

Background- Nicaragua¹

Nicaragua is a small Central American country (pop. 6 million, 2017 est.) that has experienced repeated U.S. military intervention and the decades-long dictatorship of the Somoza family. In 1980, leftist Sandinista guerillas overthrew the Somozas and the U.S. responded by funding the violent Contra guerilla counter-insurgency. Despite the violence, Nicaragua successfully transitioned to democracy but continues to struggle with sporadic government violence, lack of respect for indigenous political and land rights, and authoritarianism. Its current president, Sandinista Daniel Ortega, has retained power for over a decade through increasingly dubious elections.

Nicaragua's early years were marked by internal conflict and external intervention. Before the arrival of the Spanish, Nicaragua was inhabited by diverse communities of farmers and hunter-gatherers, whose total population may have been as much as a million. After the arrival of the Spanish in the 1500s, European diseases and enslavement decimated the population, reducing it to tens of thousands. Nicaragua became a neglected backwater of the Spanish empire and the British allied with the Miskito people to gain control of much of Nicaragua's Caribbean coast. In the early 1800s, Nicaragua joined other Central American countries in achieving independence. However, independence inflamed centuries-old rivalries between Nicaragua's two principal cities: the middle class and Liberal León and the aristocratic and Conservative Granada. The two sides sought foreign backing in their fight for control, with the Conservatives generally obtaining support from Britain and the Liberals generally obtaining support from the United States. In 1855, the Liberals invited American adventurer William Walker to assist them in defeating the Conservatives. Walker established himself as dictator, legalized slavery, and declared English Nicaragua's official language. In 1857, in a rare display of unity, the Liberals and Conservatives banded together to force Walker out. The incident so discredited the Liberals that an unbroken series of Conservative presidents maintained dictatorial but peaceful rule for almost three decades. In 1893, Liberal Jose Santos Zelaya overthrew the Conservatives and assumed the presidency. Zelaya ruled as a dictator but nevertheless made beneficial social and economic reforms, abolishing the death penalty, building roads and telegraphs, and increasing exports of coffee, bananas, timber, and gold. Zelaya was fervently nationalistic and he twice invaded Honduras, pushed Britain out of the Miskito Coast, and fought against U.S. influence. In 1909, the U.S. forced Zelaya out and replaced him with a series of Conservative puppet presidents who supported U.S. interests but had little concern for Nicaragua, pocketing U.S. aid money and allowing the economy to collapse. When Nicaraguans rebelled in 1912 and again in 1926, the U.S. sent in the Marines to restore control.²

The U.S. invasions set the stage for a decades' long conflict between the dictatorial Somoza family and Sandinista rebels. After the 1926 revolt, the U.S. made peace with most of the Liberals, allowing them to hold power so long as they supported U.S. interests. Wealthy, U.S.-educated politician, Anastasio Somoza García had supported the 1926 revolt but quickly formed a strong relationship with the Americans, who placed him at the head of Nicaragua's newly

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² THOMAS WALKER & CHRISTINE WADE, NICARAGUA: LIVING IN THE SHADOW OF THE EAGLE 7-19 (2011).

formed National Guard. Other Liberals, however, refused to reconcile with the United States. Augusto César Sandino and his Sandinistas waged a guerilla campaign against the Marines until their final departure in 1933. With the Marines gone, Sandino sought peace with the government but Somoza's National Guard betrayed and executed him, then slaughtered hundreds of men, women, and children living in guerilla held areas. In 1937, Somoza overthrew Nicaragua's president and established what would ultimately be a forty-two year long family dictatorship. Somoza promoted economic growth but used the money primarily to line his own pockets and buy support. He encouraged the National Guard to engage in prostitution, gambling, smuggling, and bribe-taking, estranging them from the general population and tying them more closely to him. After his initial violence against the Sandinistas, Somoza mostly bought off members of the domestic opposition rather than suppressing them through violence. In foreign policy, Somoza continued his close relationship with the U.S., allowing it to use Nicaragua as a base in World War II and in counter-revolutionary operations in Guatemala.

