterparts.

Representative and Constitutional Government

As in the earlier Costa Rican case, the Nicaraguan junta never wavered from plans to hold national elections. From the time it assumed power in 1979, the JGRN foresaw holding elections in 1985; this timetable was reaffirmed by DNC member Humberto Ortega on August 21, 1980, at the closing ceremony of the Literacy Crusade. In November 1981, a draft Law of Political Parties was submitted to the Council of State, with the intention of developing a regime of political pluralism that would be acceptable to most, if not all, opposition parties. Though discussion in committee was slowed by the State of Emergency proclaimed in March 1982, the draft law that was resubmitted to the plenum in November 1982 had been considerably enriched by dialogue, as reflected in its enlargement from fourteen to thirty-four articles. Over the following six months, the

second draft was exhaustively renegotiated in a special committee, producing a third draft that was debated by the plenum, then finally approved on August 17, 1983.

The two-year process of debate and approval of the Law of Political Parties indicated a change in the role of the Council of State: Whereas it had been a mere consultative appendage of the JGRN, it became an embryonic legislature. This was deliberate. As the focus shifted from establishing revolutionary *faits accomplis* to institutionalizing democratic structures that would legitimate the new revolutionary order, there was a corresponding transition from executive fiat to a search for as broad a consensus as possible among the country's political forces. As reconstituted in 1981, the corporative Council of State had fifty-one members, representing Nicaragua's principal political parties, labor unions, business confederations, churches, the army, and other significant groupings. The very pluralism that had earlier made it inconvenient for such "revolutionary conquests" as enactment of land reform, now made it the ideal forum—and laboratory—for the development of representative democracy.

As finally approved, the Law of Political Parties established the right to form political parties "freely...without any ideological restriction whatsoever," apart from a prohibition on advocating the return of a Somoza-style dictatorship (Article 4). That right to form parties was made substantive by Article 2, which recognized the right of all such parties to contend for power, and by Article 20, which set some of the most lenient requirements for registering a party to be found anywhere: submission of a name, emblem, political platform, and names of a few dozen party officials. Control over party registration was vested in an independent National Council of Political Parties, composed of three members named by the Council of State, four elected by the National Assembly of Political Parties, and one appointed by the JGRN. Because the National Assembly of Political Parties, where each party had a single representative, was dominated by the opposition, this formula ensured political balance. Appeals could still be made to the Supreme Court. For the first time ever, Nicaraguan political parties had a secure legal foundation.

In February 1984, the Council of State began work on Nicaragua's first serious electoral law. The two previous laws (1951 and 1974) had merely sought to legitimate dictatorship by reserving one-third of the seats in Congress for the Conservative party; and the two preceding laws (Ley Dodds and Ley McCoy) bore the names of their U.S. authors, from the period of U.S. marine occupation.¹⁵ In search of better ideas, special commissions visited the United States and five European and seven Latin American countries.

The Electoral Law, approved at the end of March 1984, revealed the outlines of the form of government that would emerge from the Nicaraguan revolution. To maximize pluralistic deliberation, a ninety-member National Constituent Assembly would be elected by proportional representation, with any party that gained a mere one percent of the national vote assured of at least one seat (in practice at least two seats because losing presidential candidates also would be seated in the legislature). Yet to maintain an effective executive power to secure and pursue revolutionary gains, a president and vice president would be elected by plurality, as in the United States. Contrary to predictions that the Sandinistas would copy Soviet or Cuban models, the Nicaraguan government was instead taking shape as a variant of the progressive Latin American model

(epitomized by Venezuela and Costa Rica), which blends the U.S. presidential system with the European system of proportional representation.

To “guarantee and respect the popular vote,” the Nicaraguans turned primarily to the Costa Ricans, Venezuelans, and Swedes for inspiration and advice. The Supreme Electoral Council (CSE), modeled on the independent electoral tribunals of Costa Rica and Venezuela, was established to supervise the upcoming elections, which were advanced to November 4, 1984. Mariano Fiallos, the widely respected president of the National Autonomous University of Nicaragua (UNAN), was named president of the CSE; two of the four remaining magistrates were designated by opposition parties. All participating political parties were guaranteed the right to equal shares of public campaign financing, to equal time on radio and television, and to have poll watchers present during registration, voting, and counting of ballots. The Swedish electoral commission provided technical assistance.

The 1984 Elections

Six opposition political parties chose to contest the elections. Three of these—the Communist Party of Nicaragua (PCdeN), the Nicaraguan Socialist party (PSN), and the Marxist-Leninist Popular Action Movement (MAP-ML)—were small parties to the left of the FSLN; they objected to Sandinista deviations from various versions of orthodox Marxism-Leninism. On the right, however, the situation was complicated by splits within the three principal political currents. Faced with the unprecedented prospect of an open electoral contest with a revolutionary party, some sought to gain political space by winning legislative seats, while others opposed participating in an election that would legitimate revolutionary power. Thus the majority factions of the Conservatives (Democratic Conservative party—PCD) and the Liberals (Independent Liberal party—PLI) decided to field candidates, as did the Christian democratic Popular Social Christian party (PPSC), the product of an earlier left wing split from the Social Christian party (PSC). The only noteworthy party to abstain was the PSC, which united with the COSEP and tiny groups of dissident liberals and conservatives in the Nicaraguan Democratic Coordinator (CDN).

The Reagan administration had long called for elections in Nicaragua, as part of its program of “public diplomacy” (i.e., propaganda). Caught off guard by the Sandinista announcement of elections, the administration swung all its weight into efforts to sabotage them. In the first place, it maneuvered to have the CDN set aside its obvious choice for a standard-bearer—Adán Fletes, president of the PSC—in favor of Arturo Cruz. Cruz was selected not so much for his appeal to Nicaraguan voters as for his attractiveness to the U.S. Congress and public. As a longtime resident of Washington, Cruz spoke fluent English; as an international banker, he knew how to speak to those in positions of influence. Moreover, his past stints as member of the Nicaraguan junta and as ambassador to Washington afforded him some credibility abroad when he accused the Sandinistas of betraying the revolution.

As reported in the *New York Times* just days before the election, the Reagan administration had all along planned on having Cruz either refuse to participate in the election or withdraw at the last moment, alleging unfair conditions. In particular, Enrique Bolaños and other leaders of COSEP met repeatedly with CIA officials in Washington

and San José, Costa Rica, during the spring and summer of 1984 to coordinate this abstentionist strategy. According to a senior official, “the administration never contemplated letting Cruz stay in the race, because then the Sandinistas could justifiably claim that the elections were legitimate, making it much harder for the United States to oppose the Nicaraguan Government.”¹⁶

Instead, Cruz returned to Nicaragua to campaign against the elections. Seeking to take advantage of rights conferred on political parties contesting the elections, but without itself taking part, the CDN organized open-air rallies for Cruz. These were disrupted by Sandinista partisans, angered by what they saw as a brazen violation of the electoral law by forces they suspected of being stage-managed by the CIA. Though such charges were at the time ridiculed by the U.S. government, in April 1985 the *Wall Street Journal* reported that Cruz had secretly been on the payroll of the CIA.¹⁷ (Years later, Cruz admitted to having received \$6,000 a month for twenty-six months from the CIA and said he came to believe it “was a fundamental error” not to have participated in the elections.¹⁸) Cruz’s major function during the campaign period was that of teaser and pro-abstention propagandist. Though the Sandinistas offered to extend the deadline for candidate registration and even to postpone the election itself in an effort to woo him into the electoral process, Cruz remained a non-candidate, denouncing what he claimed were inadequate conditions for a fair election.

