



<b>Forum:</b>	International Court of Justice
<b>Issue:</b>	Military and paramilitary activities in and against Nicaragua (Nicaragua v. United States of America)
<b>Student Officer:</b>	Saskia Buijs - Isa Dijkstra
<b>Position:</b>	President - Deputy President

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## Introduction

The case submitted by Nicaragua against the actions of the United States of America will be explained and investigated in the following report. Nicaragua (the applicant to the ICJ) has had a detailed history with the USA following their intervention in 1909 (“Nicaragua v. United States”). The USA is being brought to court with allegations of military and paramilitary activities in and against Nicaragua.

In the application Nicaragua submitted to the ICJ on the 9<sup>th</sup> of April 1984, they stated as facts that the United States, under the rule of Ronald Reagan are believed to have provided arms, ammunition, food, and medical supplies as well as provided training from the US-originated Nicaraguan National Guard. As will be discussed in the report, the US government spent 70 million US dollars on their activities within Nicaragua. Their impromptu army of 10000 mercenaries resulted in the murder, wounding, rape and displacement of over 117,400 Nicaraguan citizens.

Furthermore, in the application to the ICJ, Nicaragua ask for the court to declare that the US violated its express charter and treaty obligations, violated the sovereignty of Nicaragua through launching air, land and sea attacks, trespassed into Nicaraguan airspace and aimed to intimidate Nicaragua. Furthermore Nicaragua wants the court to declare that the US has used and is using force and the threat of it against Nicaragua, is intervening with the internal affairs of Nicaragua, has been infringing the freedom of the Nicaraguan high seas and is interrupting peaceful maritime commerce, has, against international law, killed, wounded and kidnapped Nicaraguan citizens. Nicaragua asks for the US to stop all force, direct, indirect, overt or covert immediately against Nicaragua, asks the US to stop from violating their sovereignty, cut off all support (such as arms, medical supplies etc.) to any group or individual planning attacks against Nicaragua, to stop efforts to restrict, or endanger access to Nicaraguan ports, and to stop all killing of Nicaraguan citizens. The United States is expected to pay for the damages to the people, property and economy affected.

## Definition of Key Terms

### Civil War

A civil war is a war between two political parties or regions within one country. Civil wars break out due to conflicting ideas between two parties and can last varying lengths. (“Civil war”)

### Paramilitary Activities

The actions done by a military-like group of soldiers who have a similar structure, similar tactics, training, and often the same function as a country’s own military except it is not affiliated with the government, or is not registered as a country’s armed forces. (“Paramilitary activities”)

### Oppression

When authority is exercised in a cruel or unjust manner. This is most commonly used to describe the harsh regimes of dictators. (“Oppression”)

### Sovereignty

Holding absolute power of something. For example, having sovereign power over a country is to be in control of it. Other countries can challenge the sovereignty of a state by colonising it, or trying to control how it is being ruled.

### Intervention

Intervening is derived from the Latin “*intervenire*” meaning to come between or interrupt. In this context, it means how the US came between the relations in Nicaragua, whether it was between two internal groups or the US interrupting the ruling of the country for their own interest. (“Intervention - Dictionary Definition”)

## General Overview

### History

#### *United States intervention*

In 1909, the early beginnings of a civil war in Nicaragua, United States (US) president Taft ordered to overthrow the Nicaraguan president, José Santos Zelaya (Merrill, Tim). This was the first armed intervention of the US in Nicaragua. After the civil war in Nicaragua, which lasted from 1909 to 1911, conservative José Dolores Estrada

gained power; the US decided to support Estrada, with the condition that a Constituent Assembly was appointed to write a constitution. After agreeing to this, a regime led by Estrada was recognised by the US. However, political differences surfaced within a few months and Estrada was forced to resign by his minister of war, General Luis Mena. The vice president to Estrada, Adolfo Díaz, then became president. As Mena wanted to be the next president, he persuaded the Constituent Assembly to appoint him as Díaz's successor. When the US did not recognise this decision by the Constituent Assembly Mena decided to rebel against the Díaz government. Díaz requested the help of the US and after they sent 2700 marines to Nicaragua, Mena fled the country.

