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# **SPEECHES**

## **The Current Situation in Nicaragua: A Speech by Dr. Sergio Ramirez, Former Vice-President of Nicaragua\***

**ROBERT W. BENSON:\*\*** Dr. Sergio Ramirez attended law school in Nicaragua in the 1960s, at a time when the Somoza dictatorship, with the support of the United States government, controlled the Nicaraguan government in service of itself and a small privileged class.

Dr. Ramirez' first love was literature. By the early 1970s, he had produced several volumes of short stories. However, in Latin America, unlike the United States, commitment to literature does not mean alienation from political life. Despite being born to a privileged family, Ramirez joined the Sandinista Front in 1975. The Sandinista revolutionary movement eventually overthrew the Somoza dictatorship on July 19, 1979.

Dr. Ramirez was chosen as a member of the first Governing Junta of National Reconstruction and was elected vice-president under Daniel Ortega in the first democratic elections, held in Nicaragua in 1984. He served as vice-president until the Sandinista party lost the February 1990 election to the opposition coalition ("UNO"), led by Violeta Chamorro. Presently, Dr. Ramirez holds an alternate's seat in the National Assembly and is the leader of the Sandinista delegation in that assembly. He continues to be a prolific essayist on the theory of the Sandinista revolution and the thought of Sandino.

Dr. Ramirez, I would like you to know that you and your party have the continuing support of your many admirers here in the United States. We applaud your many accomplishments during ten years of government service, particularly your role in establishing a democratic government in Nicaragua for the first time in its history. Please join me in welcoming my friend Dr. Sergio Ramirez.

**DR. SERGIO RAMIREZ:** I am very pleased to be here in the United

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\* On September 13, 1990, Dr. Sergio Ramirez addressed a group of students and faculty at Loyola Law School in Los Angeles, California.

\*\* Robert W. Benson is a Professor of Law at Loyola Law School in Los Angeles, California.

States. We, the Sandinistas, will always be deeply indebted to the people of the United States, especially those in the academic community who have supported our organization for many years.

Rather than make a lengthy speech, I would like to begin with a short monologue and use the remaining time to answer questions you may have regarding the current situation in Nicaragua, especially those pertaining to the Constitution and the relationship between the government of Nicaragua and our students.

As you may know, the Nicaraguan Constitution was established in 1987.<sup>1</sup> The National Assembly approved the Constitution only after a very long period of public consultation among different sectors of Nicaraguan society. The framers considered many opinions in Nicaragua before approving the final draft. This Constitution, like many others in Latin America, has two main parts. The first part guarantees to all individuals freedom of speech, freedom of the press, and all other human rights considered to be fundamental in a democratic society.<sup>2</sup> The second part of the Constitution organizes the newer divisions of power of the state of Nicaragua under the revolution.<sup>3</sup>

The Constitution embodies all the economic, social, and political transformations that have occurred since the beginning of the revolution. For example, the Constitution calls for nonalignment with international powers in an effort to gain independence from external influence, which was one of the objectives of the 1979 revolution.<sup>4</sup> The Constitution also creates a system of political pluralism in which all sectors of society are able to freely participate in government.<sup>5</sup> This was most obviously demonstrated in the democratic electoral system under which this year's elections were held. Finally, the Constitution calls for a mixed economy comprised of both private and public sectors.<sup>6</sup>

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1. NICARAGUA CONST., reprinted in Caldera, *The Rule of Law in the Nicaraguan Revolution*, 12 LOY. L.A. INT'L & COMP. L.J. 345, 469 (1990).

2. *Id.* arts. 23-128, at 475-95.

3. *Id.* arts. 129-95, at 495-511 (primarily establishing the separate branches of government—legislative, executive, judicial, and electoral—and establishing municipalities).

4. *Id.* art. 5, ¶ 4, at 471.

5. *Id.* art. 5, ¶ 2, at 471. "Political pluralism assures the existence and participation of all political organizations in the economic, political and social affairs of the nation, without ideological restrictions, except for those who seek a return to the past or advocate the establishment of a political system similar to it." *Id.*

6. *Id.* art. 5, ¶ 3, at 471. "[T]hese [mixed] forms of property must serve the best interests of the nation and contribute to the creation of wealth to satisfy the needs of the country and its inhabitants." *Id.*

I would like to diverge momentarily to discuss some important things about the revolution in Nicaragua that I feel are imperative. First, I will address the establishment of democracy in Nicaragua. It is not an overstatement to say that the most important objective of our revolution in Nicaragua is to foster democracy. Democracy is imperative because revolutions and the fear of civil war almost always result from one-party, closed political systems. Although political parties were established in Nicaragua at the beginning of the revolution, we did not have the opportunity to establish a pure democratic system at that time because of external pressures on the revolutionary government. There was a serious war in progress, and, as a result, the development of the revolution was suffering many setbacks and delays.

