

C O N S O R C I O



PANORAMA
ELECTORAL

Second Systematic Observation Report

MUNICIPAL ELECTIONS, NICARAGUA

SEPTEMBER 1-30
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Fundación Yarrince XXI





CONSORCIO PANORAMA ELECTORAL
SECOND SYSTEMATIC OBSERVATION REPORT
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Panorama Electoral, composed of the Civic Ethics and Transparency Group and the organizations of Segovia-ILLS Leadership Institute, Chontaleñas Women’s Network, Women’s Movement of Chinandega, Yarrince XXI Foundation, We Make Democracy Foundation, Movement for Nicaragua, and the Permanent Commission on Human Rights (PCHR), presents the results of the systematic observation carried out by 156 volunteers in 150 municipalities of the country in the month of September of 2017.

I. POLITICAL/LEGAL CONTEXT

As standard follow-up tasks to a qualified election observation mission, Panorama Electoral made efforts to systematically collect information on important issues. This data was complemented by meetings with all political parties, including most national and regional political party leaders, as well as mayor candidates from all contending parties in 10 municipalities in the country’s Pacific, Central and Caribbean regions.

As a synthesis of these talks and the evaluation of this mission, we can say that the current municipal election process, which will conclude on November 5th, is vitiated by serious flaws, as listed in the next section. These flaws are similar to those that have plagued elections since 2008. This process, entering into force less than four weeks from universal suffrage, is devoid of fundamental justice, threatening the minimal legitimacy of elected officials, particularly faced with the reality that these flaws cannot be corrected during the remainder of the election process.

The root cause of these shortfalls lies in the State’s lack of attention to the cardinal recommendation, specifically and categorically repeated by qualified observation missions in recent election processes, to replace electoral authorities lacking neutrality and transparency. The replacement of authorities involved in fraudulent acts at the service of the ruling party in previous processes with competent authorities committed to the neutrality and independence required for the election of an arbitrator is still the system’s most pressing need, as stated by a plurality of parties interviewed. On the other hand, the government of Nicaragua, based on sweeping legislative majorities granted by these authorities in the aforementioned flawed processes, opted to reelect most of them and fill vacancies with members from their own party, electing all the members of the Supreme Electoral

Council (CSE) from their own ranks. As a direct result of this political will, the existence of a pernicious state policy toward citizens' political rights is evident. Below is a list of the most significant anomalies and modus operandi to date:

1. Election administration by a single party. In the month of June, the CSE began to deliver qualified majorities (at least two of three members) to the ruling party and its allies in all administrative and jurisdictional bodies governing the election process, i.e. Provincial Election Councils (CEDs), Municipal Election Councils (CEMs) and Polling Stations (JRVs).¹ It is noteworthy that the National Electoral Law provides that no party (also understood as alliance) should have more than one member in these bodies (Art. 16). Although this was more embarrassing in the elections held 10 months ago,² we cannot underestimate that decision-making and process management rests in the hands of a single party.
2. To close this circle of control over all decisions taken by these bodies, the CSE uses figures not provided under the law (called "coordinators" or "center managers") to deny space and weight to the main opposition forces as provided by law (to be determined by the results of the previous presidential election). In this way, the PLC, endowed by law to appoint the president of these electoral bodies in 50% of the cases and the first member in the remaining 50%, has shown to this election mission that the functions of these bodies have been usurped by the ruling party's political figures appointed by the election authorities using the above figures.
3. Manipulation of legal status and polling stations. The CSE arbitrarily grants or strips opposition parties of legal status and polling stations, according to the decisions of the executive branch, impairing the development of opposition forces in several ways, including, inter alia, a significant difficulty in obtaining funds for election campaigns and vote protection, as well as loyalty in polling stations. For example, in the case of CXL, which was granted legal status for this election, it is evident that this action does not undo the damage caused by arbitrariness, which made it impossible for this party to participate in the presidential elections, losing all members and electoral structure positions. The case of the PAC and MRS is worse. Election authorities maintained the first in a legal limbo and revoked the legal status of the second without any legal basis. In fact, this is one of the most difficult issues evaluated by qualified observers: the

¹ The Supreme Electoral Council (CSE) appoints the Departmental Electoral Councils (CEDs) in a biased way, which in turn appoint the Municipal Electoral Councils (CEMs) with the same partisan zeal, and these in turn appoint the Polling Stations (JRVs). On this occasion, in an attempt to hide this maneuver that dates back to several previous processes, the CSE, through an amendment to the electoral calendar, extended the deadline for legalizing alliances until the CEDs are appointed.

² For example, the recent presidential election comes to mind, where the arbitrary elimination of the main opposition force resulted in a relative or absolute majority of the FSLN in 100% of the electoral bodies.

effects and permanent scope of past arbitrariness, especially in light of limited quasi corrective actions.