When Somoza was finally assassinated in 1956, his sons stepped into power, imprisoning any civilian politicians who might oppose them. Somoza's eldest son, Luis, maintained dictatorial control but also sought to clean up the family image by hiring teams of well-educated advisors to implement social security, agrarian reform, public housing, and public education. Unfortunately, when Luis died of a heart attack, power passed to his younger brother, Anastasio, who had no such scruples. Anastasio enriched himself through corruption and surrounded himself with unqualified cronies who did the same, most infamously diverting aid money intended for victims of the 1972 Christmas earthquake. Anastasio's corruption increased public support for the leftist guerilla opposition group, the Sandino-inspired Sandinista National Liberation Front (Frente Sandinista de Liberación Nacional, FSLN or Sandinistas). To suppress the Sandinistas, the National Guard tortured, raped, and killed hundreds of peasants. The regime also assassinated newspaper editor Pedro Chamorro after his paper, *La Prensa*, reported on the massacres and the Somozas' corruption. Respected business and religious leaders spoke out against the regime and called strikes, the Sandinistas launched coordinated attacks on National Guard bases, and ordinary people revolted. Hundreds took up pistols, machetes, and rocks, only to be slaughtered by the National Guard's tanks, machine guns, and helicopter gunships. Somoza maintained the support of the U.S. government by playing on their fears of communism but, as international outrage increased, the Sandinistas raised money to buy arms from supporters in Latin America, Europe, and even the United States. In 1979, freshly armed Sandinistas forces stormed the capitol and forced Somoza to flee to Miami.³

The Sandinistas maintained power throughout the 1980s but ultimately crumbled due to U.S. opposition and their own repressive response to it. In their euphoric first year in power, the Sandinistas launched ambitious social programs and wealth redistribution, expropriating property from Somoza supporters but also from the merely wealthy, including their own allies.⁴ Without Somoza as a common enemy, the leftist Sandinistas and privileged business class quickly fell out. The initial coalition junta was abandoned by conservative members who had played key roles in the anti-Somoza revolt, including Pedro Chamorro's widow, Violeta, who turned La

³ *Id.* at 20-43.

⁴ *Id.* at 45-47; Larry Rohter, *A Tug-of-War in Nicaragua Over Seized Property*, N.Y. TIMES (March 2, 1997), <http://www.nytimes.com/1997/03/02/world/a-tug-of-war-in-nicaragua-over-seized-property.html>.

Prensa's criticism against the Sandinistas.⁵ In 1980, staunch anti-Communist Ronald Reagan won the U.S. presidency. Under his leadership, the U.S. terminated aid to Nicaragua, interfered with Nicaragua's efforts to obtain aid from international organizations, and blocked Nicaraguan exports.⁶ The U.S. also trained and funded violent counterrevolutionary guerrillas, called Contras, who attacked farming cooperatives, schools, and health clinics, torturing and murdering aid workers, throwing grenades into buildings filled with cowering civilians, and slitting the throats of babies.⁷ The Contras were especially active in Nicaragua's Atlantic coast, where the Miskito and other indigenous groups had retained partial independence into the late 1800s. The Contras lured some members of indigenous communities with promises of a new independent homeland and kidnapped and forcibly recruited others. In response, the Sandinistas forcibly moved almost 10,000 indigenous people, disappearing or killing as many as 150 on the way.⁸ The Sandinistas also detained hundreds of other Nicaraguans suspected of supporting the Contras, imprisoning them in harsh conditions and sometimes beating or even killing them. As the decade wore on, the Sandinistas imposed increasing restrictions on the press, censoring and repeatedly suspending publication of the newspaper *La Prensa*.⁹ Nevertheless, the Sandinistas remained committed to returning to democracy and, in 1984, Nicaraguan voters elected Sandinista Daniel Ortega to the presidency. International groups deemed the elections fair and the U.S. Congress banned further aid to the Contras. Undeterred, Reagan's White House declared the election a farce, initiated a trade embargo against Nicaragua, and secretly sold weapons to Iran to finance the Contras.¹⁰ As Nicaragua's economy collapsed and the conflict dragged on, voters soured on the Sandinistas. In 1990, voters rejected Ortega's reelection bid and elected Violeta Chamorro to the presidency.¹¹

In the 1990s, President Chamorro oversaw a delicate transition from the Sandinista regime, as former president Daniel Ortega and his allies maintained significant influence. In their final months in office, Ortega and his allies engaged in a campaign of wealth redistribution and embezzlement that became known as "la piñata", redistributing small plots of land to peasants and taking luxury homes for themselves.¹² Even after Chamorro took office, Ortega remained a

⁵ WALKER & WADE, *supra* note 2 at 43-47; Mark A. Uhlig, *Turnover in Nicaragua; Aristocratic Democrat; Violeta Barrios de Chamorro*, N.Y. TIMES (Feb. 27, 1990), <http://www.nytimes.com/1990/02/27/world/turnover-in-nicaragua-aristocratic-democrat-violeta-barrios-de-chamorro.html>.

