

“Democracy Held Hostage in Nicaragua: Part 1”

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Madam Chair, Congressman Berman, distinguished members of the committee: I am honored and pleased to be here today discussing the future of democracy in one of Latin America’s poorest countries.

Not so long ago, U.S. policy toward Nicaragua was among the most controversial issues in Washington. The Reagan administration’s efforts to prevent Daniel Ortega and his Sandinista Party from creating a Cuban-style autocracy led to ferocious congressional debates, and ultimately to a presidential scandal. Shortly after Reagan left office, the Soviet-backed Sandinistas finally agreed to hold a free election, which was won by the opposition candidate, Violeta Chamorro. Unfortunately, her successor, the notoriously corrupt Arnoldo Alemán, conspired with Ortega to hijack Nicaraguan democracy, and the country has been paying a steep price ever since.

As a result of the 1999 Alemán–Ortega power-sharing deal (known in Nicaragua as “El Pacto”), Sandinista political strength increased dramatically, and Nicaragua reduced the minimum level of popular support necessary to become president, lowering the vote-share threshold from 40 percent to 35 percent. In December 2003, Alemán received a 20-year prison sentence for corruption and other crimes. In November 2006, Ortega was able to capture the presidency with only 38 percent of the vote, even though his two main conservative opponents won a combined total of more than 55 percent. In January 2009, the Sandinista-dominated Supreme Court cleared Alemán of all charges and released him from jail. “In exchange for his freedom,” *Time* magazine reported at the time, “Alemán returned the favor by essentially forgiving the Sandinistas last November’s electoral theft by providing the congressional votes needed to give Ortega control over the National Assembly, which had been considered the ‘last democratic holdout.’”¹

The November 2008 electoral theft had allowed the Sandinistas to maintain or secure control of the mayor’s office in Managua, León, and other municipalities. It was made possible by the pro-Sandinista Supreme Electoral Council, which has become a mere extension of the ruling regime. Even before the balloting began, government officials were busy working to disqualify various opposition parties and to block independent observers from monitoring the vote. The fraud was so egregious that Western countries suspended Nicaragua’s economic aid.

November 2011 witnessed another election -- and another example of Sandinista malfeasance. Nicaraguan authorities deliberately made it hard for voters to acquire their

¹ Tim Rogers, “Nicaragua Strongmen’s Pact Under Strain,” *Time*, Jan. 27, 2009.

identification cards; they sought to limit the number of election observers and poll watchers; and the Supreme Electoral Council once again operated with a disturbing lack of transparency. Luis Yáñez-Barnuevo, who headed the European Union's team of election observers, has affirmed that Ortega and the Sandinistas were victorious, but he has also questioned the size and nature of their victory, saying, "We don't know what would have happened without all these tricks and ruses."² The disputed election results sparked a wave of protests and violence. Several Nicaraguans were killed, and many more were injured.

Such is the intensely polarized and volatile atmosphere that Ortega has fostered. By rigging elections, trampling the constitution, persecuting his political opponents, and bullying journalists, he has laid the foundation for another Sandinista dictatorship. Indeed, the only reason Ortega was eligible to stand for reelection is that his judicial allies used legal thuggery to abolish presidential term limits.

The Nicaraguan constitution restricts presidents to two non-consecutive terms in office, and it bars incumbent presidents from seeking reelection. Yet in late 2009, the Sandinista members of the Supreme Court held an unannounced meeting of the six-magistrate constitutional panel and substituted three "replacement" justices for the three relevant opposition justices. This kangaroo court then invalidated term limits -- despite the fact that, according to the constitution, the only institution empowered to make such changes is the National Assembly.

As the U.S. State Department has documented, Sandinista abuses in 2010 included (1) "widely reported voting fraud in regional elections;" (2) "lack of respect for the rule of law and widespread corruption and politicization of the membership and actions of the Supreme Judicial Council (CSJ), the Supreme Electoral Council (CSE), and other government organs;" (3) the denial of accreditation to NGOs tasked with monitoring elections; and (4) the "erosion of freedom of speech and press, including government intimidation and harassment of journalists and independent media."³

Sandinista attacks on democracy at home have been complemented by aggressive behavior abroad. In the fall of 2010, amid a river-dredging project, Nicaraguan military forces effectively invaded and occupied an island that has always been considered Costa Rican territory, thereby sparking a major diplomatic crisis. (Costa Rica, we must remember, does not have a military.) When the Organization of American States (OAS) demanded that Managua withdraw troops from Calero Island, Ortega refused. After multiple rulings from the OAS, the International Court of Justice in The Hague got involved. It, too, ordered Nicaragua to remove all military personnel from Calero Island. Ortega is still disobeying this order: He has been sending Sandinista Youth members to the island, along with soldiers, under the guise of "environmental" missions.