4. Use of state resources by the ruling party. The use of state resources and partisan propaganda in public institutions are punishable under the law. (Art. 175, paragraphs 8 and 9). In practice, impunity is so rampant that it is difficult to find a public school, police delegation or hospital in the country without electoral propaganda of the ruling party. The CSE and other competent authorities (?) remain silent. This improper and illegal use of state resources gives the Sandinista Front a huge advantage of resources over the rest of the parties, profoundly skewing the necessary conditions for a fair and transparent election process.
5. Irregular registration of voters. The activities of the ruling party in tasks reserved for public institutions, such as processing, issuing and delivering identity cards with support from the CSE, have also been documented. This threatens the integrity of the voter registry, leading to the issuance of multiple identity cards or registration of unqualified persons (foreigners, minors, etc.). In particular, YATAMA points to the negligence of the state in facilitating registration in the RAAN communities due to ethnic and political biases since these territories are the social basis of this party. Similar incidents involving other parties have been reported, particularly where legal registration does not function in minimal proportion to the acts of the ruling party.
6. Ongoing efforts to eliminate the vote to right of citizens living abroad. Faced with evidence from several previous electoral processes and public policies to reform the electoral law to automatically abolish the right to vote of citizens who have chosen (according to law) not to vote in previous election processes, this mission deems that loyalty and reliability issues related to voter registration are the result of CSE'S institutional desire to skew the census to the convenience of the ruling party, hindering the right of presumably independent opponents who have they drifted away from the polls for various reasons, such as the biased performance of the election arbitrator. They also reflect the CSE's desire to hide or disguise abstention data, making it impossible to vote abroad (assuming votes are unfavorable to the government). Consequently, the reform to the electoral law and the actions to address registration issues and allow people to vote abroad look more like double vote threats than facilities for voters to remedy registration shortfalls. In this sense, the use and quality of indelible ink indicated in the manual does not represent a reliable lock for preventing multiple votes.³

³ In this sense, the training manual for JRV officials in this election orders them to stain only the tip of the voter's thumb, albeit it is known that the nail and cuticle is the area where ink is more difficult to remove.

7. Refusal of accreditation to domestic and foreign independent observers. The CSE, according to instructions from the executive branch, denies accreditation and access to independent qualified national observation groups, as well as international institutions like the Carter Center, which publicly stated its desire to observe.
8. Budget cuts to punish municipal governments headed by opposition parties. Studies show that transfers from the central government to the municipalities headed by opposition parties are lower than for other municipalities. This includes removal of mayors at the discretion of the ruling party. This is an unacceptable way of inducing or forcing the electorate to vote in a specific way. On the other hand, it is common to hear public employees say that they feel coerced to support and vote for the ruling party out of fear of losing their jobs if they do not. Something similar happens with students who receive scholarships to study in state universities. Among the population at large, it is common to hear that they fear being excluded from job opportunities in state institutions or autonomous that usually require the membership card of the Sandinista Front or at least a political endorsement from the leaders or organizations controlled by the party, which is a *sine qua non* requirement for public employees.
9. Impunity in cases involving human rights violations and state violence against dissenting citizens. On multiple occasions in recent years, the government has exercised or allowed violence against dissenting parties, groups and individuals. The impunity of the aggressors is common.⁴ This has left a remnant of fear toward participating in dissenting activities or getting involved in opposition parties.
10. Obstructing scrutiny by opposition parties. The last minute rushes, limitations and exclusion of party poll watchers from several key activities (including vote count and transfer of materials) in previous election processes are duly documented⁵. Therefore, the concern expressed by various political parties regarding the elimination of alternate poll watchers from key activities of the election process, according to CSE's guidelines, is justified.

⁴ See, for example, CENIDH and CPDH annual reports (2008-2016), which have been incorporated to this report by reference.

⁵ Includes expulsions when votes are counted, non-delivery of legible copies of results and overall obstruction of performance and de facto wearing down, including late and complicated delivery of credentials in advance to long workdays on election day.

II - MAIN SYSTEMATIC OBSERVATION FINDINGS

Irregularities and direct violations of the electoral law continue. Identity cards are processed outside of legal entities. Illegal and criminal practices regarding the use of state resources in political campaigns continue, and disproportionately by the Sandinista Front, in violation of Article 175 of the Electoral Law.