From 1912 to 1933, the US almost continually had a military presence in Nicaragua (Zaremba, Laura). This was in order to show the willingness of the US to aid the Nicaraguan government with force and its desire to keep conservatives in power. This collaboration allowed the conservatives to remain in power until 1925. During these years, the US and Nicaragua signed and ratified the Chamorro-Bryan treaty, this gave the US the exclusive rights to build a canal across Nicaragua. As the US already owned the Panama Canal this treaty mostly served to secure US interests against foreign countries. The treaty also made Nicaragua and the US much closer, with Nicaragua on the verge of becoming a colony to the US.

In 1924 the moderate conservative Carlos Solórzano was elected president. Together with the US, he agreed that the US troops would remain in Nicaragua and that military instructors would help Nicaragua to build a national military force. In August 1925 the US marines left Nicaragua, but in November of 1925 Solórzano was forced out of power by conservatives (Merril, Tim). The US feared that there would be a new round of conservative-liberal violence, so they sent marines. The US managed to mediate a peace agreement. However, when former vice president Sacasa returned to claim his rights as president, the violence resumed. The US, once again, managed to mediate the civil war and made the parties agree to the pact of Espino Negro (Merril, Tim). Under this pact, both sides would disarm, a nonpartisan military force would be established under US supervision, Díaz would finish his presidential term and a new election would be held under US supervision. In 1927 A liberal group under Augusto César Sandino refused to sign the pact of Espino Negro. Sandino staged an independent guerrilla campaign against the government and the US with the objective to protect the Nicaraguan sovereignty against the US (Merril, Tim). In reaction to this, the US developed the nonpartisan military force, the National Guard.

In 1933 Sacasa was elected president. In the same year, the US left Nicaragua and gave the command of the National Guard to the Nicaraguan government. Anastasio Somoza García was appointed as general of the National Guard. After the

US left, the Nicaraguan government was still threatened by Sandino's army, but as the US had left the country, Sandino agreed to negotiations with Sacasa. Within these negotiations, Sandino made his disapproval of the National Guard very clear, but as Somoza García wanted the National Guard to remain existing he executed Sandino against the will of the president (Berckenkamp, Mark). In the beginning of 1936, Somoza García confronted Sacasa with military force and in 1937 Somoza García became president, combining the roles of president and general of the National Guard (Zaremba, Laura).

### *The Somoza years*

Somoza García controlled the political power from his election as president in 1936 until his assassination in 1956. He was supported by the US, because of his good command of the English language and knowledge of the American culture, and had many powerful allies within the US. Through large investments, he enriched himself and his close friends.

After Somoza García won the elections he strengthened his power in the National Guard and divided his political opponents. He also gave his close family and friends key positions within the political system. As the Somoza family controlled the legislature and the judicial system, Somoza García controlled every sphere of the political system in Nicaragua. With the National Guard, he repressed all serious opposition and demonstrations against the government. When his term as president was about to end in 1938 he named a new Constituent Assembly which gave him extensive powers and elected him for another 8-year term (Merril, Tim).

During the second world war Nicaragua supported the Allies, and due to that they received many, much needed, American funds and supplied the US with the raw materials needed for warfare. As a result, the trade with the US soared and of all the Nicaraguan exports, 90% went to the US.

After the second world war Somoza Garcia's opposition increased and his opponents were popular by the time of the re-election in 1944. By using government resources and the National Guard he ensured that his candidate was chosen. Hereby making a puppet government, which he controlled while he remained chief of the National Guard. However, Argüelle, the elected president, did not want to be Somoza García's puppet. He challenged Somoza García's power within the first few months. Therefore, Somoza García staged a coup and placed a close family friend in power. As a reaction, the US withheld diplomatic relations from the new government. Although the new government tried to win the US support back, they did not succeed. In 1948 the relations were restored under pressure of the Latin-America community.

After these events, Somoza García was a bit more careful. He made compromises and by concessions and bribes, he brought back the support from the traditional elite in Nicaragua. In 1950 Somoza García was elected president again and in 1955 he was re-elected. Somoza García still had many political enemies and although he had personal bodyguards, in 1956 he was fatally wounded (Zaremba, Laura). His son, Luis Somoza Debayle, became president when he died. Luis' brother took over the leadership of the National Guard. This started a period of major political repression. Political opponents were tortured and imprisoned by the National Guard and press censorship was imposed. The brothers created a puppet opposition to make the political system look like a democracy, while they had all the power.