Throughout the border dispute, Nicaragua has shown a flagrant disregard for international law, not to mention Costa Rican sovereignty. It is the type of behavior one normally

² "Violence in Nicaragua after Ortega election victory," BBC News, Nov. 9, 2011.

³ U.S. Department of State, "2010 Human Rights Report: Nicaragua," April 8, 2011.

associates with rogue states and tin-pot dictators. Ortega has used the Calero Island conflict to stir up nationalist passions and boost his popularity. It has also become an excuse for yet another presidential power grab, with the Nicaraguan leader expanding his control over the army and claiming broad new authority.

Not surprisingly for an erstwhile Soviet client, a longtime friend of the late Muammar Qaddafi (whose nephew is now serving as Ortega's personal secretary), and someone with a history of links to radical groups and terrorist outfits (such as the Colombian FARC, the Spanish ETA, and Yasser Arafat's PLO), Ortega has aligned his country with authoritarian regimes in Iran, Venezuela, and Russia. The Iranians have bolstered their strategic ties with Nicaragua, and Ortega has repeatedly offered obsequious praise for President Mahmoud Ahmadinejad, even when the Iranian Revolutionary Guards were massacring student democracy protestors in June 2009. Nicaragua has also become a Central American beachhead for the Venezuela-Cuba axis of "21st-century socialism."

Meanwhile, its foreign-investment numbers have been inflated by massive oil subsidies from Hugo Chávez. (Over the past half-decade, total foreign investment in Nicaragua has grown by 77 percent, according to the *Miami Herald*.⁴) The country is now enjoying roughly \$500 million worth of Venezuelan oil subsidies each year, an amount that represents approximately 7 percent of its GDP.⁵ The Ortega regime is also benefiting from international loans and high commodity prices -- while slowly crushing democracy and suffocating the opposition. This may be a recipe for short-term Sandinista political success, but it is not a blueprint for long-term stability. As journalist Andres Oppenheimer has noted, Nicaraguans seem to believe that: "If Chávez fell, or Venezuela stopped sending subsidized oil, or the IMF stopped making emergency loans, or commodity prices fell, Ortega's government would collapse."⁶

In recent years, Sandinista opponents have popularized the slogan "Daniel and Somoza, the same thing," a reference to the late Nicaraguan dictator whose regime was toppled in 1979.⁷ Just as Somoza once did, Ortega has cultivated business allies in hopes of minimizing domestic unrest and convincing Nicaraguans that autocratic rule is essential to stability. After campaigning fiercely against the Central American Free Trade Agreement (CAFTA), he has upheld the agreement as president. The World Bank's new Ease of Doing Business Index ranks Nicaragua ahead of Costa Rica and Brazil.⁸ While Ortega still uses the rhetoric of a socialist radical, his actual economic policies have been quite moderate.

In other words, he has cynically combined economic pragmatism with authoritarian politics. Thus, he supports CAFTA but also rigs elections. He encourages foreign investment but also manipulates the judicial system. He promotes a good business

⁴ Tim Rogers, "Central American free-trade pact a major success in Nicaragua," *Miami Herald*, April 8, 2011.

⁵ José de Córdoba, "Nicaragua's Ortega Wins in Landslide," *Wall Street Journal*, Nov. 8, 2011.

⁶ Andres Oppenheimer, "Nicaragua Headed for One-Man Rule -- Again," *Miami Herald*, March 17, 2011.

⁷ Tim Johnson, "In Nicaragua, fears that Ortega will be the new Somoza," *McClatchy*, Nov. 10, 2011.

⁸ *Doing Business 2012: Doing Business in a More Transparent World*, World Bank and International Finance Corporation, 2012.

climate but also flouts the constitution. We should not confuse his economic moderation with a genuine commitment to democratic freedom. Nicaraguan democracy is gradually being asphyxiated. The rule of law no longer exists in any meaningful sense; corruption is rampant; and the country is rapidly becoming a one-party state. Indeed, following the disputed 2011 election, the Sandinistas will now have a supermajority in the National Assembly. If (or when) the business community finally does turn against Ortega, it may be too late.

Finally, a word about U.S. policy: Washington responded to Nicaragua's fraudulent 2008 municipal elections by suspending economic assistance. It should keep using aid and development programs such as the Millennium Challenge Corporation to reward democratic progress and punish authoritarian abuses. The Sandinistas should also pay a serious diplomatic penalty for their transgressions. In addition, U.S. officials should amplify their support for Nicaraguan democracy and speak out more forcefully (and more frequently) against the banana-republic tactics displayed during the recent national elections. This would weaken Ortega's legitimacy and make it harder for the Sandinistas to continue their brazen assault on the constitutional order. Whether or not the United States can ultimately save Nicaragua from sliding back into dictatorship, U.S. policymakers in coordination with Latin American democracies should deploy all the economic and diplomatic tools at their disposal.

Thank you.