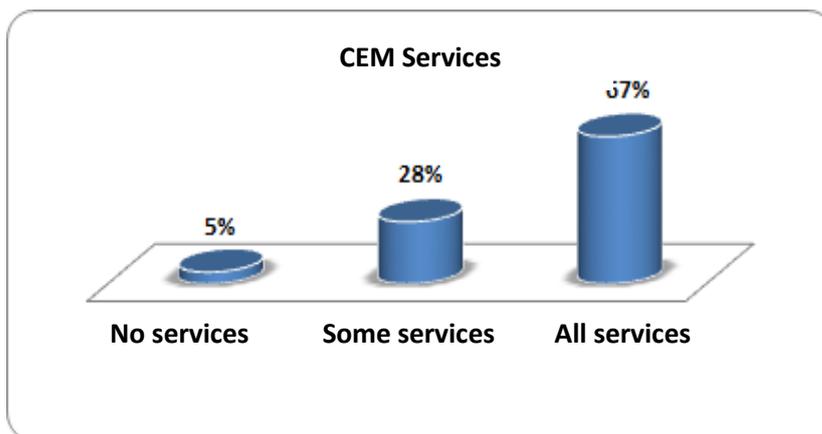
In this period, an improvement was observed in the territorial coverage of the municipal electoral councils, which provided services in 146 of the 150 municipalities observed.

However, there is a deficit in the amount of services provided. In a significant number of municipalities, the CEMs did not provide all services required by citizens as mandated by law.

The remaining balance of the territorial coverage of the campaign activities among political parties is valued. The participation of female candidates in those activities represents a significant percentage of participation and territorial coverage.

1. ELECTION ADMINISTRATION

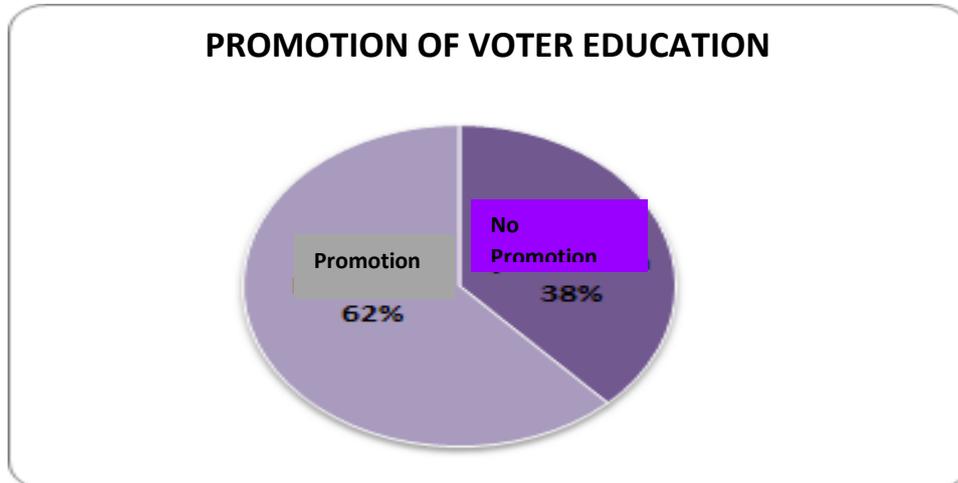
The results of this observation mission in 150 municipalities show that municipal electoral councils provided services to citizens in 142 municipalities. This coverage is significantly higher than in the previous observation periods. This is a positive outcome. However, delivery of services under this electoral structure must be guaranteed in all municipalities of the country.



When analyzing the services provided by the CEMs, we find that access to all services is limited. All services mandated by law were provided only in 95 municipalities, some services were provided in 40 municipalities, and no services were provided in 7 municipalities.

2) VOTER EDUCATION

Reports from the observers indicate that the CSE disseminated messages to guide voters in 93 of the 150 municipalities observed, especially in relation to the procedures that can be performed.

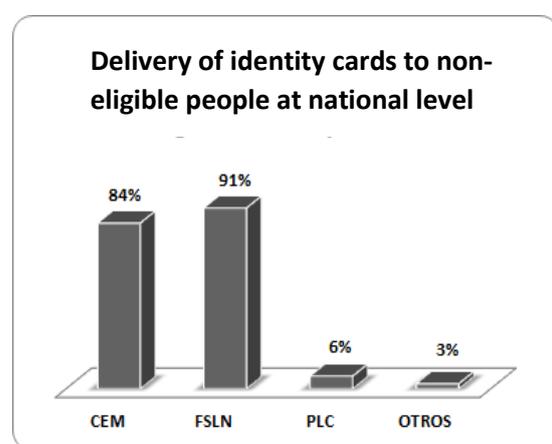


These data show that the CEMs improved their performance in voter education, which is a positive outcome.

The Supreme Electoral Council should pay special attention to the dissemination of the content and scope of the reforms to the Electoral Law on 31 August of this year (Article 196).

3) ELECTORAL REGISTER

In 80 municipalities, the illegal practice of issuing identity cards to non-eligible people continues, especially to teenagers below the age of 16. This is an issue that is difficult to detect. Data provided by the network of observers indicates that this practice is carried out by the municipal electoral councils and political parties.



The issuance of identity cards to minors was not observed in 67 municipalities. The Sandinista Front distributed identity cards to non-eligible voters in 73 municipalities and the PLC did the same in 5 municipalities.