When Somoza Debayle's term ended, friends of the Somoza family held the presidency until 1967. In 1967 new elections were held, with this time a stronger opposition. As Luis Somoza Debayle was too ill to run for president, his brother Anastasia took part in the elections and won. With his election, he became president as well as general of the National Guard, giving him all the power in Nicaragua. Through amending the constitution, Anastasia Somoza Debayle stayed in power until 1972, which increased pressure from the opposition and his own party. This forced the president to negotiate a 3-member junta, which would rule from 1972 until 1974.

In December 1972, Nicaragua was hit by a powerful earthquake, which destroyed most of the capital city, caused approximately 10,000 deaths and left 50,000 families homeless (Merril, Tim). As the reconstructions began, Anastasia Somoza Debayle profited from the mismanagement of the international financial aid that was given to Nicaragua. His wealth soared, but this shocked the international community and caused a decrease in his support base in the business sector. When he wanted to run for president again in the 1974 elections this was resisted even in his own party. However, through even more political oppression, Somoza Debayle managed to be re-elected in 1974.

### *Sandinista insurrection*

In 1974 the Sandinista National Liberal Front (FSLN), a group that was against the government of the Somoza's, took some leading businessmen and government officials hostage and succeeded in getting 2 million dollars ransom from the government (Merril, Tim). This was humiliating for the government, and it further worsened the situation. In 1978 Pedro Chamorro, a journalist who was opposed to violence against the government, was murdered (Zaremba, Laura). This tipped the country into a civil war.

Within a year, heavy fighting had broken out all over the country and the

National Guard began to lose control. The FSLN, which was better equipped now, had gotten a leadership role in the anti-Somoza revolt. By the end of June 1979, most of Nicaragua was under FSLN control, except for the capital city of Managua. Meanwhile in Costa Rica, a provisional government had been established consisting of a five-member junta, of which some members were from the FSLN. In July, Somoza Debayle was under such pressure that he decided to resign and he fled to Miami (Berckenkamp, Mark). When he resigned, Francisco Urcuyo Maliaños, Somoza Debayle's vice president, became president. However, within two days he had to resign and the five-member junta was in power.

### *The Sandinista Years*

In the first years, the Carter administration supported the FSLN government, but when in 1981 Ronald Reagan took office he decided to isolate the FSLN government, claiming that they were supplying arms to the guerrillas in El Salvador and that they were a 'communist threat' (Berckenkamp, Mark), and suspended all US aid to Nicaragua. Later that year Reagan authorised support for groups that were trying to overthrow the Sandinistas. He supported a group of former members of the National Guard, which became known as the Contras (Klar, Nicholas). At the end of 1981, the numbers of this group had grown enormously, as many peasants from the coastal regions had joined. However, the leaders were all former member of the National Guard, which made the group very unpopular in the opinions of most Nicaraguans.

The Contras established operational bases in Honduras from which they targeted North Nicaragua. The Contras mostly inflicted economic damage by placing underwater mines in the Port of Corinto (Nicaraguan ministry of foreign affairs). This was found illegal by international law, therefore a United Nations resolution was made. This resolution stated that the US had to pay fines to Nicaragua. However, these fines were never paid. In 1982 US legislation prohibited direct aid to the Contras. As a result, Reagan's officials tried to illegally support them with weapons (Klar, Nicholas). In the beginning of 1984, Nicaragua submitted the case to the ICJ.

## **ICJ case: Nicaragua v. United States of America**

### *Nicaragua's submission*

On the 9<sup>th</sup> of April in 1984 Nicaragua submitted the case to the International Court of Justice (Nicaraguan ministry of foreign affairs). They charged the US with violating the treaty obligations to Nicaragua and breaching international law by intervening in internal affairs, which violated their sovereignty. As facts they stated that the US had been using military force, that they had created an army of more than 10,000 mercenaries and that they had spent more than 70 million dollars on these activities. They also stated that Nicaragua was suffering because of these activities. They stated that more than 1400 people had been killed, more than 3000 people had been wounded, raped or kidnapped, and 113,000 people had been displaced (Taylor, Stuart). Nicaragua demands that all military and paramilitary actions should cease and that the US should pay the reparations in Nicaragua.

