

UCLG COUNTRY PROFILES

Republic of Nicaragua

(República de Nicaragua)



Capital: Managua

Inhabitants: 5.603.000 (2006)

Area: 129.494 km²

1. Introduction



The Republic of Nicaragua is a country in Central America bordering Honduras on the north-east, Costa Rica on the south, the Pacific Ocean on the west and the Caribbean Sea on the east. The country is 127,000 square kilometers in size with a population of 5.5 million inhabitants; the density of its population can be measured by an average of 45 inhabitants per square kilometer. The bulk of the population is concentrated on the Pacific border of the country, in less than 30% of its territory. Nicaragua is a Unitary State, organized by political administrative division, comprised of 2 regions on the Atlantic Coast, 15 departments and 153 municipalities.

The State of Nicaragua recognizes that the people of the Caribbean Coast have the right to autonomy, by way of the constitution, which recognizes the State and the society's multi-ethnic character. Regional autonomies are enforced by way of the Statute of Autonomy, Law 28, the Law of Languages, No. 162 and Law no.

445, incorporating the corresponding rules and instruments of municipal decentralization.

During the Sandinista era, concepts of municipal autonomy and of regional autonomy were drawn up which were to need significant reforms in the nineties and beyond. There is a whole post-Sandinista era that takes place after the general elections of 1990, which consists of two important moments: the first between 1990 and 1998 which was a period of conceptual maturing with regard to the nature and contents of autonomy, of debate and negotiation, culminating in two important, interrelated, events; the constitutional reforms to the Law of Municipalities in 1995 and the reforms to the Law of Municipalities in 1997. A second post-Sandinista stage starts up with the reforms to the electoral law, which allowed separate municipal elections from the year 2000 on. Since November 2000, Nicaragua's local governments have undergone significant changes that have led to a strengthening of municipal autonomy, given them increased definition and financing for those areas that fall under their responsibility, a reinforcement of the need for protecting and defending autonomy and improved spaces for citizen participation. The promulgation of the Law of Budgetary and Municipal Rule constitutes an important advance in the



practice of the participative budget. The promulgation of the Law of Citizen Participation in 2003 created spaces and instruments that have strengthened participative democracy. An extremely important achievement was the promulgation of the Law of Transfers (Ley de Transferencias) in 2003, which came into effect in 2004. This law established the transfer of 4% of state income to the municipalities. Reforms were achieved via the Law 571 (published in December 2005), which saw transfers raised to 6% in 2005 and 2006 and decreed that from 2007 they would increase by 1% per year until they reached 10% in 2010. New tasks still remain to be undertaken in this context, but the important thing is that the fundamental bases have been set up, including the National Policy of Decentralization, which focuses on Local Development and was approved by the Government of the Republic in August 2006.

2. Territorial Organization

Nicaragua has large areas of land which are barely populated, giving the impression of being eminently rural; nevertheless the bulk of the population is concentrated in the urban areas, with 56.8% living predominantly in the south-west area of the Pacific.

The country has three levels of government: the National Government, the government of the two autonomous regions and the municipal government. It is divided into 15 departments, which have an administration that does not have its own areas of jurisdiction, but rather is called upon by priority to fulfill general administrative functions. Until a few years ago, the two Autonomous Regions of the Atlantic Coast made up the vast Department of Zelaya that covered about

50% of the total surface of Nicaragua. At the beginning of 1988, this enormous territory was separated into Two Autonomous Regions; the Autonomous Region of the North Atlantic (RAAN) and the Autonomous Region of the South Atlantic (RAAS). The territory of each Autonomous Region is divided into municipalities for administrative purposes which are to be established, as far as possible, in line with communal traditions and ruled by a specific law (ley de la materia). The administrative subdivision of the municipalities is established and organized by the corresponding Regional Councils, in accordance with their traditions. On the other hand, the Autonomous Regions are Judicial Persons of Public Law that follow, in those areas that concern them, the policies, plans and orientations of the nation. The municipalities of Nicaragua form part of the decentralization process that began with the Sandinista revolution (1979-1990), after many years of stagnation under a feeble municipal autonomy inherited from the colonial era. The Political Constitution promulgated in 1987 and the Law of Municipalities in 1988 (Law 40) were responsible for starting up this new process.

