

Forum: International Court of Justice

Issue: Nicaragua VS United States of America

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Introduction:

In 1986, the International Court of Justice faces one of its most consequential decisions; investigating military and paramilitary activities in and against Nicaragua. This is known as the Nicaragua vs The United States case, addressing covert United States activities in Nicaragua. The case takes place amidst the rising Cold War tensions and political unrest within Nicaragua throughout the 1970s and 80s. Nicaragua has faced many challenges in their political sphere through the years demonstrated by the Sandinista Revolution of 1979 which sought to overthrow the Somoza government and establish a new one, in which they succeeded. The newly formed socialist government in Nicaragua and its ties with the Soviet Union and Cuba drew the concern of the United States, especially that of the administration of Ronald Reagan. The Reagan administration viewed the Sandinistas Revolution as a threat in Central America and sought to counter their influence which resulted in the United States providing support to the anti-Sandinistas known as the Contras. The U.S. government provided support to the Contras, in an attempt to destabilize the Sandinista government and overthrow it. It is important to note that during this period both the Sandinistas and the Contras were accused of committing human rights violations and atrocities against civilians. Finally, Nicaragua formally filed a case in 1984 against the United States accusing the U.S. of violating international law. Nicaragua's complaint to The ICJ becomes a significant milestone for international law, highlighting the rules of state sovereignty and interference in global relations. This case stresses the intricacies and repercussions of non-native intervention in sovereign nations' affairs.

Definition of Key Terms:

1. **Paramilitary:** (of an unofficial force) organized similarly to a military force.
2. **Sandinista Revolution:** The rising opposition to the Somoza dictatorship in the 1960s and 1970s

3. **Contras:** Various U.S.-backed and funded right-wing rebel groups that were active from 1979 to 1990 in opposition to the Marxist Sandinista
4. **Somoza Dynasty:** A corrupt political family which ruled Nicaragua for forty-three years – from 1936 to 1979
5. **Contadora Group:** Made in the 1980s by the foreign ministers of Colombia, Mexico, Panama and Venezuela to deal with the Central American crisis

Background Information

The fall of the Somoza Dynasty

Prior to the 1980s, Nicaragua was ruled by the Somoza family, a dictatorship that had maintained power for over four decades. The Somoza rulers, specifically the last one, Anastasio Somoza Debayle, was known for being corrupt, repressive as well as a violator of human rights. This paved the way for a rise in resistance to this dictatorship through violence and influence. It is important to note that the Somoza family supported the United States, by aligning their regime with the State's foreign policy. Debayle was in demand for immediate modernisation, primarily by growing exports, and increasing the nation's economic infrastructure. This particularly was parallel to the US's foreign policy, which created a strong bond between the nation's rulers.

The 1978 - 1979 Sandinista Revolution

Driven by the widespread discontent with the Somoza regime, an extensive movement known as the Sandinista National Liberation Front (FSLN) emerged in the late 1970s. This movement consisted of left-leaning groups wishing to end the rule of the Somoza dictatorship and present a new socialist government.

Somoza's Overthrow

In 1979, through an armed struggle, the Sandinistas managed to successfully overthrow the government. This resulted in the Somoza fleeing the country and the Sandinistas took control of the Nicaraguan government, led by Daniel Ortega as well as other prominent leaders.

Ideological Differences

The rise of the socialist government in Nicaragua raised tensions in the already building Cold War that had been ongoing through the United States and USSR. Nicaragua's new socialist government and its connections to the major communist player known as the USSR as well as its ally Cuba worried the United States. The geographical tensions scared the United States seeing as the socialist Nicaragua was a step closer to the mainland United States. Furthermore, the socialist ideals that were now fast paced moving towards the United States not only worried the government but also acted as a moral booster for the USSR, as they spread socialism constructs and concepts, and put the United States' vulnerability on an international stage as the socialist government in Nicaragua highlighted their anxiousness.