### *United States of America's role*

Since 1909, the US has been militarily involved in Nicaragua, either supporting or opposing the Nicaraguan government. However, the most prominent actions of the US for this case were during the Sandinista years. The US opposed the Sandinista government and took actions against it, as Reagan thought that the Sandinista Government was a communist one. About this he said, "We are faced with the most dangerous enemy that has ever faced mankind in his long climb from the swamp to the stars, and it has been said if we lose that war, and in doing so lose this way of freedom of ours" (Berckenkamp, Mark). Reagan supported rebel groups who were against the Sandinistas with arms and money. He even continued to do this after the US congress prohibited the president from doing so. A year before Nicaragua's submission, Reagan's statements about the affair were that the Sandinista Government should be removed or that they should be forced to be more democratic (Taylor, Stuart).

## Major Parties Involved

### *Nicaragua*

Nicaragua is the applicant state to the court. They are applying because they believe the USA carried out military and paramilitary actions in and against Nicaragua. Nicaragua, in their application to the ICJ claimed that the USA has been training men and providing them with arms and other supplies to uprising against the regime of the Sandinista years. They had been in and out of civil wars in the early 1900s and had been oppressed by certain leaders such as Anastasio Somoza García.

### *United States of America*

The USA is the respondent to the case. They are being charged with military and paramilitary activities within and against Nicaragua. The first intervention of the USA in Nicaragua was in, when they aided in overthrowing the president, Zelaya. Since then, the USA was very involved with the leadership, trade and many other activities within Nicaragua. They are being accused of training an army of mercenaries with members of the Nicaraguan National Guard.

### *International Court of Justice*

The ICJ is a court located in the Peace Palace in The Hague, The Netherlands. The judicial organ was first initiated by the 1945 Charter of the United Nations. Therefore, any country that has ratified the UN charter has also ratified the statute of the ICJ. It is one of the 6 main organs of the United Nations and its function is to settle, in agreement with international law, disputes between states. The ICJ also provides advice or opinions to countries, organisations and UN bodies. Unlike other courts such as the International Criminal Tribunal for the Former Yugoslavia (ICTY) or the International Criminal Court (ICC), they do not prosecute individuals.

## Timeline of Key Events

<b>Date</b>	<b>Description of Event</b>
<b>1896</b>	The US landed marines in Nicaragua to protect US civilians in the wake of a revolution
<b>1900</b>	The US and United Kingdom signed the Hay-Pauncefote Treaty, which gave the US rights to build a canal in Nicaragua
<b>1909</b>	The US helped to depose of President Zelaya
<b>1912-1925</b>	US established military bases
<b>1927-1933</b>	A guerrilla campaign led by Augusto César Sandino fights against the US military presence
<b>1934</b>	Sandino assassinated on orders of the National Guard commander, General Anastasio Somoza Garcia
<b>1937</b>	General Somoza elected president. The start of a 44 year dictatorship of his family
<b>1945</b>	Nicaragua becomes the first nation to formally accept the UN Charter

<b>1956</b>	Anastasio Somoza assassinated, succeeded by his son Luis Somoza Debayle
<b>1961</b>	Sandinista National Liberation Front (FSLN) founded
<b>1967</b>	Luis Somoza dies, succeeded by his brother, Anastasio Somoza
<b>1972</b>	Managua earthquake with a magnitude of 6.25, killed around 10,000
<b>1978</b>	Assassination of Democratic Liberation Union leader, Pedro Joaquin Chamorro, led to general strike and FSLN unite to overthrow Somoza
<b>1979</b>	Somoza resigns, FSLN military offensive ends
<b>1982</b>	US-sponsored attacks by Contra rebels based in Honduras begin; a state of emergency is declared
<b>1984</b>	Daniel Ortega elected as president in a FSLN government. United States mined Nicaraguan harbours, actions were later condemned by the World court.

## Relevant UN Involvement and Resolutions

Although the UN was not directly involved in this conflict. In Nicaragua's application to the International Court of Justice, the mentioned that the United States violated the United Nations Charter, along with the Charter of the United States Organisation of American States, Convention on Rights and Duties of States, and the Convention concerning the Duties and Rights of States in the Event of Civil Strife.

