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Freedom in the World 2019 - Nicaragua

Not Free

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Key Developments:

Key Developments in 2018:

- More than 300 people were killed and at least 2,000 were injured in a ferocious crackdown on an antigovernment protest movement that began in April, after authorities announced reforms to social security. The movement continued even after the proposed changes were canceled later that month. Human rights groups reported severe abuses amid an accompanying collapse in the rule of law, including arbitrary detentions, disappearances, and torture.
- Opposition figures were arrested during the year on trumped-up charges, including terrorism.
- A number of prominent media outlets and civil society organizations were closed, and saw their offices raided and property removed.
- A wave of illegal land occupations by progovernment groups accompanied the crisis.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 10 / 40 (-2)

A. ELECTORAL PROCESS: 3 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 1 / 4

The constitution provides for a directly elected president, and elections are held every five years. Constitutional reforms in 2014 eliminated term limits and required the winner of the presidential ballot to secure a simple plurality of votes.

President Ortega was reelected in 2016 with over 72 percent of the vote in a severely flawed election that was preceded by the Supreme Court's move to expel the main opposition candidate, Eduardo Montealegre, from his Independent Liberal Party (PLI). The decision crippled the PLI, and Montealegre withdrew from the election. Ortega's closest competitor, Maximino Rodríguez of the Constitutionalist Liberal Party (PLC), received just 15 percent of the vote, with no other candidate reaching 5 percent. Ortega's wife, Rosario Murillo, ran as Ortega's vice presidential candidate.

Ortega's Sandinista National Liberation Front (FSLN) won 135 of 153 mayorships contested in 2017 municipal elections. There were reports ahead of the polls that the FSLN had ignored local primary surveys in order to put its preferred candidates up for election. Seven people were killed in postelection clashes between government and opposition supporters, according to the Nicaraguan Center of Human Rights (CENIDH).

A2. Were the current national legislative representatives elected through free and fair elections? 1 / 4

The constitution provides for a 92-member unicameral National Assembly. Two seats in the legislature are reserved for the previous president and the runner-up in the most recent presidential election. Legislative elections are held every five years.

In 2016 legislative elections, Ortega's FSLN increased its majority to 70 seats in the National Assembly, followed by the PLC with 13 seats. The PLI won just 2 seats, in contrast to the 26 seats it won in the 2011 election. Ortega refused to allow international election monitoring. Montealegre was expelled from the PLI a few months ahead of the polls, severely damaging the party's competitiveness.

Nicaragua's North Atlantic Autonomous Region (RAAN) and South Atlantic Autonomous Region (RAAS) have regional councils, for which elections were last held in 2014; the FSLN won the largest share of the vote in each, prompting protests by the majority-indigenous YATAMA party.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 1 / 4

The Supreme Electoral Council (CSE) generally serves the interests of the FSLN. In 2016, it pushed 16 opposition members of the National Assembly from their seats in response to their failure to recognize the Supreme Court's move to expel Montealegre from the PLI; later that year it certified

ecoi.net summary:

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Ortega's reelection following a severely flawed electoral process. In 2017, CSE head Roberto Rivas was sanctioned by the United States because, among other offenses, he allegedly "perpetrated electoral fraud undermining Nicaragua's electoral institutions;" Rivas resigned in May 2018. The judiciary has interpreted Nicaragua's electoral laws in the FSLN's favor.