US Intervention

The Reagan administration of Ronald Reagan (POTUS) at the time had been focusing on a strategy of containment to stop the spread of communism. The proposed threat of Nicaragua drove them to intervene. The U.S government provided financial, military and logistical support to anti - Sandinista. This aid consisted of supply of weapons as well as training. Anti - Sandistas were also known as the Contras. They were made up of former members of the Somoza regime's military as well as those who resisted the Sandinista regime. This could be taken as an incentive and as a warning to both the Sandinista and the anti-sandinista groups, to highlight the US's dire need for Nicaragua to stay clear of the left-wing political views, as by showing the US's support (incentive to continue fighting) for the Contras, and the US's condemnation (warning to the sandinistas),

Contra War (1979-1990)

Under the order of the President, Ronald Reagan initiated a covert operation providing these arms to Contras in Nicaragua. This resulted in a war between the Contras and Sandinistas fueled by United States fear of the Nicaraguan revolution being geographically close to mainland America. It was their goal to rid Nicaragua of the socialist government formed under the Sandinista National Liberation Front. During the duration of the Contra War, The United Nations estimated the entire material damage over the 3 year war period to amount to about US\$480 million. This highlights the sheer destruction of resources, that is by part funded by the US. This statistic further goes to show that the economic and global colonial superpower of the US's loss of material was significant, therefore highlighting the extreme loss for the much less economically developed nation of Nicaragua, and having the Contra War specifically impact Nicaragua notably more than the United States.

Current Situation

Escalation of Conflict

The Contra war strengthened with increasingly violent armed attacks and military action. This led to major human rights abuses by the Contras and Nicaraguan government. To illustrate, the Contras were, "allegedly targeting healthcare clinics, and healthcare workers for assassinations and kidnappings in less developed areas of Nicaragua." This pushed the less fortunate civilians to become intimidated by the Contra group, and the Contras subsequently gained popular vote due to fear of punishments if they did not side with the group.

Human Rights Abuse

According to Human Rights Watch "[The] contras were major and systematic violators of the most basic standards of the laws of armed conflict, including by launching indiscriminate attacks on civilians, selectively murdering non-combatants, and mistreating prisoners." Additionally Amnesty USA highlighted major violence against women, freedom of expression, as well as restrictions on women's sexual and reproductive rights. That included rape and torture.

Economic Impact

Nicaragua's already struggling economy due to the corrupt Somoza regime became further crippled. This conflict caused disruptions in Nicaragua's agriculture, trade and infrastructure which led to nationwide poverty and food shortages. In addition, the war stained Nicaragua's global credibility to receive imports from geographically far nations, which put a further strain on the country's resources and materials to fight the war. Furthermore, in the previous Somoza dynasty, growing the nation's exports was given heavy significance, but due to the escalation of conflict, this was halted.

International Controversy

The United States influence and shared view with the Contras caused global controversy and became the subject of global condemnation as well. Human rights organizations and other countries accused the United States of funding and arming a paramilitary force that committed gross violations of human rights in Nicaragua. This tainted not only the United State's reputation, but Nicaragua's as well, as they were deemed an

unsafe nation during that duration, which contributed to the nations economic impact mentioned above.

Nicaragua's Complaint to The ICJ in 1984

In 1984, Nicaragua filed a formal complaint against the United States accusing the United States of violating the sovereignty of Nicaragua, involving themselves in internal affairs as well as actively encouraging violence through its support for the Contras.

Violation of Sovereignty

Nicaragua asserted themselves by saying that the United States was infringing upon its sovereignty by providing multitudes of assistance to the Contras. The government claimed that this constituted a prohibited intervention into its domestic affairs by supporting and arming a group that was attempting to overthrow a legally established government. Furthermore, the United States was trialed against the Treaty of Friendship, Commerce and Navigation, signed by the United States and Nicaragua in 1956. The Treaty was signed with the purpose of upholding bilateral relations, hence the Treaty of Friendship, between both countries, which the Nicaraguan government felt was breached by the violation of sovereignty,

Unlawful Use of Force

The United States was also accused of using culpable force through the Contras as well as mining Nicaraguan harbors. This led to casualties from both sides, the Nicaraguan government as well as the US-backed Contras. This added to human rights violations that had been present as violence escalated.