## Appendices

### Appendix A

Nicaragua's application to the ICJ:

<http://www.icj-cij.org/docket/files/70/9615.pdf>

### Appendix B

Judgement, advisory opinions and orders of the 1986 ICJ case:

<http://www.icj-cij.org/docket/files/70/6503.pdf>

### Appendix C

Summary of the summary of the Judgement of the 1986 ICJ case:

<http://www.icj-cij.org/docket/?sum=367&p1=3&p2=3&case=70&p3=5>

## Bibliography

Berckenkamp, Mark. "Ronald Reagan En Nicaragua : Een Oorlog Van Woorden." *DSpace Home*. N.p., 30 Aug. 2007. Web. 19 June 2017. <<https://dspace.library.uu.nl/handle/1874/23233>>.

"Civil War." *Dictionary.com*. Dictionary.com, n.d. Web. 19 June 2017. <<http://www.dictionary.com/browse/civil-war>>.

ICJ. "Application Instituting Proceedings - Case Concerning Military and Paramilitary Activities In And Against Nicaragua." (1984): n. pag. *ICJ*. International Court of Justice. Web. 19 June 2017. <<http://www.icj-cij.org/docket/files/70/9615.pdf>>.

ICJ. "Report of Judgement - Case Concerning Military and Paramilitary Activities In And Against Nicaragua." (1986): n. pag. *ICJ*. International Court of Justice. Web. 19 June 2017. <Case Concerning Militar>.

"International Court of Justice." *The Court*. International Court of Justice, n.d. Web. 19 June 2017. <<http://www.icj-cij.org/court/index.php?p1=1>>.

"Intervention - Dictionary Definition." *Vocabulary.com*. N.p., n.d. Web. 19 June 2017. <<https://www.vocabulary.com/dictionary/intervention>>.

Klar, Nicholas. "U.S. Foreign Policy: Nicaragua and Reagan." *The Klar Books Site*. N.p., 1993. Web. 19 June 2017. <<http://klarbooks.com/academic/nicarga3.html>>.

Merrill, Tim. "Nicaragua: A Country Study." *Nicaragua*. N.p., 1993. Web. 19 June 2017. <<http://countrystudies.us/nicaragua/>>.

"Nicaragua History Timeline." *World Atlas*. N.p., 07 Apr. 2017. Web. 19 June 2017. <<http://www.worldatlas.com/webimage/countrys/namerica/camerica/nicaragua/nitimeline.htm>>.

"Nicaragua Timeline." *BBC News*. BBC, 09 Sept. 2012. Web. 19 June 2017. <[http://news.bbc.co.uk/2/hi/americas/country\\_profiles/1225283.stm](http://news.bbc.co.uk/2/hi/americas/country_profiles/1225283.stm)>.

"Nicaragua v. United States." *Wikipedia*. Wikimedia Foundation, 06 Apr. 2017. Web. 19 June 2017. <[https://en.wikipedia.org/wiki/Nicaragua\\_v.\\_United\\_States#Background\\_and\\_history\\_of\\_US\\_intervention\\_in\\_Nicaragua](https://en.wikipedia.org/wiki/Nicaragua_v._United_States#Background_and_history_of_US_intervention_in_Nicaragua)>.

"Oppression." *Dictionary.com*. Dictionary.com, n.d. Web. 19 June 2017. <<http://www.dictionary.com/browse/oppression>>.

"Paramilitary." *Wikipedia*. Wikimedia Foundation, 18 June 2017. Web. 19 June 2017. <<https://en.wikipedia.org/wiki/Paramilitary>>.

Taylor, Stuart. "Nicaragua tells The World Court that Regan's Statements convict the US." *The New York Times*. The New York Times, 06 May 1985. Web. 19 June 2017. <<http://www.nytimes.com/1985/05/07/world/nicaragua-tells-world-court-that-reagan-s-statements-convict-the-us.html>>.

"United States Occupation of Nicaragua." *Wikipedia*. Wikimedia Foundation, 17 June 2017. Web. 19 June 2017. <[https://en.wikipedia.org/wiki/United\\_States\\_occupation\\_of\\_Nicaragua](https://en.wikipedia.org/wiki/United_States_occupation_of_Nicaragua)>.

Zaremba, Laura. "Nicaragua: Before and After the Revolution" *Southern Illinois University Carbondale*. Southern Illinois University Carbondale, 1992. Web. 19 June 2017. <[http://opensiuc.lib.siu.edu/cgi/viewcontent.cgi?article=1031&context=uhp\\_theses](http://opensiuc.lib.siu.edu/cgi/viewcontent.cgi?article=1031&context=uhp_theses)>.