In 1984, we did hold free elections. However, because the Sandinistas administered those elections, many political parties that were involved with the reorganization of the democratic government did not participate. In addition, the United States government did not recognize the legitimacy of the results of the 1984 elections. Nevertheless, democracy has now been established in Nicaragua. This was confirmed by the 1984 elections and by the 1987 Constitution. The only meaningful way in which the Sandinistas could demonstrate their commitment to legitimate democracy was to have periodic elections. Thus, we held the 1990 elections in accordance with the Nicaraguan Constitution.<sup>7</sup>

We did not hesitate for one moment to accept elections as a basic principle of democracy. We have accepted the results of the 1990 elections, even though we lost. Of course, that loss surprised us all, even Mrs. Chamorro. The defeat affected everyone in the Sandinista party. Nevertheless, we recognized that our first responsibility after the election was to calmly participate in the orderly transition of the government in a very unusual situation. This marked the first time in the history of Nicaragua, particularly during the last 150 years of republican government, that power had passed from one body to another by way of an election. In the past, Nicaraguan governments were overthrown or removed by force. The passage of power from one party to another was a new and unique challenge that brought completely new and different ideological ideas into Nicaragua. This

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7. See *id.* arts. 168-74 (describing the duties and responsibilities of the electoral branch charged with conducting elections).

challenge required a great deal of preparation, which was primarily the responsibility of the Sandinista party.

The transition agreement<sup>8</sup> that the Sandinistas and the new government signed on March 23, 1990, had three main objectives. First, the counter-revolutionary forces ("Contras") were to immediately be disarmed and demobilized. The Sandinistas recognized, when they accepted the results of the election, that the Contras were still present and continued to be supported by the United States government. Second, the Nicaraguan army and security forces were to remain under their own control and supervision as independent organizations. Third, the new government was to respect all social and economic transformations which had occurred throughout the last ten years of the revolution.

The first goal of the transition agreement, disarming and demobilizing the Contras, has already been accomplished. This was the single most important accomplishment during the transition period. It was absolutely imperative that the Contras be disarmed and disbanded. Today, the Contras exist only in the countryside and are a social and economic problem for the new government. However, they are no longer a military threat to the stability of the government. We can now say that the country is stable.

The second goal of the transition agreement, to maintain control of the army, has also been achieved. All Nicaraguans realize that the army was created as a result of the Sandinista revolution and that the guerrilla chieftains of the insurrection against Somoza were transferred to the army. However, both the Sandinistas and the new government have accepted the transition agreement with the understanding that the army will become an institutional body, rather than an armed body identified with the Sandinista party. The military's actions will be consistent with the interests of the nation of Nicaragua. However, all of the leaders of the army, including General Ortega, will remain in their respective positions.

The third goal of the transition agreement, relating to the transformation of the economic and social structure of the country, was the most conflicting and dramatic. Although the new government agreed to respect the transformation of the last ten years, it has its own political agenda and its own political mind. The new govern-

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8. See Boudreaux, *Contras to Start Giving Up Arms and Disbanding*, L.A. Times, Mar. 24, 1990, at A1, col. 4; Boudreaux, *Most Contras to Keep Arms, Leader Says*, L.A. Times, Mar. 25, 1990, at A6, col. 1.

ment believes that privatization of public properties will solve the economic problems of Nicaragua. The Sandinistas disagree. The new government believes that it is necessary to return Nicaragua to the hands of the old Somoza families who have been living in Miami during the last ten years. The new government wants to bring them back to the country and return to them all the property they lost as a result of the revolution. The Sandinistas strongly believe that this would endanger the social and economic future of the nation and would be contrary to the provisions of the Nicaraguan Constitution.

There is also a conflict of interest issue which arises in defining the public or private identity of future businesses. We cannot subvert our constitutional principles in the name of economic stability. We cannot be certain privatization alone will create economic stability. Neither can we be secure in assuming that economic stability alone will solve all of the country's social and economic problems.

The Sandinistas are now an unarmed civilian party. We will compete for power under the terms of the Nicaraguan Constitution—the Sandinista Constitution. Under its terms, Nicaraguan society was able to elect a party other than the Sandinista Front, and we will respect this. We now must be satisfied to wait for the next participatory elections. Meanwhile, we are preparing to serve as a real democratic political party, capable of participating in and influencing the governing of the country.

At this time I would like to answer your questions.