With the exception of the disturbances around Cruz, the campaign proceeded virtually without incident. Banners, posters, and billboards for the seven contending parties sprang up throughout Nicaragua, in a riot of contrasting colors and clashing ideologies. Wartime censorship was relaxed, and candidates competed for votes in public gatherings and on nightly prime-time television. Despite the CDN’s refusal to participate, voters were offered a range of choices as broad as those available in Western Europe, ranging from the Far Left to the PCD, whose platform coincided in many respects with that of the CDN, and some of whose candidates openly expressed sympathy for the armed counterrevolution. On November 4, 75 percent of the electorate exercised its right to vote (as opposed to only about half the electorate in the U.S. presidential election two days later), even though voting was not compulsory (as it had been in El Salvador). Foreign observers, among them former Costa Rican president José Figueres and official delegations from the Irish and British parliaments and from the U.S.-based Latin American Studies Association, concurred that the elections were clean and fair.¹⁹

Despite Reagan administration prognostications of Cuban-Soviet-style sham elections, the opposition made substantial inroads. Not surprisingly, the FSLN, as the party that liberated the country from dictatorship, obtained two-thirds of the valid votes cast, winning it the presidency and sixty-one of ninety-six seats in the National Constituent Assembly (NCA). The PCD came in second, with 14 percent; the PLI third, with 9.7 percent; and the PPSC fourth, with 5.6 percent. None of the Communist parties drew more than 1.5 percent of the vote; their combined total was 3.9 percent. Altogether, the opposition garnered one-third of the vote, and more than one-third of the representation in the NCA, ensuring it an active role in the drafting of the constitution (Table 2.1).

Table 2.1: Nicaraguan political parties and the constitutional process

	FSLN	PCD	PLI	PPSC	PCdeN	PSN	MAP-ML	Null	Total
1994 election for National Constituent Assembly (NCA)									
% votes cast	62.3	13	9	5.3	1.4	1.3	1	6.7	100
% valid votes	66.8	14	9.7	5.6	1.5	1.4	1		100
% seats	63.5	14.6	9.4	6.2	2.1	2.1	2.1		100
seats in NCA	61	14	9	6	2	2	2		96
seats on Special Constitutional Commission	12	3	2	2	1	1	1		22
# of NCA representatives who signed constitution	61	10	6	6	2	2	0		87

Note: One of the PCD and three of the PLI signers were alternates (*suplentes*), legally entitled to sign in the absence of their respective *propietarios*.

FSLN: Sandinista Party. **PCD:** Democratic Conservative Party. **PLI:** Independent Liberal Party. **PPSC:** Popular Social Christian Party. **PCdeN:** Communist Party of Nicaragua.

PSN: Nicaraguan Socialist Party. **MAP-ML:** Marxist-Leninist Popular Action Movement.

The Constitution

On January 10, 1985, Daniel Ortega was sworn in as president of Nicaragua and Sergio Ramírez as vice president. Two days later, the National Constituent Assembly was convened and elected Carlos Núñez to be its president. With these two inaugural events, the provisional government (JGRN and Council of State) was replaced by an elected government whose legitimacy rested not only on revolutionary logic but also on a broad popular mandate at the polls, combined with truly proportional representation for minority political currents.

This proportionality was respected at every stage in the development of the new democratic institutions. First, in the election of officers of the NCA, where FSLN deputy Leticia Herrera was made first vice president, PCD leader Clemente Guido second vice president, and PPSC leader Mauricio Díaz third vice president. In the frequent absences of Carlos Núñez (a member of the DNC) and Leticia Herrera (national director of the Sandinista Defense Committees), Clemente Guido presided over the sessions. In April, a Special Constitutional Commission was named to prepare the first draft of the new constitution. Again, care was taken to ensure proportionality. Of twenty-two seats, twelve went to the FSLN, three to the PCD, two each to the PLI and PPSC, and one apiece to the three Communist parties (Table 2.1). And again, Clemente Guido presided over sessions in the absences of Carlos Núñez.

As in the earlier case of the electoral law, there was little to be salvaged from Nicaragua's constitutional tradition, shaped as it had been by dictatorship and foreign occupation. The

constitutional commission therefore initiated its work in summer 1985 by sending three official delegations on visits abroad to study the constitutional experiences of other countries. One delegation toured Western Europe, with stops in Sweden, Great Britain, France, West Germany, and Spain. A second, among whose members were the representatives of the Communist parties, went to the Soviet Union, Hungary, Poland, Bulgaria, and East Germany. The largest delegation concentrated on the more progressive countries of Latin America: Costa Rica, Peru, Venezuela, Argentina, Colombia, Panama, and Cuba. In April 1986, a fourth delegation was sent to the United States, where it took part in a three-day National Conference on the Nicaraguan Constitutional Process held at the New York University School of Law, along with political scientists, jurists, and law school deans from the very country that was waging war on Nicaragua.

The choice of foreign countries consulted by the commission reflected both the heterodox qualities of *sandinismo* and the multiplicity of political perspectives on the constitutional commission. Nowhere was this heterogeneity more apparent than on the question of human rights, where the Sandinista delegation itself split in three. The critical moment came on a motion by PCD deputy Eduardo Molina to incorporate three key international human rights treaties—the UN Covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights and the OAS American Convention on Human Rights—into the text of the constitution. The motion was opposed by the Marxist-Leninist party (new name of the MAP-ML) and by doctrinaire leftists in the Sandinista delegation who objected to such treaty provisions as rights to peaceable assembly and to freedom of religion. It was also opposed by a second group of Sandinistas who feared that incorporating such treaties into the constitution could provide foreigners a pretext for intervention in Nicaraguan domestic affairs. Yet the motion received the wholehearted backing of a third group of Sandinista deputies, the revolutionary Christians, including El Nuevo Diario managing editor Danilo Aguirre, appellate judge Humberto Solís, former Nicaraguan Baptist Convention director Sixto Ulloa, and Social Welfare Minister Reinaldo Antonio Téfel. Their votes together with those of the PCD and PPSC provided the one-vote margin of victory to the motion. By the time the new article reached the plenum, it was approved unanimously, and a new international legal precedent had been established.

A further precedent was set when the first constitutional draft was submitted to the people. In March and April 1986, the Special Constitutional Commission distributed 150,000 copies of the draft, which was supplemented by a dozen televised debates between representatives of opposing parties. In May and June, citizens were invited to express their views in seventy-three open forums held throughout the country. About 100,000 Nicaraguans took part in these forums, which were broadcast live on radio. Highlights were also published daily in the newspapers and excerpted in nightly half-hour television summaries.

Fearing Sandinista orchestration, the PCD and PLI boycotted the forums. Their fear was understandable, in view of the past history of “popular consultations” in such one-party states as East Germany and Cuba, where draft constitutions written by Communist party politburos were subjected to very perfunctory modifications in well-controlled local forums. Yet Nicaragua was the first to try such a participatory process in a pluralistic setting.