Economic Damage

Due to the violent actions from both sides of the Contra War, Nicaragua had faced loss in many sectors of their nation such as agriculture, infrastructure as well as trade. This restricted Nicaragua and caused the people of the nation - some of whom had been displaced - to face many hardships as a result. Though the United States also suffered economic damage from aiding one side of the war, it was the nation of Nicaragua who, to begin with, was heavily less economically developed, which therefore faced the more devastating end of the economic side.

Request for Reparations

In Nicaragua's complaint, they requested to be compensated for the damages in their nation caused by the U.S intervention. Nicaragua wanted the United States to be held accountable for their actions and show some respect to the citizens of the nation after being the main reason for Nicaragua's political, social and economical decline. As per the International Court of Justice's policy, no specific amount of reparations was initially sought after, however the Nicaraguan government wanted the material and resource loss, and construction damage, at the minimum, be compensated for.

Challenge to the U.S. Policy

Not just looking for legal remedies, the filed complaint by Nicaragua was a bigger challenge to the United States policy supporting the anti-Sandinista forces. This case was able to put a spotlight onto the United States and tarnish the hero-like reputation that the United States had been presenting.

Major Parties Involved and Their Views

United States of America

The United States viewpoint at the time was heavily affected by the Cold War tensions that had been brewing amidst the USSR and themselves. Specifically its concerns about communism's perceived expansion in the region. This had been threatened before during the Cuban Missile Crisis of the early 1960s. The Reagan Administration perceived a socialist Nicaragua and its ties to communist Russia as a challenge to U.S interest. Moreover, the United States failed to recognize the ICJ's jurisdiction in a case such as this one and debated that they did not have any authority over disputes concerning military and security matters. The United States questioned the ICJ's jurisdiction, which led to conflicting international views on the situation, as though Nicaragua had rallied somewhat popular vote by attracting the C.A.M. nations (Costa Rica, Guatemala, Honduras, Nicaragua, Panama and El Salvador), The United States still had the primary global stage, due to the pre/post-cold war attentino, the nation had grappled with.

Anti Communist Stance

The United States had viewed the Sandinista government as one that was in line with Marxist ideology and did not want Nicaragua to become a foothold for communism in Central America. The Reagan Administration saw that this would be detrimental to the U.S interests and hoped to contain and put an end to it. Moreover, the United States had learned from their perceptions in Cuba in the 60s and were aware that countries who are stated as socialist may be influenced by the USSR. The U.S government had been wary of a Russian connection to Nicaragua establishing a pro-communist regime in the nation, posing a direct threat to U.S. security interests in the Western Hemisphere. This additionally demonstrated the U.S fearing a potential domino effect in the region, this drove their struggle for influence over Nicaragua through violent means. Moreover, McCarthyism also known as the Red Scare, was a political view developed by Joseph McCarthy, which was fundamentally the concept that, "the threat that Communist-led insurgencies would overthrow the pro-Western governments in developing countries in Asia, and Central America." McCarthyism was spreading fast, and worried the United State's government, in proving true, after Cuba's socialism trajectory in the 1960s. McCarthyism was a driving contributor to why the United State's wanted to handle the Nicaraguan conflict between the two nations, and therefore claimed the International Court of Justice had no jurisdiction over the case, and thus wanted to solve the conflict by facilitating talks to prevent the imminent trajectory to total socialism.

Nicaragua

Nicaragua's perspective had been driven by their desire to protect their sovereignty from what appeared to be external interference in their domestic affairs particularly from the United States. There was also an additional desire to defend the socialist government that had been put in place legally in which they wanted to better the lives that had been ruined by the Somoza rule over four decades.

Post Revolutionary Goals

The newly formed Sandinista government wanted to implement social reforms, improve living standards for the poor and marginalized as well as reduce the wealth gap within the nation. They aimed to recover Nicaragua from the corruption that came from the Somoza dictatorship and so strongly defended the socialist government that was in place. The new Sandinista government also had completely contrasting political views than the Somoza dictatorship, which promoted the growth of exports and close alliance with the United States. Instead, the new government wanted to assert Nicaraguan dominance over the Central American diaspora, and come close to an absolute sovereign nation.