This irregularity and illegality by the municipal electoral councils and political parties was observed and reported last August, noting that the Sandinista Front exponentially outperforms the PLC.

4) ELECTION CAMPAIGN

The election campaign officially began on September 21. The data provided by the network of observers show that campaign activities in 149 municipalities by various party candidates represent 99% of the municipalities observed.

The election campaign shows a balanced behavior between political forces in terms of campaign events and activities. The Sandinista Front campaigned in 147 municipalities, the PLC in 133 municipalities and the other three parties in 111 municipalities (99%, 90% and 75%, respectively).

Female candidates from the Sandinista Front participated in 132 of the 147 municipalities where campaign activities were observed, while female candidates from the PLC participated in 111 municipalities. The candidates of other political parties were visible in 94 municipalities.

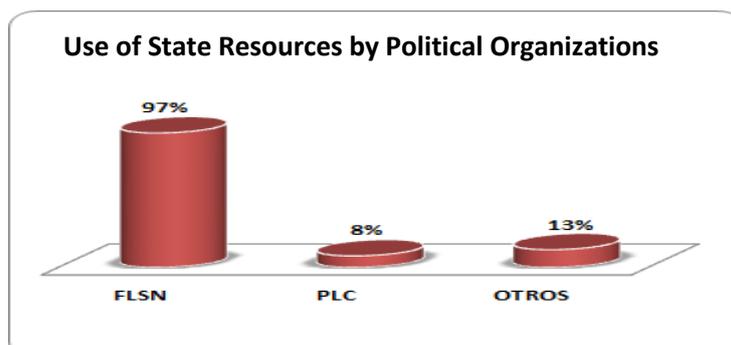
The exploitation of female figures as a sex symbol continues in the campaign activities carried out by the different political parties. This degradation of women in the campaign activities was promoted by the FSLN in 40 municipalities, followed by the PLC in 20 municipalities and other political parties in 16 municipalities.

Political parties continue to involve children and adolescents in their campaigns through the participation of school musical bands that accompany important political activities. However, this phenomenon seems to have a downward trend vis-à-vis previous processes after it was detected (FSLN in 22 municipalities and PLC in 3 municipalities).

These acts by political parties violate the rules laid down in the Children and Adolescent Code and in the Convention on the Rights of the Child.

5) USE OF STATE RESOURCES

The use of state assets in the election campaign has increased. State assets were used in 146 of the 150 municipalities observed.





These assets include vehicles, government offices and public spaces. The Sandinista Front used state assets in 146 municipalities, the PLC in 12 municipalities and other political parties in 20 municipalities. The use of state assets by political parties in general, and overwhelmingly by the ruling party, results from the partisan control of public institutions and lack of law enforcement by regulators.

In the observation report in the month of August, we refer to this very serious violation of the Electoral Law. This constitutes an electoral crime in relation to which the electoral authority has remained silent. The use of state assets also undermines the well-being of the population by dilapidating public resources.

III. ELECTORAL VIOLENCE

Panorama Electoral condemns the political violence that occurred on September 2 in this electoral process, causing the death of Zeneda Patricia Salgado, a 38-year-old PLC candidate for deputy mayor in the municipality of San José de Bocay in Jinotega, and seriously injuring 17-year-old Ervin Ulises Duarte Chavarria. Similarly, we condemn acts of violence on October 3 in the village of Wanawas, behind Cerro Musun, about 25 kilometers northwest of the town of Rio Blanco, Matagalpa, resulting in the death of Moises Reyes and Ulises Pravia, a PLC activist. We demand authorities fulfill their obligation of clarifying this case, so that justice is served and protection is provided to all alike during the entire electoral process.

IV. CONCLUSION

It has been observed that this electoral process is preceded by processes fraught with serious flaws and irregularities, which are maintained and have intensified. If these irregularities continue to develop in the same way, it does not provide any guarantee that this process will allow to know the sovereign will of the people of Nicaragua.

V. RECOMMENDATION

Faced with the modus operandi described in this report, it is important to pay attention to irregularities that take place from this moment onward in the 2008-2016 electoral processes, including, inter alia, deficiencies in the accreditation of polling station supervisors, expulsion of supervisors during vote counts, lack of delivery of legible copies of tally sheets, lack of publication of auditable data from each JRV, lack of security of indelible ink, and curtailment of term for review of appeals by political parties. The operation of locks to prevent multiple voting and poor functioning of the electoral registry also deserves attention.

We call on the parties to retake the recommendations in the final reports of qualified electoral observation missions, including reforms to the national electoral system and the first recommendation of the European Union in 2011: "1. The UE EOM... The introduction in the electoral law... of eligibility requirements and selection mechanisms that promote or guarantee the election of CSE magistrates of professional prestige and independent neutral profiles."