The outcome defied all expectations, including those of the Sandinistas. Regardless of the calls for a boycott, Nicaraguans of all political stripes showed up and spoke out. Managuans demanded that their mayor be elected rather than appointed. Women, not satisfied with provisions for equal work for equal pay, paid maternity leaves, and day care for children, demanded an article guaranteeing equal rights between men and women.

On abortion, there was a profound split, as professionals in the middle classes and armed forces proposed legalization but were opposed by even larger numbers of pro-FSLN peasant women from Chontales and Río San Juan. All agreed, however, on the need for a right to family planning, including sex education and birth control, despite the opposition of Catholic bishops. On the Caribbean Coast, Miskitos insisted on rights to bilingual education and to traditional forms of landholding and sought to ensure that earnings from the exploitation of natural resources be recycled within the coastal region to finance its development. In the cities, workers demanded participation in the management of their enterprises. Christians in Condega sought an invocation of God in the preamble to the constitution, but Christians in Chinandega thought that would be an inappropriate breach of the separation of church and state. There were numerous demands that judges be nonpartisan, and by a narrow margin, citizens favored assigning control of the budget to the legislature. To the consternation of those unfamiliar with Tomás Borge's stewardship at the Ministry of the Interior, employees of that ministry asked for an article to guarantee the rights of prisoners.²⁰ And so it went. With the exception of the controversial issue of abortion, virtually all the suggestions were incorporated in either the constitution or subsequent legislation. As a result of this popular input, Nicaragua's constitution of 1987 was second to none on the rights of women, native peoples, and prisoners.

In its final form, the constitution formalized the four-way separation of powers anticipated in the Electoral Law of 1984. A president, vice president, and legislature were to be elected every six years. The National Assembly was armed with the power of the purse, transforming it into a Western-style legislature. An independent comptroller-general of the republic, selected by the National Assembly from a slate of three nominees submitted by the president, was entrusted with vigilance over the budget and the uses of state property. Similarly, the seven magistrates of the Supreme Court of Justice and five magistrates of the Supreme Electoral Council were each to be selected for six-year terms by the National Assembly, from slates of three nominees submitted by the president. To enhance their independence, they would be irremovable during their terms. The Supreme Court was empowered to declare laws unconstitutional, and to compel the executive branch to respect human rights through issuance of writs of protection (*amparo*). Going a step beyond its Costa Rican and Venezuelan models, the Supreme Electoral Council was formally recognized as the fourth independent branch of government, whose authority in electoral matters would be final.

Persisting in their interpretation of the Sandinistas in the light of Cuban and Soviet communism, the U.S. government and right-wing Opposition parties within Nicaragua objected that this constitutional delineation of powers was meaningless because it ignored the informal power structure centered in the DNC of the ruling party. Indeed, Bayardo Arce had continued as coordinator of the Political Commission of the DNC even as Daniel Ortega assumed the presidency of the republic in January 1985. Yet only months

later, on August 3, 1985, the DNC abolished the Political Commission and transferred its authority to a new Executive Commission, whose membership included the ministers of the interior, defense, and agriculture and agrarian reform.²¹ Daniel Ortega was named coordinator, Bayardo Arce vice-coordinator. By aligning executive authority in the party with executive authority in the government, the DNC resolved the potential problem of dual (and unconstitutional) authority.

The constitutional section on Rights, Duties, and Guarantees of the Nicaraguan People was, for the most part, lifted from the statute that had borne the same name. Again, Article 23 stated that “the right to life is inviolable and inherent to human personhood.” Accordingly, capital punishment, torture, and other mistreatment were prohibited, and prison sentences were limited to thirty years. To give further substantive support to the right to life, Article 59 established an “equal right to health,” Article 63 a right to “an equitable distribution of food,” and Article 61 extended social security coverage to all Nicaraguans. Also in keeping with this life-first ethic, all forms of property were “subordinated to the higher interests of the nation” and declared to “fulfill a social function.” Yet subject to this limitation, Article 103 recognized the “democratic coexistence” of five forms of property: public, private, mixed (public/private), cooperative, and communitarian, the latter being the traditional form of landholding on the Atlantic Coast. By Article 104, all forms of property would “enjoy equality before the law and in the economic policies of the State.” Other articles recognized rights to information, free speech, and freedom of religion and prohibited prior censorship except in times of national emergency. All these rights were reinforced by the incorporation of international human rights treaties in Article 46.

Confronted with such a humane document, shaped by a year and a half of public deliberation, consensus building, and popular consultation, more than two thirds of the opposition deputies joined the Sandinistas in signing the new constitution (Table 2.1). The only party to repudiate it was the Marxist-Leninist party, which saw it as a “bourgeois” betrayal of a workers’ revolution. On January 9, 1987, the constitution was put into force formally in the presence of Peruvian president Alan García, who praised the Nicaraguans for demonstrating that it is possible to combine socialism with freedom and democracy.²²

Regional Autonomy and Local Democracy

Arguably the greatest mistake made by the revolutionary leadership was its early treatment of ethnic minorities on the Caribbean (commonly called Atlantic) Coast. Almost completely isolated from the Spanish-speaking Pacific slope by mountains and rainforest, the coastal peoples had developed distinct cultures. They spoke different languages: English in the case of the black Creoles of Bluefields, on the southern coast; native dialects in the case of the Mískito, Sumu, Rama, and Garífono (black Carib) Amerindian populations, concentrated on the northern coast, along the Río Coco boundary with Honduras, and around the interior mining districts. They differed as well in their religious traditions: Whereas the Pacific was overwhelmingly Catholic, the Caribbean was predominantly Moravian (Protestant). Moreover, the very isolation and neglect of the Caribbean communities had for the most part spared them from the repression of the Somoza dictatorship. Failing to make proper allowance for these

differences, the Sandinistas at first tried to extend mechanically institutions developed to answer the needs of the people of the Pacific slope to their Caribbean compatriots. That the revolutionaries were not ill intentioned was evident from the launching of a literacy crusade in coastal languages in August 1980. Yet the revolutionaries just as clearly did not understand coastal culture. They sought to impose an alien land reform on communities that had long ago devised their own more equitable forms of landholding, and they attempted to establish Sandinista Defense Committees where indigenous forms of community solidarity were rooted in an aboriginal past. Not surprisingly, coastal inhabitants resisted.

As tensions mounted, the situation deteriorated. In late 1980 and early 1981, the Miskito organization MISURASATA (Miskito, Sumu, Rama, and Sandinistas Working Together) prepared a document laying claim to one-third of Nicaraguan territory, including subsoil resources, based on continuous occupancy of such lands by native peoples since time immemorial.²³ Alarmed at what it interpreted as a secessionist move, Nicaraguan State Security arrested MISURASATA leader Steadman Fagoth in February 1981, producing evidence that he had been a Somoza informant while a university student. In seeming confirmation of the charges, Fagoth joined former National Guard colonel Enrique Bermúdez's contra forces in Honduras after his release in May. Unfortunately, the government overreacted. At the same time that it jailed Fagoth, it imprisoned MISURASATA leaders Brooklyn Rivera and Hazel Law, against whom it had no evidence. Then after MISURASATA released its document in July, the government responded in August with a Declaration of Principles stating that "the natural resources of our territory are the property of the Nicaraguan people. The Revolutionary State, representative of the popular will, is the only entity empowered to establish a rational and efficient system of utilization of said resources."²⁴ The lines were drawn. Brooklyn Rivera left for Costa Rica, from where he organized armed resistance.