B. POLITICAL PLURALISM AND PARTICIPATION: 4 / 16 (-2)

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 1 / 4

Political parties face legal and practical obstacles to formation and operations. Party leaders are easily co-opted or disqualified by Ortega-aligned institutions. Membership to the FSLN is often required in order to hold civil service positions, discouraging people from registering as members of other parties. Under 2014 constitutional reforms, legislators must follow the party vote or risk losing their seats.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 0 / 4 (-1)

Years of political repression under Ortega, including through politicized court rulings and other measures that prevented opposition figures from participating in politics, severely limited the ability of the opposition to gain power through elections, and very few opposition figures hold legislative seats or other government positions. In 2018, the ferocity of the crackdown on the year's protest movement reflected the president's determination to quash any challenge to his rule. Police and progovernment armed groups employed lethal force against peaceful protesters, and thousands of protest participants were arrested. Many of the protesters wore masks for fear of being persecuted if their identities were known, and by year's end numerous protest leaders had fled the country. A number of prominent opposition figures were arrested during the year on trumped-up charges of terrorism and involvement in organized crime. The CENIDH counted over 500 political prisoners being held in Nicaragua at year's end.

Score Change: The score declined from 1 to 0 due to severe repression of the political opposition, including through the arrest and imprisonment of opposition figures and violent attacks against peaceful opposition protesters.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 1 / 4

President Ortega has consolidated all branches of government and most public institutions, as well as the country's media, under his party's control, allowing him and the FSLN great influence over people's political choices.

Public-sector workers experienced pressure to keep away from the antigovernment protest movement in 2018. At least 300 health professionals were dismissed from public hospitals for providing assistance to protestors or for their alleged role in antigovernment demonstrations.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 2 / 4 (-1)

Minority groups, especially the indigenous inhabitants of Nicaragua's eastern and Caribbean regions, are politically underrepresented across parties, and the government and FSLN largely ignore their grievances. The 2018 crackdown signaled Ortega's intolerance of activism that could be perceived as challenging his government, including by indigenous activists and other segments of the population seeking greater political rights. In October, two indigenous activists were removed from an airplane in Managua and questioned. One of them, Haydee Castillo, was imprisoned in the apparent absence of formal charges.

As per a new municipal electoral law approved in 2012, half of each party's candidates for mayoralities and council seats must be women. Women also hold 45 percent of National Assembly seats. In practice, successful political advocacy by women is generally restricted to initiatives that enjoy the support of the FSLN, which has not prioritized women's policy concerns.

Score Change: The score declined from 3 to 2 because Ortega's broad crackdown on dissent in 2018 left indigenous and other societal groups fewer opportunities to advocate for their interests.

C. FUNCTIONING OF GOVERNMENT: 3 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 1 / 4

The FSLN dominates most public institutions, working closely with labor and private business in a tripartite alliance (COSEP) that is recognized in Article 98 of the constitution. The manipulation of the 2016 election and the expulsion of 16 opposition politicians from the legislature prevented elected representatives from determining government policies.

Ortega has a wide degree of discretionary powers to set policy. The constitutional reforms of 2014 included provisions allowing the president to issue binding decrees and direct changes in tax policy without legislative approval.

C2. Are safeguards against official corruption strong and effective? 1 / 4

Because the justice system and other public bodies are generally subservient to Ortega and the FSLN, there is little chance that allegations of corruption against government officials will see a thorough investigation or prosecution. Corruption charges against high-ranking government officials are rare, while corruption cases against opposition figures are often criticized for being politically motivated.

Ortega's sons and daughters have been appointed to prominent positions such as ambassador and presidential adviser.

C3. Does the government operate with openness and transparency? 1 / 4

Government operations and policymaking are generally opaque. The 2007 Law on Access to Public Information requires public entities and private companies doing business with the state to disclose certain information. Government agencies at all levels generally ignore this law.

Ortega rarely holds press conferences. The Communications and Citizenry Council, which oversees the government's press relations, is directed by Vice President Rosario Murillo and has been accused of limiting access to information.

CIVIL LIBERTIES: 22 / 60 (-10)

D. FREEDOM OF EXPRESSION AND BELIEF: 8 / 16 (-3)

D1. Are there free and independent media? 1 / 4

The press has faced increased political and judicial harassment since 2007, when Ortega returned to power, with the administration engaging in systematic efforts to obstruct and discredit media critics. Journalists covering the 2018 crisis have been subject to threats, arrest, and physical attacks. Journalist Ángel Gahona was shot and killed in April, while covering a protest in Bluefields. The Special Monitoring Commission for Nicaragua (MESENI), a mission of the Inter-American Commission on Human Rights (IACHR), received complaints of police checkpoints being established near the homes of journalists and media employees. The IACHR has granted protectionary measures to several journalists in light of harassment and death threats.

