

US Law Continues to Punish Nicaragua for 1980s Land Reform

An interview with Nicaragua Network Co-Coordinator Chuck Kaufman.

Why is July 28 a significant date for US-Nicaragua relations?

US law requires a cut-off of aid to any country which has confiscated the property of US citizens. It also requires the US to vote against loans to that country in the international financial institutions such as the IMF. The law allows the administration to issue a “waiver” when the US president (delegated to the Secretary of State) determines it is in the national interest to do so. Every year since 1994 the US has issued a waiver based on Nicaragua’s “progress” in resolving property claims by US citizens.



How did this all come about?

The Foreign Assistance Act of 1961 included an important section known as the Hickenlooper Amendment. (Title 22 Foreign Relations and Assistance: Chapter 32 Foreign Assistance: Sub-chapter III General and Administrative Provisions: Part 1 General Provisions: Section 2370). The amendment, sponsored by the Iowa Republican Senator Bourke Hickenlooper, was aimed at Cuba which had confiscated the properties of US citizens after the 1959 revolution. Since the US doesn’t give aid to Cuba, the law had no effect, and in 1968 when Peru confiscated the assets of a US oil company, President Nixon simply ignored it when he took office in 1969. However, amendments to the Foreign Assistance Acts in 1994 and 1996, sponsored in the first case by Sen. Jesse Helms (R-NC) and Rep. Henry Gonzalez (D-TX) and in the second by Helms and Dan Burton (R-IN), eliminated presidential discretion and set up the “waiver” regime. The law has also since been interpreted to convey retroactive citizenship rights.

What is the precedent to apply citizen rights retroactively?

Prior to the Helms-Gonzalez and Helms-Burton amendments, there was no precedent in US or international law for the rights of citizenship to apply retroactively.

Who are these US citizens?

Of the 274 people whose claims have not yet been resolved, only 17 are actually US born citizens. The remaining 257 were Nicaraguans at the time their property was expropriated. They have since become naturalized US citizens.

Why did Nicaragua expropriate properties in the 1980s?

When the Sandinista Revolution overthrew the 46-year Somoza dictatorship in 1979, it is estimated that the Somoza family owned approximately 20-25% of the country’s arable lands. Hundreds of thousands of Nicaraguan farmers had no land of their own. Of all land confiscated for land reform, 56% belonged to the Somoza family, high government officials, and army officers. The other 44% of the land was confiscated under a variety of circumstances.

A 1996 investigation by the Nicaragua Network and Quixote Center identified four classes of people whose property was expropriated:

1. Criminals: Somoza family members and civilian and military members of the dictatorship who had committed crimes against humanity;
2. Debtors: Who mortgaged their property and left the country with the money, defaulting on the loans they had taken out from Nicaraguan banks.

3. "Abandonistas:" Those who succumbed to "red scare" propaganda and fled the country abandoning their property. Their property, which would not have been taken from them had they stayed, was usually expropriated to preserve it from further damage by squatters.

4. Innocents: A very small number of people whose property was confiscated in violation of Nicaraguan law.

Does it make sense that US law should treat equally the claims of these very different kinds of people?

No.



Property was confiscated from high officials of Somoza's National Guard.

How many claims has Nicaragua resolved?

The number is not clear. Prior to our 1996 investigation, Sen. Helms published a list of 751 "US citizens" whose property had been confiscated. The Chamorro, Aleman, Bolaños and current Ortega governments each settled hundreds of claims, but until recent years, new claims kept being added as more Nicaraguans became naturalized US citizens. Currently 274 claims are unresolved. Fifty-two have not submitted paperwork to prove they owned the property in question and therefore cannot be resolved. Nevertheless the US will not allow them to be removed from the roster. The remainder are the most difficult cases including those demanding outlandish compensation based

on "nostalgic value" unsupported by tax-value appraisal. However, the majority of remaining claims are those brought by the worst criminals of the Somoza dictatorship which no Nicaraguan government, be it of the Right or the Left, will agree to compensate.

How has this property waiver law affected Nicaragua?

The claims being made by now-U.S. citizens have had a major impact on Nicaragua's finances. Nicaragua has given out \$1.232 billion dollars in government bonds to US claimants since 1990, and pays the servicing on that debt each year. Thus, nearly the entire value of US aid over the past 19 years has gone right back into the pockets of US "citizens." In 2008 for example, the government paid US\$132.3 million to the bond holders which was the equivalent of 56% of its total expenditures on health care, or 39% of the government's total expenditures on education, or, perhaps even more shockingly, 19.3% of Nicaragua's gross domestic product. Nicaragua is the second poorest country in the hemisphere and can scarce afford to divert so much money from poverty alleviation programs.

How can this injustice be resolved?

In many cases it can't. Some claimants have been compensated twice and had their property returned under different post-1990 governments! But what can be done is for the US government -- the Congress and the Administration -- to determine that Nicaragua has fulfilled its "obligations" under US law. The Foreign Aid Act should be amended to remove the legally indefensible retroactive application of citizen rights and the administration should declare that Nicaragua is no longer subject to the annual waiver to be entitled to receive US economic aid. That will only happen if thousands of US citizens demand that their elected officials stop punishing Nicaragua now.

If you would like to join us in this campaign, contact the Nicaragua Network/Alliance for Global Justice, 1247 E St., SE, Washington, DC 20003; nicanet@AFGJ.org; www.nicanet.org or, Quixote Center/Quest for Peace, P.O. Box 5206, Hyattsville, MD 20782; email: quest-list@quixote.org; <http://quixote.org>.