Yet even as the situation degenerated into regional guerrilla warfare, Miskitos like Hazel Law, backed by Moravian and other Protestant church leaders, prevailed on the government to reexamine its policies. Their efforts bore fruit in December 1983, when Atlantic Coast prisoners were released in a general amnesty. By late 1984, the FSLN had persuaded Hazel Law to run on its ticket for a seat in the National Assembly, and the Ministry of the Interior had launched negotiations with Brooklyn Rivera. The talks foundered on Rivera's demand for recognition of the "sovereignty" of the peoples of the Atlantic Coast and his corresponding insistence that talks be held outside Nicaragua, in the presence of international observers. The Nicaraguan government responded by announcing plans to consult coastal inhabitants themselves on what they would like in the way of "autonomy." As a gesture of goodwill, thousands of Miskitos who had been forcibly relocated from a war zone on the Río Coco were permitted to return in 1985. Autonomy commissions were then formed for the northern and southern coastal zones, and local facilitators were trained to conduct door-to-door surveys and organize town meetings designed to allow inhabitants to define the substantive content of autonomy. After two years of discussions at the local level, communities sent 210 representatives to a Multiethnic Assembly in Puerto Cabezas in April 1987 to hammer out a draft Autonomy Law for submission to the National Assembly.

The Autonomy Law was passed unaltered on September 2 and signed by President Ortega on September 7. Building upon the earlier constitutional recognition of Nicaragua as a “multiethnic” nation, the preamble stated (Section 5) that autonomy, “without intensifying differences,” should “recognize differentiated identities as a foundation for national unity.” In Section 7, the preamble addressed the earlier issue of contention: “Autonomy enables the effective exercise of the right of the Communities of the Atlantic Coast to participate in the design of means of exploitation of the natural resources of the region in such a way that the benefits are reinvested in the Atlantic Coast and the nation.” Article 9, the most hotly debated of all in the Multiethnic Assembly, specified that such exploitation must respect traditional communal landholdings (already secured in the constitution), and that allocations of the proceeds from public lands must “benefit in just proportion” the inhabitants of the autonomous regions, “through accords reached between the Regional Government and the Central Government ”

The most important innovation in the Autonomy Law was establishment of regional self-rule. Two autonomous regions were created: Atlantic North, with its capital in Puerto Cabezas, and Atlantic South, with its seat in Bluefields. Each was to have its own Regional Council, consisting of forty-five representatives elected for four-year terms. As genuine legislatures, they were authorized to raise taxes, prepare a budget, fix boundaries of local governments, subpoena regional authorities of central government ministries, regulate the rational use and conservation of natural resources, and determine allocations of economic development funds. They were also empowered to select the regional executives, entitled regional coordinators. In this way, the peoples of the Atlantic Coast were enabled to secure their rights through their own democratic institutions. As National Assembly legislator Hazel Law noted in February 1989, the law set a precedent for the Americas, where Amerindians had heretofore been constrained to, at best, limited self-rule on reservations or in villages.²⁵

Though regional self-rule was confined to the Atlantic Coast, local self-government was extended to the whole of Nicaragua by the Law of Municipalities, approved by the National Assembly on June 28, 1988. For the first time in Nicaraguan history, municipal councils, likewise guaranteed autonomy by the constitution, were to be elected by universal suffrage. Their members would serve for six-year terms. As specified in a subsequent electoral law, Managuans would be represented by twenty councilpersons, ten from the party that won a plurality, and ten assigned by proportional representation; other larger towns and departmental capitals would elect ten councilpersons, five by plurality and five by proportional representation; small towns would have five councilpersons, three from the party that finished first, and two from the party that finished second. The councils would in turn choose mayors from their ranks. In keeping with the constitutional definition of the form of government as a “representative and participatory democracy,” each municipality was required to hold at least two town meetings a year, in order to involve inhabitants in the management of their own affairs.

Constitutional Laws

The constitution mandated the development of three laws with constitutional status, meaning that they would require the assent of 60 percent of the legislators in the National Assembly for passage, and that once approved, they would be considered part of the

constitution. In summer 1988, the National Assembly turned its attention to the first of these, a new Electoral Law to regulate the constitutionally mandated general elections of 1990.

Design of the new law was influenced by the results of the 1984 elections and by the parliamentary and extraparliamentary complications to which they gave rise. The central political reality of Nicaragua was that of a country deeply polarized by revolution and counterrevolution. Yet that reality was distorted at an institutional level by the unity of the revolutionaries and disunity of their opponents. The opposition was deeply divided among more than a dozen political parties, many of which were themselves internally divided. In 1984 those divisions had prevented a concerted decision on whether or not to participate in the elections and likewise had prevented formation of a broad alliance. These divisions had been facilitated and accentuated by the Electoral Law, which guaranteed representation to any party obtaining as little as one percent of the national vote. The outcome was a splintered, relatively ineffectual, parliamentary opposition, which failed to satisfy its constituencies and, thereby, to give them a stake in the new political order. Without a more unified and effective opposition, it would be all but impossible to convert the counterrevolution into an effective and eventually loyal opposition by channeling dissent into the give-and-take of legislative negotiation.

In an effort to resolve these problems, the FSLN joined forces with the second-largest parliamentary delegation, the PCD, to alter the electoral rules. They agreed to make it more difficult for new parties to be formed, by requiring submission of lists of at least 980 officers distributed through every municipality in the country. They also made it more difficult for small parties to gain representation in the National Assembly, by raising the threshold from one percent to five percent of the vote (as in West Germany). In a further modification, public campaign financing and television and radio time were to be allocated among parties in proportion to the votes they had won in the last election (as in Costa Rica). Another innovation, objected to by the right-wing opposition parties, was a total prohibition on the receipt of campaign contributions from abroad.