As for the financial indicators of the municipalities, the following facts can be observed. Local public expenditure per inhabitant in 2002 was estimated at 4 dollars, the lowest in Central America, according to the study carried out within the context of the Confedelca (Espitia, 2004). In 2005, total public expenditure per inhabitant was 170 dollars. Municipal public expenditure with regard to the GDP is approximately 0.8%, very low considering the role municipal governments play in the promotion, and management of the country's development.



The proportion of local public expenditure to total public expenditure was 5% in 2002, with a tendency to increase as a result of the law of transfers (ley de transferencias) and other laws in favor of taxation in the municipalities. The proportion of local public expenditure on investment to total public expenditure on civil investment is around 16% (2005), one of the lowest in the region.

3. Local Democracy

3.1 – The Local Political System

National political parties are very influential in local elections in Nicaragua. The municipal elections held in November 2000 were the first local elections to be separated from the national elections; in November 2005, the second such elections took place. On both occasions, the influence of the big parties determined the outcome. Local parties do not carry great weight and there are no elections without parties.

Local elections are pluralistic; from the socialist ideology of the FSLN to the neo-liberal ideology of the conservative parties.

The elected authority is invested with executive functions which mainly fall to the Mayor and municipal administration.

The Mayor is elected directly by the people with the winner being the candidate that obtains the most number of votes. Town councilors are elected via the system of proportional representation by minority according to the entire electoral quotients that fit within the number of valid votes obtained by each political entity.

Citizens' attitudes have strengthened in favor of local policy in recent years. In the last municipal elections, in November 2005, there was an increase of a hundred

thousand voters compared with the previous elections. Participation in municipal elections that year was 70%, a considerable increase over the year 2000, which was 53%. Thus the municipal authorities are better valued than the authorities of public administration.

3.2 – Civil Participation

With the Sandinista revolution, citizens regained interest in electoral democracy, which had previously been more formal, or superficial, in order to justify dictatorship. The 1984 and 1990 elections (both during the Sandinista government) saw citizen participation rise above 55%. In the last municipal elections in November 2005, participation levels reached 70%, which is highly significant considering that they were only municipal elections.

The various laws promulgated have defined a framework of procedures for direct democracy that set out the bases for the development of local democracy in Nicaragua. The law of municipalities establishes two mechanisms of direct democracy, the ordinary and the extraordinary Local Councils (cabildos). One of the innovative instruments in participative democracy is the Law of Municipal Budgetary Rule that establishes the Municipal Councilors' obligation to consult the community with regard to the Municipal Budget projects. The Law of Citizen Participation created in the judicial sphere gives the Municipal Development Committees a specific role in the budgetary process.

It is surprising, however, that democratic forms of representation beneath the level of the municipality do not exist in Nicaragua; there are no territorial definitions or mechanisms of popular election at this level. One relevant institution is the network of organizations of civil society that directly support the



strengthening of local power and decentralization. As for the traditional institutions, they are active and have their own institutions of indigenous peoples of the Atlantic Coast, who have also been subject to local political changes.

4. Relationship between Central and Local Levels

4.1 – General Issues

With regard to the structure of central government in relation to matters of local government, the institution that plays an important intermediary role is the Nicaraguan Institute of Municipal Development, INIFOM, which should maintain an (at times unstable) balance between representing the interests of the municipalities and representing the interests of Government in turn. Some Ministries also play an important role, such as the Ministry of the Environment and Natural Resources, the Ministries of Health and of Education and decentralized institutions (by category) that develop areas of responsibility that are formalized in the municipality.