As the 2018 protests continued, the Nicaraguan Institute of Telecommunications and Postal Services (Telcor), the state institution that acts as the media regulator, ordered television companies and mobile phone service providers to stop transmitting several independent news channels through their systems. In December, police raided and confiscated equipment from the facilities of the digital news platform Confidencial and the television program *Esta Semana*. News station 100% Noticias was closed by police the same month, and its director, Miguel Mora, was arrested on charges of fomenting hate and violence. Notably, the independent news outlet *La Prensa* continued to operate in 2018.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 3 / 4 (-1)

Religious freedom was generally respected prior to the 2018 crisis, though some Catholic and evangelical church leaders had reported retaliation by the government for criticism of the Ortega administration, including the confiscation or delay of imported goods and donations. In 2018, however, church officials were denounced and smeared by authorities for accompanying or defending antigovernment protestors. In July, Ortega responded to Roman Catholic clergy members' condemnation of police violence by accusing church leaders of backing a coup attempt. Managua's auxiliary bishop, Silvio José Báez, was repeatedly smeared by state media for his defense of the protestors, and was physically attacked by progovernment demonstrators on at least one occasion. Progovernment mobs also attacked churches where antigovernment protesters were sheltering.

Faith leaders have criticized attempts by the Ortega administration to co-opt religious belief for political ends. The government has required public employees to attend government-sponsored religious festivals, making them miss official Catholic Church events.

Score Change: The score declined from 4 to 3 due to denunciations of Roman Catholic bishops' involvement in the political crisis, and physical attacks against Catholic clergy and churches.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 2 / 4 (-1)

Prior to the 2018 crisis, academic freedoms were generally respected, although some academics refrained from open criticism of the government. In the public primary and secondary school system, there have been reports of students being required to attend progovernment rallies, and of pro-FSLN materials displayed in school buildings.

In 2018, universities were sites of protest and repression. In July, progovernment armed forces attacked the Autonomous University of Nicaragua in Managua (UNAN), in which dozens of young people had barricaded themselves inside as an act of protest; at least two people were killed in the ensuing fighting and parts of the campus were heavily damaged. Dozens of university professors, administrators, and students were arbitrarily dismissed from UNAN in the aftermath. In May, the University of Central America (UCA) was attacked by progovernment armed forces while it sheltered protestors who were fired on by Managua police and informally allied forces. Later, in August, it was

forced to suspend classes after the government failed to transfer funds to the school. Separately, in September, a professor at the Polytechnic University of Nicaragua (UPOLI) with a history of involvement with civil society movements was arbitrarily detained and charged with directing a terrorist group from the university.

Score Change: The score declined from 4 to 3 due to the repression of students, professors, and universities perceived as having supported the antigovernment protest movement.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 2 / 4 (-1)

In past years, private discussion remained mostly free, although some prominent individuals self-censored for fear of retribution. In 2018, repression and intimidation by state and progovernment forces contributed to a generalized climate of fear and terror that restricted free expression.

Access to the internet remains unrestricted, though in March Vice President Murillo said the government would "review the use of social networks," raising concerns about the censorship of online activity. Nevertheless, many people still speak their minds freely on social networks.

Score Change: The score declined from 3 to 2 because large-scale, violent repression of opposition supporters contributed to increased self-censorship and fear of reprisals for expressing opposition to the government.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 2 / 12 (-3)

E1. Is there freedom of assembly? 0 / 4 (-2)

Freedom of assembly deteriorated severely in 2018, when more than 300 people were killed and at least 2,000 were injured in a ferocious crackdown on an antigovernment protest movement that began in April, after authorities announced social security reforms. A majority of the abuses have been attributed to the national police and armed allied groups, which the Office of the UN High Commissioner for Human Rights (OHCHR) said in an August report operate with "total impunity." The OHCHR noted some instances of violence by antigovernment protesters, but said there was no evidence that such violence was preplanned or coordinated, and that police, with aid from allied forces, responded with lethal force to nonlethal threats. The office concluded that "the majority of protesters were peaceful."