Ironically, the U.S. government and its Central American allies condemned those changes designed to fortify the civic opposition as “antidemocratic,” because the changes favored opposition parties that had participated in the last election (thus demonstrating independence from U.S. influence) over parties that had not. In an un-self-conscious assertion of the double standard, the United States further denounced the proscription of funds from abroad, even though such a prohibition is part of U.S. law (2 U.S.C. Section 441c). Even so, President Ortega agreed to compromise on these positions at the February 14, 1989, meeting of Central American presidents in Costa del Sol, El Salvador. In exchange for a commitment to amend the Electoral Law and advance the elections from November to February 25, he secured a commitment to demobilize the Contras. As it turned out, the contras were not in fact demobilized until after the elections a year later (and even then only after the Sandinistas lost). Nevertheless, the National Assembly amended the Electoral Law in April. The five percent requirement for representation in the National Assembly was dropped, and opposition parties were granted equal time on radio and television. Although foreign campaign contributions were legalized, it was specified that these would have to be channeled through the Supreme Electoral Council, which would retain 50 percent of the contributions to fund expenses of running the

elections. Public campaign financing would similarly be split, with 60 percent of the funds divided equally among all parties and the remaining 40 percent allocated to parties in proportion to the vote they had won in the last election. Though President George Bush persisted in portraying Nicaragua's Electoral Law as a "stacked deck against freedom," his characterization was contradicted by two studies prepared by the Library of Congress for the House Foreign Affairs Committee's Subcommittee on Western Hemisphere Affairs.²⁶ In one report, careful item-by-item comparisons exposed the similarities between Nicaragua's Electoral Law and those of Venezuela and Costa Rica, no great surprise in view of the fact that the Nicaraguans borrowed most heavily from the laws of those two countries.²⁷ The other report concluded that "the requirements to organize and legalize political parties [in the Nicaraguan Electoral Law] have been lowered to facilitate the formation of political parties; the opposition will have access to the media; public financing of campaigning is provided and foreign contributions are allowed... Finally, the provisions on poll watchers allow close monitoring of the ballot counting by the opposition."²⁸

The second of the constitutional laws to be passed by the National Assembly was the Law of Emergency, approved on October 5, 1988. It reiterated the constitutional provision that any State of Emergency declared by the president must be approved by the National Assembly within forty-five days and stipulated that the president must submit a full written account within forty-five days of its termination. In conformity with Article 46 of the constitution, it limited suspendible rights to those allowed under the UN Covenant on Civil and Political Rights and the American Convention on Human Rights and required due notification to the secretaries-general of the UN and OAS. The right of protection (*amparo*) would remain in effect for all nonsuspendible rights, as well as to require the personal exhibition of detainees (*habeas corpus*) to ensure that their rights to life and to decent treatment were being honored. Authorities would also be required to honor the Geneva convention on armed conflicts. Any affected individual would have the right of appeal to the immediate superior of the executing authority; and all authorities would be fully accountable and punishable for any abuses committed during a State of Emergency. Even though this was among the most liberal of emergency laws, legislator Ramón Arbizú of the PPSC nonetheless accused the FSLN of having copied Somoza's Martial Law. The charge was baseless, as that law contained none of the aforementioned safeguards and instead declared that if the powers delineated were insufficient to restore order, "the military authority may adopt new measures in accord with the situation," *carte blanche*, as it turned out, for slaughter of the civilian population.²⁹

The Law of Constitutional Safeguards (*Amparo*) was passed by the National Assembly on November 16, 1988, and signed into law by President Ortega on November 21. It specified that any citizen could interpose the Recourse of Unconstitutionality against any law or decree within sixty days of when it takes effect. The Supreme Court of justice would then have to reach a decision within sixty days of the filing. The court was also empowered to declare laws or decrees unconstitutional in the case of repeated appeals or writs of protection relating to particular legislation.

The law further specified that the Recourse of Personal Exhibition (*habeas corpus*) could be presented by any citizen on behalf of anyone, either in writing or verbally, on any day and at any hour, even during a State of Emergency. Local courts were instructed to

respond immediately by designating an “executive judge” (*juez ejecutor*), who could be any citizen of “noted honesty and learning,” but preferably a lawyer, to visit the detainee. The detaining authority was required to cooperate and to honor the decision of the executive judge immediately, even if it entailed freeing the prisoner. Failure to do so would result in a fine of up to one quarter of the authority’s monthly salary; any authority who failed to honor a subsequent court order would be fired. Should the offending official belong to the executive branch, the Supreme Court would notify the president, who would have twenty-four hours to enforce compliance. Should he or she not do so, the court would make the violation public and inform the National Assembly.

Most significant, there were numerous indications that the new constitutional order, including the quadripartite separation of powers, was taking root. The Central American peace accords led to derogation of the State of Emergency in February 1988. In February 1989, President Ortega submitted the national budget to the National Assembly for the first time. It was a draconian austerity budget, providing for substantial reductions in the size of the government bureaucracy, including the armed forces and police. As submitted by the executive, it would also have forced closure of forty six courthouses, threatening the integrity of an already overburdened judicial system. In reaction, the magistrates of the Supreme Court appeared before the National Assembly to request restoration of the deleted funds. Their cause prevailed, spearheaded by a coalition of legislators from the PCD (Sergio Torres and César Augusto Castillo) and the revolutionary Christian wing of the FSLN (lawyers Danilo Aguirre and Humberto Solís). On a separate occasion, when the legislature was preparing the new electoral law, it invited President Mariano Fiallos of the Supreme Electoral Council to make recommendations. He proposed several changes in the draft, most notably that poll watchers be ensured admittance to the National Computation Center on election night as a further guarantee against tampering with returns; that party lists for the elections in the autonomous regions of the Atlantic Coast be headed by representatives of the primary local ethnic groups (e.g., Miskitos and Sumus in the north, black Creoles in the south), in order to guarantee simultaneous ethnic and political pluralism; and elimination of a prohibitive requirement that new political parties obtain signatures of 10 percent of the electorate. All his recommendations were incorporated in the legislation.

The 1990 Elections

Though national elections were originally scheduled for November 1990, as we have seen, they were advanced to February 25 as part of a package of agreements reached by the five Central American presidents at their February 14, 1989, meeting in Costa del Sol, El Salvador. The accords, the latest in a series intended to bring peace to Central America, centered on Nicaraguan pledges to move up the elections, amend the Electoral Law (as previously discussed), invite international election observers, and release most remaining National Guard prisoners, in exchange for a pledge from the other heads of state to demobilize the contras.

In the course of the next two months, the Nicaraguan government fulfilled each of its commitments. It advanced the election to February 25, amended the Electoral Law, and, setting a global precedent, invited the United Nations, the Organization of American States, and the Council of Freely Elected Heads of State (organized and led by former-

U.S. President Jimmy Carter) to send official election observer teams to monitor the elections. It also freed 1,894 former national guardsmen, excluding only 38 accused of “crimes against humanity.” Even so, and in keeping with a pattern of one-sided Nicaraguan compliance with regional agreements, no serious effort was made to demobilize the contras. Costa Rican President Oscar Arias’s mild efforts to achieve compliance were effectively blocked by President Bush, who, while not a party to the accords, controlled the contra purse strings.