⁶ WALKER & WADE, *supra* note 2 at 47, 49-50.

⁷ WALKER & WADE, *supra* note 2 at 47, 49-50, 54; HUMAN RIGHTS WATCH, HUMAN RIGHTS IN NICARAGUA: 1986 at 20-22, 24-25, 33-34 (1987),

<https://books.google.com/books?id=YNX3GBda5cMC&printsec=frontcover#v=onepage&q&f=false>.

⁸ WALKER & WADE, *supra* note 2 at 128; HUMAN RIGHTS WATCH, *supra* note 7 at 42-44, 125-127.

⁹ WALKER & WADE, *supra* note 2 at 49, 51-52; HUMAN RIGHTS WATCH, *supra* note 7 at 54-124.

¹⁰ WALKER & WADE, *supra* note 2 at 52-53; Jon Lee Anderson, *The Comandante's Canal*, THE NEW YORKER (March 10, 2014), <https://www.newyorker.com/magazine/2014/03/10/the-comandantes-canal>.

¹¹ WALKER & WADE, *supra* note 2 at 55-58.

¹² Ley No. 86, 29 March 1990, Ley Especial De Legalización De Viviendas Y Terrenos [Special Law on the Legalization of Houses and Lands], LA GACETA, DIARIO OFICIAL [L.G.], 3 April 1990, <http://legislacion.asamblea.gob.ni/Normaweb.nsf/xpNorma.xsp?documentId=BE020D669A167AD5062570A100577CB7&action=openDocument>; Ley No. 85, 22 March 1990, Ley De Transmisión De La Propiedad De Viviendas Y Otros Inmuebles Pertenecientes Al Estado Y Sus Instituciones [Law of the Transmission of Houses and Other Real Estate Belonging to the State and Its Institutions], LA GACETA, DIARIO OFICIAL [L.G.], 30 March 1990, <http://legislacion.asamblea.gob.ni/Normaweb.nsf/xpNorma.xsp?documentId=566BEA3859508A71062570A100577CB7&action=openDocument>; Anderson, *supra* note 10; Lee Hockstader, *Sandinista Handouts Stir Bitter Row In Nicaragua*, THE WASHINGTON POST (June 23, 1991),

prominent political presence and his brother, Humberto, remained Commander in Chief of the army. In 1990, Humberto's trigger-happy bodyguards shot to death a sixteen-year old driver who made the mistake of trying to pass Humberto's convoy.¹³ When the teenager's parents pressed for an investigation, they received death threats and a police officer who did investigate was shot to death. Humberto denied involvement and Chamorro claimed she was powerless to do anything.¹⁴ However, as her control of the government solidified and criticism of Humberto mounted, she announced plans to oust Humberto, prompting Daniel Ortega to berate her in front of ministers and diplomats.¹⁵ Nevertheless, she stood firm, forcing Humberto out of office, reducing the military's size and budget, and implementing ambitious, if not always effective, reforms to the military code.¹⁶ She also negotiated the demobilization of the Contras and implemented austerity measures that curbed inflation. Unfortunately, these reforms also had the negative effects of removing the government safety net for the poor, while simultaneously leaving at loose ends tens of thousands of young men whose only prior training was in fighting. Homelessness and crime soared and sporadic fighting continued between *recontras* (rearmed Contras) and *recompas* (rearmed Sandinistas.)¹⁷ When her term ended, Chamorro retired from politics.

In the 2000s, Ortega made a slow and fractious return to power. In 1996, Ortega lost the presidential election to Arnaldo Alemán Lacayo, who promised just compensation for the lands seized by the Sandinistas but soon revealed a Somoza-like flair for corruption, misappropriating tens of millions of dollars, including funds intended for the victims of 1998's Hurricane Mitch. In 2001, Ortega again lost the election to Enrique Bolaños Geyer, who fought to obtain Alemán's conviction for corruption but soon found himself facing accusations of electoral misconduct. In 2006, Ortega finally won the presidency and pursued a moderate, conciliatory regime, building economic ties with Nicaragua's neighbors, the U.S., China, and Venezuela. As part of his campaign to support fellow left-wing Latin American governments, Venezuelan President Hugo Chávez gave Nicaragua Venezuelan oil at discount prices, allowing Nicaragua to fund social programs that cut poverty. However, many Nicaraguans became disenchanted as Ortega consolidated power over the government, ended presidential term limits, and allegedly rigged elections. Ortega also faced increasingly disturbing allegations about his family. He steered government contracts towards his children's businesses and, facing action by the Inter-American Commission, settled accusations that he had molested his stepdaughter from the age of nine.¹⁸