As the movement continued, authorities moved to restrict demonstrations. In July, the government passed the Law against Money Laundering, the Financing of Terrorism, and the Proliferation of Weapons of Mass Destruction, which has vaguely worded provisions that expand the definition of terrorism. Those convicted under the law, which was widely viewed as tool to intimidate and prosecute antigovernment protesters, can receive sentences of up to 20 years. In September, the National Police issued a statement declaring unauthorized marches and demonstrations "illegal." The police have subsequently denied permits for public demonstrations, and have occupied public spaces to prevent protests.

In mid-2018, more than 1,900 people had been arrested for participating in protests, according to CENIDH. Amnesty International reported that some had been charged with terrorism, while hundreds more were being held without charge. IACHR reported in December that more than 500 people remained in detention in connection with actions taken during protests.

Score Change: The score declined from 2 to 0 due to the large-scale, violent repression of an antigovernment protest movement, in which more than 300 people were killed, the detention of hundreds of protesters, and restrictive measures implemented in an attempt to crush the movement.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work? 0 / 4 (-1)

Groups critical of the government or which focus on issues like corruption have operated within an increasingly restrictive environment under the Ortega administration, which among other things has used registration laws to choke off their sources of funding. Since April 2018, human rights defenders and leaders of civil society organizations have experienced severe harassment, arbitrary detention, and arbitrary expulsion. In September, an arrest warrant was issued for Félix Maradiaga, the director of the Institute of Strategic Studies and Public Policies (IEEPP) in Managua on charges of involvement in organized crime and financing terrorism, allegedly by channeling funds from the institute to protesters. During the year, nine prominent opposition civil society organizations had their legal status revoked, their offices raided, and property removed. In December, the Ortega administration expelled from the country two international human rights missions—the Interdisciplinary Group of Independent Experts (GIEI) and MESENI.

Score Change: The score declined from 1 to 0 because the targeted persecution of rights groups, including legal harassment, arbitrary closure, and arbitrary expulsion, has left them unable to operate in Nicaragua.

E3. Is there freedom for trade unions and similar professional or labor organizations? 2 / 4

The FSLN controls many of the country's labor unions, and the legal rights of non-FSLN unions are not fully guaranteed in practice. Although the law recognizes the right to strike, approval from the Ministry of Labor is almost never granted. Employers sometimes form their own unions to avoid recognizing legitimate organizations. Employees have reportedly been dismissed for union activities, and citizens have no effective recourse when those in power violate labor laws.

F. RULE OF LAW: 4 / 16 (-2)

F1. Is there an independent judiciary? 1 / 4

The judiciary remains dominated by FSLN and PLC appointees, and the Supreme Court is a largely politicized body controlled by Sandinista judges.

F2. Does due process prevail in civil and criminal matters? 0 / 4 (-1)

Since protests erupted in April 2018, UN investigators and other human rights organizations have documented rampant violations of due process. These include widespread arbitrary arrests and detentions by police and allied progovernment forces, failure to produce search or arrest warrants, no discussion of detainees' rights, no public registry of detainees or their location, and individuals being held incommunicado during initial detention.

Reforms to the penal code and to judicial processes approved in 2017 increased the centralization of criminal justice procedures in ways damaging to due process rights. They include measures that allow "technical" judges to preside over many cases, instead of juries, as well as provisions that allow the transfer of certain kinds of cases from regional courts to the central public ministry.