Yet Sandinista concessions did set the stage for the August 4, 1989, signing of a political accord between the government and seventeen opposition parties, including those that had boycotted the 1984 elections. Among other provisions, the government agreed to the release of some contra prisoners, suspension of the military draft during the electoral campaign, and amendment of the constitution to advance the next presidential inauguration from January 10, 1991, to April 25, 1990. In return, all the opposition parties agreed to participate in the 1990 elections and made a formal appeal to the other Central American presidents “to approve the plan for the demobilization...of the irregular forces located in Honduran territory,” together with an appeal to “governments with interests in the Central American region [diplomatic language for the United States] to abstain from covert activities in the Nicaraguan electoral process.” Three days later, at a summit meeting in Tela, Honduras, the Central American presidents approved a plan for an International Commission for Support and Verification (CIAV), with representatives of the secretaries-general of the UN and OAS, intended to achieve demobilization of the contras by December 5, 1989. Again, although the Nicaraguan government suspended the military draft, released 457 detainees, and otherwise complied with the provisions of the agreement, the Bush administration persisted in blocking demobilization of the contras. The U.S. government likewise ignored the appeal to refrain from covert involvement in the electoral campaign. In addition to \$7.5 million allocated by Congress for distribution to opposition groups in 1989, *Newsweek* reported that the CIA had secretly added an additional \$5 million.³⁰

Perhaps the most significant impact of U.S. funding was the influence it gave U.S. strategists in shaping a serious challenge to the FSLN. In a country as small and poor as Nicaragua, \$12.5 million was an extraordinary sum, amounting to more than \$7 per voter, where annual incomes only reach a few hundred dollars. No independent opposition party could hope to raise even a fraction of that amount. As such, the only viable electoral alternative to the FSLN would be whatever entity was favored with U.S. funds. Thus most of Nicaragua’s opposition parties joined forces with the U.S. backed Democratic Coordinating Committee to form the National Opposition Union (UNO). Those few that did not, among them the PSC, the PCD, the Liberal Party of National Unity (PLIUN), and the Movement for Revolutionary Unity (MUR), were marginalized and, with the exception of the MUR, failed to win a single legislative seat. In all, fourteen registered parties and political associations joined the UNO, creating an improbable and often volatile mix of Communists, Socialists, Social Christians, Liberals, and Conservatives, united only in their antagonism to the Sandinistas and their quest for shares of funding and political power.

The divisions within the UNO came to the fore in the selection of presidential and vice-presidential candidates. The four parties of the Democratic Coordinating Committee

avored COSEP president Enrique Bolaños; another four parties, all of which had participated in the 1984 elections, favored Virgilio Godoy.³¹ Neither seemed suited to mount an effective challenge to the popularity of Daniel Ortega. Bolaños was too closely associated with the Far Right; Godoy was known for an intemperate personality; and neither was acceptable to the parties backing the other. Instead U.S. embassy operatives were said to be quietly promoting the candidacy of Violeta Chamorro. Like Arturo Cruz, the U.S.-backed candidate in 1984, she had served on the revolutionary junta and could reinforce the theme of a revolution betrayed. It was also believed she could capitalize on popular reverence for her slain husband, after the fashion of Cory Aquino in the Philippines. Even her most obvious weakness, her lack of political experience and aptitude, paradoxically played to her advantage, as she had made few enemies. After three days and on the tenth ballot, Chamorro won the nomination on September 2. Her margin of victory was achieved with the support of the remaining parties in the coalition, combined with the swing votes of the parties that had originally backed Godoy. In exchange, Godoy was offered the vice presidential nomination. Whatever Washington's precise role in the selection, there was no mistaking its satisfaction with the outcome. On November 8, Chamorro was invited to the White House to meet with President Bush, who used the occasion to signal Nicaraguan voters that he would end the commercial embargo should she win the election.

Despite U.S. obstruction of the demobilization of the contras and overt and covert involvement in the electoral campaign, the electoral process otherwise proceeded normally. On June 8, the National Assembly selected five magistrates for the Supreme Electoral Council from slates of nominees submitted by President Ortega. In accord with the Electoral Law, they chose a carefully balanced panel of two Sandinistas (former National University president Mariano Fiallos and former insurance executive Leonel Argüello), two members of opposition parties (cardiologist Aman Sandino of the PCD and businessman Guillermo Selva of the PLI), and one unaffiliated member (Rodolfo Sandino, dean of the University of Central America Law School). Mariano Fiallos was reelected president of the council by a nonpartisan vote of sixty six to five. Throughout the campaign period, the council demonstrated its independence and professionalism by making almost every decision by consensus and by ruling in favor of the opposition more frequently than in favor of the government.

In October, an estimated 88 percent of the country's eligible voters (it was impossible to be precise for lack of a recent census) registered to vote, a proportion considerably higher than the 63 percent registration rate in the United States.³² Throughout the last quarter of 1989 and into the new year, the UNO and the FSLN held numerous campaign rallies throughout the country, marred only by occasional scattered incidents of violence that appeared to be more a reflection of the degree of polarization than of conscious design by the leadership of either of the two principal political forces. By far the most serious violence came from the contras, who on October 21, ambushed army reservists on their way to register to vote, killing nineteen, and provoking President Ortega into terminating the government's unilateral cease-fire. In addition, the Christian observer group Witness for Peace documented cases of four Sandinista poll watchers and nineteen other FSLN campaign workers who were killed, wounded, or kidnapped by the contras during the electoral campaign period, fostering an atmosphere of terror that "effectively limited the Sandinistas' ability to campaign in many rural areas."³³

With the exception of some of the more isolated rural areas, voters had ample exposure to the two major contending forces. Two of the three daily newspapers (*Barricada* and *El Nuevo Diario*) served the FSLN campaign, while *La Prensa* was the mouthpiece of owner Violeta Chamorro. Radio exposure was relatively balanced, with twenty-four of forty four domestic radio stations in private hands, and twenty of thirty-five news programs produced from an opposition perspective, supplemented by other anti-Sandinista broadcasts beamed from stations in neighboring Honduras and Costa Rica.³⁴ Only on television, whose reach is far more limited than that of radio in Nicaragua, did the FSLN enjoy a clear advantage derived from state ownership of both channels.³⁵ Yet even there, the opposition, including smaller parties, was given access to large segments of prime time for political advertising. In addition, *Elecciones 90*, aired from 6 to 7 P.M. daily, provided a different, and in many ways more interesting, political forum. Twice a week, it featured formal debates between pairs of political parties; and three times a week, it subjected a representative of one of the contending parties to questioning by reporters of differing ideological tendencies. Among its virtues, it submitted all political perspectives to challenge and cross-examination and provided an opportunity for underfinanced parties to present their case. The MUR, a nascent leftist party that criticized the FSLN for bureaucratization and corruption, made the most of the opportunity and ultimately emerged with the strongest third-force electoral standing.

The elections were the most carefully watched in modern history. Never before had a sovereign government invited the United Nations to observe domestic elections officially.³⁶ The UN sent a team of 240 observers, headed by former U.S. attorney general Elliot Richardson, and the Organization of American States fielded a delegation of 450. Several dozen other foreign and international organizations, most notable among them, the Council of Freely Elected Heads of State and the European Parliament, contributed another few thousand. Dozens of public opinion surveys, their results often contradictory, were conducted and published by organizations of varying political sympathies. Finally, the UN, OAS, FSLN, and UNO established parallel vote counting and sampling networks, all of which confirmed the official results tabulated by the Supreme Electoral Council.

The UNO won the elections by an ample margin of 55 to 41 percent, gaining the presidency and majority control of the National Assembly. Of the country's nine administrative regions, the FSLN won in only two. It carried the sparsely populated Río San Juan (Region IX) by a three to two margin and scraped a narrow win in Las Segovias (Region I), a traditional bastion of *sandinismo* ever since Sandino himself established his base there in the 1920s. In the traditionally conservative stronghold of Boaco and Chontales (Region V), on the other hand, the UNO triumphed by almost three to one. Other particularly rough areas for the Sandinistas were the two newly formed autonomous regions on the Caribbean Coast. In the mostly black, English-speaking, Atlantic South (Region VIII), the UNO won almost twice as many votes as the FSLN. In the Miskito region of Atlantic North (Region VII), on the other hand, the vote split three ways among the UNO, the Miskito organization Yatama, led by Brooklyn Rivera (and appearing on the ballot in the PSC column), and the FSLN, earning each a single deputy to the National Assembly. In the municipal races, the UNO won control of Managua and a little over three-quarters of the other towns, though the FSLN won León, the country's

second-largest city and capital of Region II, Estelí, capital of Region I, San Carlos, capital of Region IX, and more than two dozen other municipalities.