<https://www.washingtonpost.com/archive/politics/1991/06/23/sandinista-handouts-stir-bitter-row-in-nicaragua/07c2cdb2-537d-4f79-95ad-fa12feed9fc5/>.

¹³ See *Genie Lacayo v. Nicaragua*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 30 (Jan. 29, 1997), <https://iachr.ils.edu/cases/genie-lacayo-v-nicaragua>.

¹⁴ Richard Boudreax, *Murder in New Nicaragua Stirs Fear of Old Ways*, L.A. TIMES (Dec. 31, 1990), http://articles.latimes.com/1990-12-31/news/mn-5578_1_humberto-ortega.

¹⁵ Tim Golden, *Nicaraguan Leader Reaffirms Pledge to Oust General*, N.Y. TIMES (Sept. 4, 1993), <http://www.nytimes.com/1993/09/04/world/nicaraguan-leader-reaffirms-pledge-to-oust-general.html>.

¹⁶ Larry Rohter, *Critics Question Nicaraguan Army's Makeover*, N.Y. TIMES (July 16, 1995), <http://www.nytimes.com/1995/07/16/world/critics-question-nicaraguan-army-s-makeover.html>; *Sandinista Yields Command of Army*, N.Y. TIMES (Feb. 22, 1995), <http://www.nytimes.com/1995/02/22/world/sandinista-yields-command-of-army.html>.

¹⁷ WALKER & WADE, *supra* note 2 at 65-66.

¹⁸ *Zoilamérica Narváez Murillo v. Nicaragua*, Case 12.230, Inter-Am. Comm'n H.R., Report No. 131/09 (2009) <http://www.cidh.org/annualrep/2009eng/Nicaragua12230eng.htm>; Jonathan Watts, *As Nicaragua's First Couple Consolidates Power, A Daughter Fears For Her Country*, THE GUARDIAN,

The victim's mother stood by Ortega and, in 2016, won election as Ortega's vice president. Today, small Contra groups have re-formed¹⁹ and critics such as the Chamorros' son accuse Ortega of replicating the type of corrupt, authoritarian family-dynasty he once sought to replace.²⁰

Throughout his terms in office, Ortega has maintained an ambivalent relationship with the Miskito and other indigenous peoples. During Ortega's first presidency in the 1980s, the Sandinistas sought to reconcile with the indigenous people they had forcibly removed by converting the Caribbean coast into two indigenously controlled autonomous zones.²¹ Despite the Sandinistas' efforts to win them over, indigenous communities voted heavily for Chamorro and were bitterly disappointed when she revealed her hostility to their autonomy by immediately appointing a government overseer for the autonomous regions. Increasingly, indigenous communities consolidated behind their own political parties including, most prominently, the Organization of the Peoples of Mother Earth (Yapti Tasba Masraka Nanih Asla Takanka, YATAMA).²² In 2000, however, the government passed an electoral law that tightened requirements for political parties to register and run in elections, severely limiting indigenous parties' ability to field candidates until the law was struck down by both the Supreme Court and the Inter-American Court of Human Rights.²³

Indigenous peoples' lack of political power and formal title to their lands left them vulnerable to exploitation and outright land grabs. In one characteristic case, a purportedly ecologically conscious forestry company and a forestry official with ties to the forestry industry persuaded the indigenous Mayagna community of Awas Tigni to sign contracts granting the company rights to cut trees on their land. At first, the community welcomed the jobs and revenues the contract would provide but, after initial harvesting, the company claimed that the cost of extracting the trees exceeded their value and that the community owed *them* money. The community soon discovered that the contract was for 25 years, not 5 years as they had believed, and that the

<https://www.theguardian.com/world/2016/nov/04/nicaraguas-first-couple-daniel-ortega-tighten-grip-power-election-win>.