Score Change: The score declined from 1 to 0 due to widespread systematic violations of basic due process protections.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 1 / 4 (-1)

The 2018 antigovernment protest movement was met with violent repression by police and informally allied armed forces, resulting in the deaths of more than 300 people. In an August 2018 report on repression of the protest movement, the OHCHR detailed severe abuses including psychological and physical torture of detainees, including sexual violence, forced confessions, disappearances, and extrajudicial killings. Thousands of Nicaraguans fled the country in 2018, with more than 24,000 seeking asylum in Costa Rica alone.

Changes to the military code and national police passed in 2014 give the president power to deploy the army for internal security purposes and appoint the national police chief, and permitted the police to engage in political activity. The 2015 sovereign security law has been criticized for militarizing civilian agencies.

Nicaragua has generally been spared the high rates of crime and gang violence that plague its neighbors to the north.

Score Change: The score declined from 2 to 1 due to violent repression by police and informally allied armed forces of an antigovernment protest movement, and severe abuses committed against those detained for their participation in it.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 2 / 4

The constitution and laws nominally recognize the rights of indigenous communities, but those rights have not been respected in practice. Approximately 5 percent of the population is indigenous and lives mostly in the RAAN and the RAAS.

The country's LGBT (lesbian, gay, bisexual, and transgender) population is subject to intermittent threats and discriminatory treatment.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 8 / 16 (-2)

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 2 / 4 (-1)

Marches and blockades erected by protesters limited mobility throughout the country for several months in 2018. There was a de facto curfew for several months in 2018 because people feared encountering FSLN-aligned mobs (known as turbas) after dark.

Freedom of movement was generally respected prior to the crisis, though poor infrastructure limits movement in some majority-indigenous areas.

Score Change: The score declined from 3 to 2 because demonstrations and blockades, and a de facto curfew inspired by fears of violence, limited free movement during the year.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 2 / 4 (-1)

Property rights are protected on paper but can be tenuous in practice. Titles are often contested, and individuals with connections to the FSLN sometimes enjoy an advantage during property disputes. Individuals and communities in the construction zone for a planned interoceanic canal report intimidation by surveyors and anonymous actors. Conflict over land in the RAAN between Miskito residents and settlers continued in 2018.

There was a wave of illegal land occupations by progovernment groups during the 2018 crisis. By the end of July, as many as 4,000 hectares had been illegally occupied with government assistance. Owners of the land claimed that the government was aiding in the confiscations in order to intimidate its opponents, or to reward supporters with plots of land.

Score Change: The score declined from 3 to 2 due to a wave of land grabs that accompanied the year's political crisis.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4

Violence against women and children remains widespread and underreported, and few cases are ever prosecuted. The 2012 Comprehensive Law against Violence toward Women addresses both physical and structural forms of violence, and recognizes violence against women as a matter of public health and safety. The legislation codified femicide and establishes sentencing guidelines for physical and psychological abuses against women. However, 2017 reforms to the penal code narrowed the definition of femicide.

A 2013 reform to the law allows mediation between the victim and accuser, despite concerns from rights groups. The family code includes protections for pregnant minors and the elderly, establishes equal duties of mothers and fathers, and prohibits physical punishment of children. It defines marriage as a union between a man and a woman and, as such, deprives same-sex couples the right to adopt children or the ability to receive fertility treatment.

Abortion is illegal and punishable by imprisonment, even when performed to save the mother's life or in cases of rape or incest. The criminalization of abortion can cause women to seek out risky illegal abortions that can jeopardize their health.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4

Nicaragua is a source country for women and children forced into prostitution; adults and children are also vulnerable to forced labor, notably in the agriculture and mining sectors, and as domestic servants. While recognizing the government's "significant efforts" to tackle human trafficking, the 2018 US State Department's *Trafficking in Persons Report* said the country did not demonstrate increasing efforts over the previous year, and that the Atlantic coast continued to be disproportionately affected due to weaker institutions there.

Much of the economy is informal, and workers in these sectors lack legal protections associated with formal employment. The legal minimum wage is inadequate to cover the cost of basic goods.

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