From public opinion surveys and postelection consensus, it is clear that the Sandinistas were defeated on two issues: their inability to reverse the economic collapse brought about by nearly a decade of low-intensity warfare and economic embargo, the cost of which was estimated at \$9 billion as of July 1989;³⁷ and their unwillingness to end an unpopular military draft prior to demobilization of the contras. A majority, wearying of scarcity and of loved ones in wheelchairs or body bags, voted for Chamorro because she promised to end the draft, and because she promised to conquer inflation within a hundred days, a promise rendered somewhat more credible by President Bush's pledge to lift sanctions should she win. Yet surveys also established that an overwhelming majority of Nicaraguans disapproved of the contras, and a narrower majority blamed the United States for the war.³⁸ Most Nicaraguans were tired of war and economic hardship, but by no means desiring a return to the prerevolutionary status quo.

Furthermore, U.S. characterizations of the election results as a landslide victory for the UNO were highly misleading in the Nicaraguan context. Unlike the winner-take-all electoral system in the United States, the Nicaraguan system of proportional representation guaranteed full representation of minority political currents, all but eliminating the landslide effect in the contest for legislative seats. Thus the FSLN won thirty nine (or 42.3 percent) of ninety-two seats in the National Assembly, enough to preclude unilateral amendment of the constitution of 1987, for which its adversaries would need a minimum of fifty-six votes (60 percent). With fifty-one seats, the UNO fell considerably short of the mark, particularly since there remained only two independently held seats. One belonged to the PSC-Yatama; the other to the MUR, whose third place showing, with 1.2 percent of the national vote, entitled presidential candidate Moisés Hassan to a seat.³⁹ A former member of the revolutionary junta and Sandinista mayor of Managua, Hassan had resigned from the FSLN a year earlier, disillusioned, he had said, by corruption. Now, with the FSLN in opposition, he was expected to vote with the revolutionary bloc in most instances. Thus even in the unlikely event that the UNO could hold its parliamentary bloc together in spite of ideological incongruities and personal rivalries, it would face an opposition bloc of forty deputies capable, at a minimum, of preventing it from reversing the most fundamental of the revolutionary changes of the preceding decade.

These political realities were implicitly recognized in the course of negotiations for the transfer of power. Representing the Sandinistas was General Humberto Ortega, minister of defense and brother of the president, whose designation underscored the urgency of implementing the Tela commitment to demobilize the contras. His counterpart was Antonio Lacayo, the politically moderate UNO campaign manager, whose selection by his mother-in-law Violeta Chamorro helped substantiate the latter's election-night pledge to be "president of all Nicaraguans." The negotiations culminated in the signing, on March 27, of the Protocol on Procedures for Transferring Presidential Powers. In tandem with President-elect Chamorro's appeal to the contras to lay down their weapons, the accord emphasized that demobilization by April 25 was "an essential element" to a peaceful transition. The signatories further agreed that beneficiaries of agrarian and urban land reforms would be secure in their holdings, and that expropriated landowners could

be compensated. There would be no “revenge” or “reprisals” against those who had been associated with the outgoing government, and both parties agreed to respect the “moral and physical integrity” of all citizens.

Yet the very moderation of these agreements only enraged the Far Right. As April 25 approached, contra commanders defied Chamorro and imperiled the transition, vowing not to lay down their arms until Nicaragua had been purged of every trace of *sandinismo*. Responding to this challenge to the legal order, in her inauguration speech in Managua’s baseball stadium on April 25, President Chamorro announced she would, for the time being, retain General Humberto Ortega as chief of staff of the armed forces and would personally assume the position of minister of defense. Though the decision was received with further hostility by the UNO right wing (it was bitterly denounced by Vice President Godoy, and by Minister of Agriculture-designate Jaime Cuadra, who later declined the appointment), as well as consternation in Washington, it secured the transition and offered tangible evidence of the new president’s expressed desire for national unity and reconciliation.

Conclusion

As symbolized in the peaceful transfer of power on April 25, 1990, the new Nicaraguan polity had, eleven years after the revolutionary triumph, matured to the point where it could be characterized, in the words of its constitution, as “a representative and participatory democracy,” with an explicit commitment to human rights, encompassing economic and social as well as civil and political guarantees. Contrary to predictions that the Sandinistas would emulate the Communist parties of Cuba and the Soviet Union, the FSLN broke virtually all ideological molds. It joined forces with revolutionary Christians; developed an ethos of profound respect for a broadly conceived right to life; interpreted socialism to require more, not less, democracy and political pluralism; and promoted expanded roles for international law and multilateral institutions in the realms of human rights, verification of elections, and peaceful resolution of disputes. Significantly, virtually all these achievements were inaugurated well before the emergence of *glasnost* and *perestroika* in the Soviet Union. It was this record of accomplishment that earned Nicaragua ongoing and enthusiastic diplomatic support and economic assistance from the social democratic governments of Sweden and Norway, even as it incurred the disfavor of a U.S. government obsessed with fears that demonstration effects could spill over into neighboring countries and destabilize “friendly.” though repressive, regimes (as in El Salvador).

In his concession speech the morning of February 26, President Ortega emphasized the extent to which democratic process had become identified with the revolution:

In this historic moment, I believe the most important contribution we Sandinistas are making to the people of Nicaragua is guaranteeing a clean electoral process that heralds peace to our consciences and, like the sunshine on this 26th of February, illuminates the path toward the consolidation of democracy, of a mixed economy, of an independent Nicaragua, free of any foreign intervention...As Sandinistas, we should all be proud to be opening a new path for Nicaragua, comparable to the one we opened in 1979.⁴⁰

Notes

¹ Christopher Dickey, *With the Contras: A Reporter in the Wilds of Nicaragua* (New York: Simon and Schuster, 1985), p. 55.

² Through a deal worked out with the Conservatives, however, one third of the seats in Congress, with attendant privileges, were reserved for that party, with the understanding that they would legitimate the dictatorship.

³ Though several other Latin American countries, among them Costa Rica and Venezuela, had earlier established independent electoral councils, none was elevated to the constitutional position of a fourth branch of government.

⁴ John A. Booth, "The National Governmental System," in Thomas W. Walker, ed., *Nicaragua: The First Five Years* (New York: Praeger, 1985), p. 30.

⁵ Nephew Carlos Chamorro had already become founding editor of *Barricada*, the FSLN-sponsored daily newspaper.

⁶ Andrew Reding, ed., *Christianity and Revolution: Tomás Borge's Theology of Life* (Maryknoll, N.Y.: Orbis Books, 1987), p. 26.

⁷ March 5, 1981, address, in *ibid.* pp. 46-47.