¹⁹ Frances Robles, *Ortega vs. the Contras: Nicaragua Endures an '80s Revival*, N.Y. TIMES (March 7, 2016), <https://www.nytimes.com/2016/03/08/world/americas/ortega-vs-the-contras-nicaragua-endures-an-80s-revival.html>.

²⁰ Carlos F. Chamorro, Opinion, *In Nicaragua, a Blatantly Rigged Election*, N.Y. TIMES (Nov. 4, 2016), <https://www.nytimes.com/2016/11/05/opinion/in-nicaragua-a-blatantly-rigged-election.html>; See also The Editorial Board, Opinion, *Nicaragua's Electoral Farce*, N.Y. TIMES (Nov. 8, 2016),

<https://www.nytimes.com/2016/11/08/opinion/nicaraguas-electoral-farce.html>; The Editorial Board, Opinion, *'Dynasty,' the Nicaragua Version*, N.Y. TIMES (Aug. 4, 2016), <https://www.nytimes.com/2016/08/05/opinion/dynasty-the-nicaragua-version.html>.

²¹ Constitución Política, Arts. 89-91, 19 Nov. 1986, LA GACETA, DIARIO OFICIAL [L.G.], 5 Jan. 1987, <http://legislacion.asamblea.gob.ni/Normaweb.nsf/xpNorma.xsp?documentId=8339762D0F427A1C062573080055FA46&action=openDocument>; Ley No. 28, Estatuto De La Autonomía De Las Regiones De La Costa Atlántica De Nicaragua [Autonomous Status of the Regions of Nicaragua's Coast], LA GACETA, DIARIO OFICIAL [L.G.], 7 Sept. 1987, 30 Oct. 1987, <http://legislacion.asamblea.gob.ni/Normaweb.nsf/xpNorma.xsp?documentId=9F88A9114C4CA12F062570A100578099&action=openDocument>; WALKER & WADE, *supra* note 2 at 124.

²² WALKER & WADE, *supra* note 2 at 124-125.

²³ Ley No. 331, 19 January 2000, Ley Electoral [Election Law], LA GACETA, DIARIO OFICIAL [L.G.], 24 January 2000, <http://legislacion.asamblea.gob.ni/Normaweb.nsf/xpNorma.xsp?documentId=5EFAEEB45AFDC847062571F4005B1E49&action=openDocument>; YATAMA v. Nicaragua, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 127 (June 23, 2005), <https://iachr.ils.edu/cases/yatama-v-nicaragua>.

company had extended its cutting into a nature reserve and ignored contractual requirements to harvest an ecologically balanced mix of trees. When the community obtained legal representation, forestry officials declared that the land did not belong to the community after all and signed a thirty year contract directly with the company. Under pressure from the international community and the Inter-American Court, the government agreed to stop the logging but dragged its feet on formally titling the Awas Tigni community's land, only doing so in 2008, the year after Ortega's return to power and years after the 2003 deadline set by the Court.²⁴ Today, settlers continue to stream into indigenous territory in search of farmland, gold, and timber. Some illegally buy land from individual members of indigenous communities, while others murder indigenous landowners outright. Ortega vehemently condemns the takings but does little to stop it on a practical level, allowing the land grab to continue.²⁵

More information

Additional background was provided by the sources below.

For historical background, see the [Encyclopedia Britannica](#).

For an overview of the current human rights situation, see the [U.S. Department of State's 2016 Human Rights Report](#).

For information about human rights, including all relevant treaties and legal documents, see [Office of the High Commissioner for Human Rights](#).

²⁴ Mayagna (Sumo) Awas Tingni Community v. Nicaragua, Merits, Reparations and Costs, Judgment of 31 August 2001, Ser. C, no. 79 (August 31, 2001), <https://iachr.ils.edu/cases/mayagna-sumo-awas-tingni-community-v-nicaragua>; WALKER & WADE, *supra* note 2 at 124-125; S. James Anaya & S. Todd Crider, *Indigenous Peoples, the Environment, and Commercial Forestry in Developing Countries: The Case of Awas Tingni, Nicaragua* 18 HUM. RTS. Q. 345, 349-355 (1996).

²⁵ Frances Robles, *Nicaragua Dispute Over Indigenous Land Erupts in Wave of Killings*, N.Y. TIMES (Oct. 16, 2016), <https://www.nytimes.com/2016/10/17/world/americas/nicaragua-dispute-over-indigenous-land-erupts-in-wave-of-killings.html>.