The Political Constitution and the Law of Municipalities establish precise regulations to guarantee municipal autonomy. The constitutional guarantees are strong and clear but only get satisfied in certain situations according to the correlations of strength and the degree of progress of organized citizen participation. The entitlement to legislate over local government falls to each municipality, by means of their areas of legislative responsibility. It also falls to regional governments, in the case of municipalities located within the autonomous regions of the Atlantic. The National Assembly has exclusive responsibility for legislation concerning local taxes and promulgating

other general laws that contribute to the development of local governments.

4.2 – Supervision of Local Governments

With respect to tax matters, the function of the Republic's General Financing and Accounts Office is clearly delimited. The Ministries of the State and some decentralized institutions may establish relationships with the municipalities for supervision and coordination of their respective areas of activity. The dismissal of elected municipal authorities can only proceed in accordance with the standards set out in the Rule of Law, which establishes constitutional guarantees for members of the municipal government. The mandate of mayors and town councilors cannot be revoked, nor is any State authority entitled to dissolve any municipal government. In these aspects, municipal autonomy has been settled.

The State of Nicaragua has many decentralized institutions, designed and created by central governments in office, which have absorbed responsibilities that were previously incumbent upon municipalities. Nevertheless the process of decentralization heads slowly, but irreversibly, towards the redistribution and return of jurisdiction to municipalities.

4.3 – Guarantee of the autonomy of rights and interests of local governments

In the absence of a Constitutional Tribunal Court, the Supreme Court of Justice has the function of understanding and resolving conflicts of jurisdiction and constitutionality that damage municipal autonomy. The Law of Municipalities contains legislation to this effect. The institution that truly represents local governments is the Association of Municipalities of Nicaragua, AMUNIC, created in 1991. AMUNIC has shown a great capacity to influence key changes. Its participation in the proposal of



decentralization policies of the State, especially from 1992 onwards, has been growing and increasingly well documented, favoring municipal interests over and above political party interests. The resolution of conflicts has moved firmly towards the application of the laws.

5. Local Responsibilities (areas of jurisdiction)

The main functions or areas of jurisdiction, mentioned in the budget, are the following: the construction, maintenance and administration of municipal aqueducts; the construction of the sanitary sewage network; the supply of domestic energy and street lighting; the construction and maintenance of streets, walkways, platforms, municipal parks and squares; the construction and maintenance of bridges and local tracks; the construction and maintenance of sports fields and grounds; the construction, maintenance and administration of libraries. The most important factor in recent history is the swift changes made to the municipalities' areas of jurisdiction, between the first constitution and the first law of municipalities (1987 and 1988, respectively) and the Constitutional reforms made in 1995 and those made to the law of municipalities in 1997, published in 1998. Powers of jurisdiction held by the municipalities, within different sectors, tend to be distributed as follows:

Planning: Some areas of responsibility can be developed exclusively by the municipality. Education is primarily the responsibility of the Ministry of Education, in matters regarding the dissemination of education in some municipalities. In the autonomous regions, exclusive jurisdiction is granted for the establishment of the Regional Autonomous Educative System (SEAR), which is included in the General

Law of Education. As for health services, the municipalities coordinate the creation of boards of directors for the health system, as well as the establishment of posts and health centers. The autonomous regions, on the other hand, have the Regional Health Model included in the General Law of Health.

Social services. Social services in Nicaragua include aspects of civil registry, the promotion of human rights, especially women and children's rights and the construction of sports grounds. There is a marked absence of social services available for persons in situations of risk or services to promote social security, a feature shared by all Central American countries;

Water supply: until a few years ago, this was the exclusive responsibility of the central government, via the Nicaraguan company of Aqueducts and Sanitary Sewage Systems, but since 1990, the regional office of the Department of Provision of Rural Water ENACAL-GAR in Matagalpa has adopted a strategy of decentralization which aims to gradually include municipal governments in the provision of technical assistance to the communal committees of regional water.