*QUESTION: Would you comment on the role that the Nicaraguan Supreme Court has in resolving the conflicts that you spoke of. I understand that the Supreme Court has declared unconstitutional one of the first decree laws that was issued by the Chamorro government—a civil service law. Is the Supreme Court an adequate instrument to resolve these conflicts?*

**RAMIREZ:** During the first weeks of the Chamorro government, Mrs. Chamorro really had little to do with the government's affairs. Instead, they were under the control of Mr. Antonio Lacayo, the Minister for the Presidency. He is the real "prime minister" of the country.

During the first weeks, they began governing under a different ideological design than that which we established in 1979. They governed Nicaragua by decree law. In my view, this was a mistake, because they ignored the fact that Nicaragua already had a constitution and a body of laws. They did this because it was easier for the new

administration to govern by law decrees, rather than sending laws through the National Assembly, which continues to be controlled by a Sandinista majority. The National Assembly does not favor the new government because the original coalition that brought Mrs. Chamorro to power is now split into two factions. One faction is led by Mr. Alfredo Cesar, who represents the interests of Mr. Lacayo and Mrs. Chamorro. The other faction favors the interests of Virgilio Godoy, the Vice-President of the Republic. Although they govern together, these two groups are politically opposed to each other in many ways. National Assembly members sometimes support the interests of Mrs. Chamorro for a period of time and then switch to accommodate the interests of Mr. Godoy.

Mrs. Chamorro's failure to gain a consensus in the National Assembly prompted her to begin governing through law decrees, which are in many cases unconstitutional. Ordinary laws passed by a vote of the National Assembly can only be amended by the National Assembly itself. Law decrees or simple decrees have, of course, a lower status in the legal structure of the Constitution and simply cannot supersede laws passed by the National Assembly.

The Supreme Court has received many complaints about these law decrees. It has already resolved a complaint over the reformation of the law protecting civil servants. The new government passed a law decree reforming an ordinary law that protects civil servants. The Supreme Court held the law decree unconstitutional and restored all the rights of the civil servants which were suppressed by the law decree.

There are other complaints presently before the Supreme Court which will be resolved in the near future. For example, one law decree ordered the National Assembly to form an administrative commission to determine the property reclamation demands of the old Somoza families who emigrated to Miami ten years ago and now want to return to Nicaragua. This law decree gives the administrative commission the faculties of an ordinary lower court. We challenged this decree before the Supreme Court because an administrative commission cannot substitute for an ordinary court under the terms of the Constitution. This issue will be resolved in the next few weeks. There are many others like it.

*QUESTION: What is the status of the International Court of Justice's decision regarding United States mining of Nicaraguan harbors? Has*

*there been some agreement by which Nicaragua would be paid damages for that action?*

RAMIREZ: In 1986, the International Court of Justice ordered the United States government to cease mining Nicaraguan harbors.<sup>9</sup> Additionally, the court ordered the United States to pay Nicaragua for the damage caused by its role in the war. The calculation of compensation is now under consideration.

Before the change of government in Nicaragua, the National Assembly passed a law that declared this decision of the International Court to be a national priority. The present Nicaraguan government cannot negotiate any settlement with the United States that does not comply with the terms of this law. The United States government is currently attempting to persuade the Chamorro government to stop the enforcement of this law. However, this will be impossible because of the many pressures on the new government.

One reason why the United States has failed to meet its commitment to give an enormous amount of aid to the Chamorro government (aid that is desperately needed in Nicaragua today) is to pressure the Chamorro government into a favorable settlement of this International Court case. Another rumor circulating is that the United States is negotiating for Nicaragua to drop its case before the International Court because the Bush Administration is planning to introduce to the court a case against Iraq.

QUESTION: *The new government is dealing with a body of law created by a National Assembly that did not originate and evolve from usual democratic processes. It is your position that the National Assembly, the Supreme Court, and the laws that existed prior to the change in government should remain in place. What is the policy of the Chamorro government, which was democratically elected by the people and is hopefully responsive to the electorate, towards continuing to govern under the 1987 Constitution and the laws enacted thereunder?*

RAMIREZ: I do not accuse the Chamorro government of being a fascist government. I admit that there have been some cases. However, I believe that it is not the will of the Chamorro government to develop a new constitution and to discard all the existing laws and procedures. There is always the temptation of converting the government by fas-

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9. Case Concerning Military and Paramilitary Activities in and against Nicaragua, 1986 I.C.J. 14.



cist procedures. In Latin American countries it is easier and more expedient for a government to act without the constraints of a written constitution. However, I believe that the political and social forces of Nicaraguan society will pave the way for the institutionalization of the country.