Additionally, by filing the complaint to the International Court of Justice, the Sandinista government was taking a step towards their aforementioned post revolutionary goals.

Anti Revolutionaries

To Nicaragua the U.S backed rebel group-the Contras-, fighting against the Sandinistas had been perceived as remnants of the Somoza rule regime. Within the government they had been portrayed as counter revolutionaries who sought to undo the gains of the socialist Sandinista government.

International Solidarity

Nicaragua wanted support from the international community in their struggle against U.S backed involvement. They wanted support in condemning the actions of the United States and the Contras. They would argue that Nicaragua had every right to follow its own political, social and economic path. Support from other nations in the region would weaken the influence that the United States had and strengthen the power of Nicaragua's argument. Furthermore, with rising unions in the South (Contadora group) Nicaragua believed it was crucial to raise international support and sympathy against the United State's heavy domination over the Nicaraguan government, by rallying CAM nations (Costa Rica, Guatemala, Honduras, Nicaragua, Panama and El Salvador) to stand against the United State's sphere of influence over the nations. Gaining international support and solidarity from the global community was the aim for Nicaragua to highlight the unfair control the US had on these states, and therefore gain popular vote in their complaint to the International Court of Justice.

The International Court of Justice

The principal judicial system of the United Nations had been basing its stance based on the evidence that had been provided by both Nicaragua and the United States aiming to come to the most just verdict based on international law. The Court had positioned themselves on many things that had been argued.

The United Nations

The UN had been much more focused on finding peaceful solutions to the conflict in Nicaragua and assisting in providing regional stability. The UN sought to facilitate dialogue

and negotiations to bring an end to the hostile environment that surrounded the situation and to promote peace in the area.

UN Involvement, Relevant Resolutions, Treaties and Events

The UN was providing humanitarian assistance after the Sandinista victory in 1979. Nicaragua was facing a tough situation, with displaced communities, economic challenges and social unrest. UN agencies such as the UN High Commissioner for Refugees (UNHCR) and the World Food Program (WFP) were actively providing assistance to those who needed it.

The UN, through its diplomatic relations kept a close eye on Nicaragua and supported its political transition and democratization. The UN was able to provide a platform for dialogue and communication between the Sandinista government and other countries as well.

The UN Development Program (UNDP) was involved in Nicaragua as well. This assisted development initiatives within Nicaragua to improve their socio-economic sector. This aimed to reduce overall poverty and improve living conditions for all Nicaraguan after the revolution

The United Nations had been supporting the Contadora group which consisted of Latin-American countries (Columbia, Panama, Mexico and Venezuela) in efforts to have peace talks in Central America. This group had been key in helping negotiations between Nicaragua and other Central-American countries. The Contadora group acted as mediators for the conflicts arising in the Central American region, and first tackled the United States main influence on that region, and their militarist stance. The group drafted the "Peace Plan" which was fully supported by the United Nations Security Council. The Peace Plan also somewhat bodied some articles of the Treaty of Friendship, Commerce and Navigation, signed between Nicaragua and the United States, but on a more international level.

Under the United Nations Treaty Collection, the Treaty of Friendship, Commerce and Navigation was also a relevant document for the International Court of Justice. The Treaty was signed in January of 1956, between the United States of America and Nicaragua, to promote cooperation and relations between the two nations. Furthermore, it was used as a

statue record against the United States as their funding of the anti-sandinista groups were seen as a violation of the first of three main ideals of the Treaty, friendship.

Possible Solutions

1. Call for a revision or reinterpretation of international law regarding interventions in sovereign states to better address the complexities of conflicts like the one between Nicaragua and the United States.
2. The United States could provide substantial humanitarian assistance to Nicaragua, focusing on addressing socio-economic challenges and rebuilding infrastructure. This gesture would demonstrate a commitment to supporting the well-being of the Nicaraguan people and facilitate reconciliation
3. Initiate cultural exchange programs between the two nations to foster people-to-people connections and promote cultural understanding. This could include academic exchanges, arts collaborations, or sports events, enhancing empathy and breaking down stereotypes of perceived differences.

Bibliography

Useful Links

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