⁸ COSEP, "Declaraciones de Principios del Sector Privado," *La Prensa*, September 28, 1985, p. 3.

⁹ For more on this, see Giulio Girardi, *Sandinismo, Marxismo, Cristianismo en la Nueva Nicaragua* (Managua: Centro Ecueménico Antonio Valdivieso, 1986). The book was endorsed by Minister of Culture Ernesto Cardenal, and Minister of the Interior Tomás Borge attended a Centro Valdivieso ceremony in honor of the book and its author.

¹⁰ For more on this, see Teófilo Cabestrero, *Ministers of God, Ministers of the People* (Maryknoll, N.Y.: Orbis Books, 1983), and *Revolutionaries for the Gospel* (Maryknoll, N.Y.: Orbis Books, 1986).

¹¹ See Reding, ed., *Christianity and Revolution*, pp. 96-107.

¹² Although the Bolsheviks eliminated the death penalty upon assuming power in 1917, they soon restored it when confronted with counterrevolution.

¹³ Jorge Mario Salazar, *Política y Reforma en Costa Rica: 1914-1958*, 2nd ed. (San José, Costa Rica: Editorial Porvenir, 1982), pp. 142-151.

¹⁴ *Ibid.* pp. 154-158.

¹⁵ "Ley Electoral: Nuevo Paso Hacia la Institucionalización," *Envío* 3, no. 34 (April 1984), p. 5b.

¹⁶ "U.S. Role in Nicaragua Vote Disputed," *New York Times*, October 21, 1984, p. 12.

¹⁷ "Leading Anti-Sandinista Got CIA Cash, Sources Say," *Wall Street Journal*, April 23, 1985, p. 64.

¹⁸ "Ex-Contra Looks Back, Finding Much to Regret," *New York Times*, January 8, 1988.

¹⁹ Latin American Studies Association, *The Electoral Process in Nicaragua* (Austin, Tex. LASA, 1984); "The Elections in Nicaragua, November 1984" (Irish Parliament, Dublin, November 21, 1984); "Report of the British Parliamentary Delegation to Nicaragua to Observe the Presidential and National Assembly Elections," (British Parliament, London, November 1984).

²⁰ For a more detailed account of the open forums, see Andrew Reding, "By the People: Constitution Making in Nicaragua," *Christianity & Crisis* 46, no. 18 (December 8, 1986), pp. 434-441.

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- ²¹ *Barricada*, August 4, 1985, p. 2.
- ²² Alan García, "America Latina no se rinde," *El Nuevo Diario*, January 10, 1987, p. 12.
- ²³ Martin Diskin et al., *Peace and Autonomy on the Atlantic Coast of Nicaragua: A Report of the LASA Task Force on Human Rights and Academic Freedom* (Pittsburgh: LASA, 1986), p. 10.
- ²⁴ *Ibid.* pp. 10-11.
- ²⁵ Andrew Reding, "Nicaragua: Ten Years Later," *Christianity & Crisis* 49, no. 10 (July 10, 1989), p. 218.
- ²⁶ *Washington Report on the Hemisphere* 9, no. 17 (May 24, 1989), p. 5.
- ²⁷ Law Library of Congress, "Comparison of Electoral Laws in Chile, Costa Rica, Guatemala, Nicaragua, Paraguay, and Venezuela," May 1989.
- ²⁸ Law Library of Congress, "Nicaragua: Amendments to the Electoral Law," April 1989, p. 9.
- ²⁹ *El Nuevo Diario*, October 5, 1988, p. 8.
- ³⁰ *Newsweek*, September 25, 1989, p. 4, and October 9, 1989, p. 47; the figure of \$7.5 million in overt aid is the sum of \$3.5 million supplied earlier in the year and another \$4 million allocated by Congress in the fall (*Washington Office on Latin America Election Monitor*, no. 3 (October 13, 1989), p. 5; Central American Historical Institute, *Nicaragua Election Issues*, no. 9 (February 12, 1990), p. 5.)
- ³¹ "Los Candidatos," *Envío* 8, no. 97 (September 1989), pp. 11-14.
- ³² Curtis Gans, *Washington Post*, January 31, 1990.
- ³³ Witness for Peace, Hotline Special Report, "Contra Campaign Violence, August 25, 1989-January 24, 1990." On January 1, 1990, contras killed two nuns (one a citizen of Nicaragua, the other of the United States) and wounded Catholic Bishop Pablo Schmidt in an ambush in the Atlantic North Autonomous Region (Americas Watch, *The New Year's Day Killings: A Report of an Investigation*, New York, January 28, 1990, 53 pp.).
- ³⁴ Central American Historical Institute, "Is There Equal Access to the Media?" *Nicaraguan Election Issues*, no. 3, p. 4.
- ³⁵ Following the UNO victory, the government hastily privatized the television stations, granting the license for one of the two channels to Herty Lewites, minister of tourism and newly elected FSLN delegate to the National Assembly.
- ³⁶ Months earlier, in November 1989, the United Nations supervised elections in Namibia, which were won by the South West Africa People's Organization (SWAPO). Yet in this instance the elections were to transform a colonial holding into a sovereign state.
- ³⁷ *Diez años en cifras*, (Managua: Instituto Nacional de Estadísticas y Censos), July 1989.
- ³⁸ Sergio Bendixen and Rob Schroth for Univisión television, released November 14, 1989, and Stanley Greenberg and Celinda Lake for Hemisphere Initiatives (HI), released December 13, 1989:

	HI (%)	Univision (%)
image of contras		
negative	57	65
positive	10	20
responsible for Nicaragua's problems		
U.S. government	47	57

³⁹ By the same electoral provision, Daniel Ortega won a seat in the National Assembly, with Sergio Ramírez as his alternate.

⁴⁰ My translation, from *Proceso*, no. 696 (March 5, 1990), p. 44.

Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth-Century England. DOUGLASS.Â This too failed, resulting in the Glorious Revolution of 1688 and its fundamental redesign of the fiscal and governmental institutions. To explain the changes following the Glorious Revolution we first characterize the problem that the designers of the new institutions sought to solve, namely, control over the exercise of arbitrary and confiscatory power by the Crown. 1 We then show how, given the means, motives, and behavior of the king during this century, the institutional changes altered the incentives of governmental actors in a manner desired by the winners of the Revolution. Other people insist that good government regulation is the key. Early in her career, Ostrom noticed a third approach that has a lot less mindshare. In some cases, common-pool resources can be managed through self-organized governance systems.Â Current theories of collective action do not stress the process of accretion of institutional capital. Thus, one problem in using them as foundations for policy analysis is that they do not focus on the incremental self-transformations that frequently are involved in the process of supplying institutions. Learning is an incremental, self-transforming process." -Elinor Ostrom, *Governing the Commons*. As governments generally have a monopoly of power over certain important activities, there are often major implications for how a society's resources or wealth is distributed across the population, as well as for the pace of economic growth. Given what is at stake, it should not be surprising that throughout history many have fought and died over both the design of the rules and the outcomes of elections.Â That there was extreme variation across the New World in the evolution of social and economic institutions cannot be doubted. Over the 16th through the 18th centuries, Europeans established colonies throughout the Americas as part of a worldwide effort to economically exploit underpopulated or underdefended territories.