

How the OAS Counters Nicaragua's Autocratization

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01 November 2021

Struggling for Democratic Elections

Ahead of the elections on 7 November 2021, the Permanent Council (PC) of the Organization of American States (OAS) sends a final warning to Nicaragua. On 20 October, it adopted [resolution 1182](#) and clarified that holding elections is not enough if these elections violate democratic principles. Although the OAS – like other regional organizations – faces persisting challenges when addressing member states that systematically disregard their core obligations in the fields of human rights, democracy, and the rule of law, it is in a position to make a difference in the struggle for the restoration of democracy in Nicaragua.

The pre-election context in Nicaragua

Already back June and July, the most promising oppositional candidates were removed from the electoral race: They were arrested, put under house arrest, or forced out of the country. It was the first culmination of what we have called a “[counter-reform](#)” with various legislative reforms that restricted the opposition and increased the president’s power on the election authorities. More recently, [leading members](#) of the top business associations in Nicaragua were arrested and the leading independent newspaper, *La Prensa*, [was shut down and its director arrested](#). Furthermore, the immunity of members of Parliament [was weakened](#), allowing for the lifting of immunity as soon as deputies are under investigation for criminal behavior. Overall, the Nicaraguan government has put an end to all hopes for free and fair elections. With its crackdown on the political opposition, civil society members, the press and other state institutions, it has effectively eliminated democratic governance in Nicaragua.

In response, the majority of opposition figures have decided [to boycott the election](#) and have [called upon](#) the international community not to recognize the electoral results. Yet, [six opposition parties](#) are still participating in the election. [Five little-known right-wing parties](#) and one party representing indigenous communities on Nicaragua’s Atlantic coast were allowed to participate. They [nominated](#) Óscar Sobalvarro, a former guerilla fighter, and Berenice Quezada, Miss Nicaragua 2017, as candidates for presidency and vice-presidency. Miss Quezada was [arrested](#) shortly after her nomination and removed from the race. Moreover, observers agree that they [do not stand a chance](#) against Ortega as they do not represent the main opposition coalitions, which have all been banned from participating in the election. In conclusion, the elections on 7 November will be a [scam](#).

OAS engagement

The bleak developments in Nicaragua have been on the agenda of the OAS for quite some time. Article 1 of the of the [Inter-American Democratic Charter](#) (IADC) establishes the right to democracy for all peoples of the Americas. Article 20 IADC authorizes the PC to collectively assess a situation that involves an unconstitutional alteration of the democratic order and, if necessary, to “undertake diplomatic initiatives” to restore democracy. If diplomatic initiatives fail, the PC can call for a special session of the OAS General Assembly, which may suspend a member state pursuant to Article 21 IADC. In its recent resolution, the PC threatened to trigger this mechanism if Inter-American standards are not maintained during the elections on 7 November – as is currently expected. This final warning raises multiple questions.

First, the efficiency of the collective mechanisms to promote democracy have been contested. Research has highlighted not only the lack of a shared definition of democracy throughout the region ([Lutz, 1997](#)), but also the “desultory” nature of collective foreign policy responses in the region. Given that a strong democratic regime at the national level is a necessary precondition for any commitment on behalf of member states ([Levitt, 2006](#)), a collective defense would turn void in the face of growing democratic breakdowns. Furthermore, empirical findings suggest that member states are rather concerned with *coups d'état* or external interventions and “shy away from confronting more subtle forms of autocratic tendencies” when applying the IADC ([Boniface, 2009](#)). For example, Daniel Ortega’s unconstitutional run for a third consecutive presidential term in 2016 did not provoke an evaluation on behalf of the OAS ([Perina, 2016](#)). Therefore, [Tom Ginsburg](#) concludes that “the OAS was, in many ways, focused on yesterday’s problem rather than today’s or tomorrow’s”.

This rather skeptical evaluation in scholarship raises the second question: Can strong engagement of the OAS even have an impact on the democratic backsliding in Nicaragua? The OAS has engaged continuously with the situation in Nicaragua and particularly with the subtle forms of “autocratization” in the recent months and years. Last year, the OAS General Assembly already adopted a [resolution](#) on the right to free and fair elections. It urged Nicaragua to accept independent election observer missions and to re-establish democratic institutions through adequate reforms no later than May 2021. On 15 June 2021, the PC passed another [resolution](#) in an emergency session that noted Nicaragua’s lacking compliance and issued doubts on the legitimacy of the scheduled elections. Last week’s resolution 1182 evaluates the current situation in Nicaragua and notes with concern that the political and human rights situation has deteriorated significantly. It details that Nicaragua’s electoral process violates established norms recognized by the Nicaraguan state and that it contradicts the Inter-American Democratic Charter.

Yet, Nicaragua has neither complied with any of these resolutions nor with the Inter-American Commission on Human Rights’ (IACHR) and the Inter-American Court of Human Rights’ (IACtHR) provisional and urgent measures in favor of the Nicaraguan political opposition. Nicaragua finally decided not to participate in the most recent session of the OAS General Assembly on 20 October 20. In a “notification of protest” (*nota de protesta*), the Nicaraguan foreign ministry indicated that the session’s objective flouted Nicaragua’s sovereignty and the will of its people, a reaction that has been evaluated as a form of [self-isolation](#).