Energy supply: The exclusive responsibility of the municipality;

Public transport: The municipality is responsible for the authorization of licenses, the administration and control of all types of transport within the municipality;

Support for business development. This area of responsibility does not explicitly exist in the law of municipalities.



2 Art.39. Conflicts that arise between the different municipalities and those that surface between these and the National Government bodies, by acts or dispositions that damage their autonomy, will be taken before and resolved by the Supreme Court of Justice.

The three tasks of government that are considered decentralized in Nicaragua are the construction of sanitary sewage systems; public lighting; and the collection, transport and treatment of solid waste. In the same way, the three tasks of local government that are considered centralized in Nicaragua are public safety, education and health.

6. Local Finance and Staff

6.1 Local Government Income

Local authorities do not have the power to fix taxes. The municipalities have specific areas of jurisdiction in tax matters such as: a) the collection of taxes that are fixed by the National Assembly; among these taxes, property tax is especially relevant, established on January 31st 1995; also circulation tax for motor vehicles and aquatic navigation (the Law of Motor Circulation and Transit Infrastructure Rule, published in January 2003); and income tax; b) the definition and collection of rates (or prices) for municipal services. The figures available up until 2002 show that locally charged taxes, along with non-taxed income (rates for public services) represented 49% of the total income, due to the low value of the transfers. Taxes scarcely represent 5% of all municipal income.

Fiscal co-liability does not strictly speaking exist in tax matters. What does exist is a co-liability for the collection of income,

with the approval and collection of non-taxed income, like contributions for public services, with the responsibility for tax collection falling to the municipalities where specified by law.

The budgetary transfers from the Government to the municipalities have increased considerably since 2004, from 70.5 million Córdoba in 1999 to 151 million in the budget approved in 2003, which only represented 1.6% of the government's current income in that year. In 2004 the figure was 738 million Córdoba (three times more than the previous year) and in 2006, it increased to 918 million Córdoba (6% of the budget for current income).

As for external income, it may be comprised of international loans as well as donations. They are not identified in the statistics available. They may have totaled between 5 and 10 %, until 2003, since donations have been very important in Nicaragua. However such resources have a downward tendency, in relative terms, because of the increase in transfers and other local taxes. There is no difference between general budgets and special budgets. In the event of disasters, special budgets may however be set up. As for other forms of municipal income, the law allows citizens to render services, in labor, to undertake infrastructure works, which are not always taken into account.

6.1 – Staff Administration in Local Governments

Local government staff. Censuses of municipal employees do not exist. The number of employees must total around 10 thousand or more, taking into account that in 2003 there were 8,648 estimated employees, according to the Diagnosis of Organization and Management of Human Resources 3. Of that total, 31% live in the Managua region. In the rest of the country,



31.5% are from the professional sector, 22.8% have secondary education, 38.8% primary education and 6.3% are illiterate. Therefore the quality of staff is very variable. The best personnel are concentrated in Managua and in the main heads of department. Aside from this, of the 140 municipalities surveyed (more than 90%), 48% stated that they did not have sufficient staff to develop their tasks and were not able to contract more due to the lack of resources. Given the high turnover of positions of responsibility (67% of staff have less than 7 years of seniority in the mayoralty), the fact that there is a low level of specialization should also be taken into account. The working situation of staff is decentralized, with a law in existence concerning careers in administration that helps to protect the stability of the work force.

As for the integrity of the elected authorities and civil servants, the perception of corruption in Nicaraguan public administration is average or medium if compared to other countries in the area. The integrity of local authorities is viewed more positively than other areas of public administration. There are corruption prevention programs in action, but they do not yet prioritize or focus systematically on municipal governments.

Finally, the administration of human resources in Nicaragua is based on a culture of management of public services, with little adherence to models of privatization. There are no national policies that define and apply a strategy to optimize the quality and efficiency of municipal public services.

Rokale Cardona Recinos

Executive Director of the Central-American Development Institute - IDELCA