These developments show similarities to the OAS engagement *vis-a-vis* Venezuela. On 10 January 2019, the PC decided [not to recognize](#) the legitimacy of Nicolas Maduro’s new presidential term, given

that the elections in 2018 had failed to comply with international standards for a free, fair, transparent, and democratic electoral process. The PC urged Venezuela to hold new elections and called on member states to adopt necessary “diplomatic, political, economic and financial measures”. This was echoed by the [General Assembly in late 2020](#), when it called for a new electoral process complying with Inter-American and international standards. However, Venezuela had already denounced the American Convention on Human Rights (ACHR) in 2012 and notified the OAS of its intention to withdraw from the OAS in 2017. Although the Guaidó government decided to rejoin the OAS – which was accepted by the PC in April 2019 – the Maduro government has staunchly ignored all calls and decisions issued by the OAS. In the Venezuelan case, the regional human rights and democracy system has therefore been unable to resolve the crisis.

Why OAS engagement can make a difference in Nicaragua

However, the interaction between Venezuela and the OAS and Nicaragua and the OAS is not the same. First and foremost, Nicaragua is still undisputedly a member of the OAS and has until recently participated in the meetings of the PC and General Assembly. Therefore, the strong engagement of OAS organs with the democratic backsliding in Nicaragua can make a difference. We propose a threefold argument why this is the case.

First, the PC passed resolution 1182 with no dissenting votes (26 votes in favor, 7 abstaining and one absentee (Nicaragua)). In comparison, the resolution of 22 October 2020 on Venezuela was issued with 21 votes in favor, 4 against and 9 abstentions. This indicates that the Ortega government has not been able to garner support for its position and that the OAS is unified in supporting a democratic recovery in Nicaragua. [U.S. Secretary of State](#), Anthony Blinken, emphasized this point: “With 26 countries voting in favor and zero votes against, this latest OAS action demonstrates that the Ortega-Murillo government stands isolated without supporters in a region committed to democratic principles”.

Second, the current resolution is framed by the broader institutional setup of the Inter-American System. In this respect, two Advisory Opinions of the Inter-American Court can be considered paramount. The Advisory Opinion on presidential reelection without term limits ([AO 28/21](#)), established that indefinite presidential re-election was contrary to the democratic principles underlying the Inter-American system and, thus, contravenes the ACHR and the American Declaration ([AO 28/21](#) operat. para. 4). In an unprecedented manner, the Court actively took a stance in favor of [democratic rotation in presidential systems](#). Concerning the scenario of a potential withdrawal on behalf of Nicaragua from the OAS, Advisory Opinion [AO 26/20](#) has called upon OAS member states to assume collective guarantee mechanisms and use certain mechanisms to prevent human rights backsliding connected with denunciations of international treaties. These recent advisory opinions from 2020 and 2021 have strengthened the normative system in favor of democracy promotion through the OAS and its member states.

Third, international attention to the situation in Nicaragua is currently strong, as a product of continuous civil society engagement. Most recently, the [Colectivo de Derechos Humanos Nicaragua Nunca Más](#), dedicated to preserving historical memory in Nicaragua and seeking justice for victims of the state-led violence unleashed by the Ortega regime since 2018, won the internationally recognized [2021 NED Democracy Award](#). Awareness is also strong among Latin American leaders. At the summit of the Community of Latin American and Caribbean States in September, Uruguay’s President, Luis Lacalle

Pou, emphatically called for a defense of [liberty and democracy](#) in Nicaragua. Of paramount importance in the Inter-American system is finally the continuous monitoring of the Inter-American Commission on Human Rights. A recent in-depth report on the [Concentration of Power and the Weakening of the Rule of Law in Nicaragua](#) analyses the historic roots of the current crisis and recommends the international community to demand free and fair elections. This is complemented by growing awareness outside of the region. The EU High Representative has already stated that Nicaragua is preparing fake elections and claimed the government of Ortega to be “[one of the worst dictatorships in the world](#)”. Calls for stronger sanctions against Nicaragua have been [raised in the US Senate](#).

The road ahead

Next Sunday’s elections will be a fraud. However, the OAS is in a position to lead efforts for the restoration of democracy in Nicaragua. With its unified stance, the reinforced normative setting, and international support and awareness, the OAS can take decisive action against the Ortega government. The forthcoming elections might not only be [derecognized](#), but potentially lead to a [suspension of Nicaragua from the OAS](#) and provoke further sanctions. With its final warning, the OAS shows that it is ready to employ these mechanisms and engage in the struggle for the restoration of democracy in Nicaragua.

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SUGGESTED CITATION Ripplinger, Alina Maria; Kriener, Florian: *Struggling for Democratic Elections: How the OAS Counters Nicaragua's Autocratization*, *VerfBlog*, 2021/11/01, <https://verfassungsblog.de/struggling-for-democratic-elections/>, DOI: [10.17176/20211101-172917-0](https://doi.org/10.17176/20211101-172917-0).

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