A classic division of powers between the Supreme Court, the National Assembly, the executive power, and now the electoral power will occur so that each can function independently. Stability is an important factor in the consolidation and independence of these public institutions. In spite of the fact that the Sandinistas are a revolutionary party, we have a commitment to consolidate democracy in Nicaragua, because democracy is guaranteed only by laws set forth in the Constitution. Admittedly, there are some sectors of Nicaraguan society, as well as some factions in the government, that simply wanted the Sandinista Front to disappear from the political scene following our 1990 electoral defeat. Our primary defense against this is to consolidate the democratic institutions in Nicaragua. These are the same democratic institutions that the Sandinistas created and which will allow the Sandinistas to maintain influence and power in Nicaraguan government.

*QUESTION: During a recent visit to Nicaragua in July 1990, I stayed with some Sandinistas, in Ciudad Sandino, who told me: "We are very heavily armed—everybody in our barrio has a weapon." I also heard numerous stories about civilian supporters of the Chamorro government carrying arms. In light of the statement you made here today that the Sandinistas are a civilian party, and not an armed party, can you please comment on the proliferation of arms in Nicaragua? How significant a threat is it to the democratic process?*

**RAMIREZ:** It is important to remember that during the height of the war from 1985 to 1987, more than one hundred thousand men carried arms in Nicaragua. This is a very high figure for a small country of only three to four million people. Moreover, this number refers to ordinary common people carrying arms and does not include the regular army. One reason for this high number is that it is legal for civilians to bear arms in many parts of Managua. In addition, soldiers often brought their arms back to their homes after completing their two-year draft term. Thus, after the elections and before the Contras were disarmed, there were thousands of guns in Nicaragua.

When the second strike occurred in June 1990, there was a real

threat of civil war. There were Sandinistas in barricades with arms and supporters of the Chamorro government with arms. In addition, members of the Contras came to Managua from the countryside to support the government. Fearing civil war, the army and the police began disarming everyone in the country. A new rule was enacted allowing only the police and the army to carry weapons. As a result, the government has confiscated thousands of weapons from civilians. There has been little resistance to this action in Managua because the people realize it is necessary to avoid the very real danger of a civil war in Nicaragua.

We must begin to condition our nation to accept the idea that all problems can and should be solved through the political process—not with arms.

*QUESTION: You described the Contras as a social and economic problem in Nicaragua. Does the Sandinista party have a position in the National Assembly on how to absorb, resettle, or deal with the Contras now that they are demobilized?*

*RAMIREZ:* The process of resettling the Contras is quite difficult. There were almost twenty thousand Contras who turned in their arms. This is a lot of people, especially when you consider that many of them have children and families. The Nicaraguan government made the commitment to establish what they call Contra Development Poles in different regions of the country where the Contras were operating. The United States committed to give the government about \$55 million to help settle the Contra forces. However, the government of Nicaragua has yet to receive this money from the United States. Without it, our government really has no chance of properly settling all of these people.

In addition to the enormous problem of dealing with the Contra forces and their families, there is also a major problem dealing with the poor peasants in the country. These people have not worked in a long time and are without food. To make things worse, Nicaragua is in the middle of a tremendous drought; the worst drought in the last ten years. Thus, there is no food in the countryside and no way to obtain food for the remainder of the year. This is obviously affecting all of the peasant families. We are now in a critical situation. All the economic measures that the government has taken using the new liberal national monetary policy are currently creating a desperate situation. Deprivation, hyper-inflation, recession, unemployment—all of

these are part of the problem. There is the real possibility of social upheaval—not caused by political forces or the Sandinista Front, but by the whole social and economic situation. It may very well explode.

**QUESTION:** *You said that the Sandinista party stated in its addresses to the National Assembly that it does not believe in privatization. What do you see as the answer to Nicaragua's economic problems?*

**RAMIREZ:** The solution to Nicaragua's economic problem is not privatization. Privatization is an ideological solution. Real problems cannot be solved through ideological solutions. We, the Sandinistas, also cannot be ideological in this sense. We cannot oppose privatization solely on so-called ideological principles.

I think Nicaragua first needs economic stability. Economic stability is needed to put an end to hyper-inflation and to create a general atmosphere of stability in the country. This would create employment opportunities and facilitate foreign investment in the country. If it is necessary to turn over an enterprise to private hands, I am not opposed to it. However, private enterprises must be owned by persons who can bring resources and new investment capital into the country in order to create and stimulate economic activity. But to put enterprises into the hands of individuals who have been living in Miami for the last ten years, who have no continuing commitment to long-term investment in Nicaragua, would be imprudent. This would resurrect social conflict in the country because it would involve returning enterprises and properties to the hands of the Somoza family and people in the old Somoza dictatorship. It would create a serious polarization of opinion in Nicaragua. Thus, the only answer we can see is to stabilize the economic situation in Nicaragua and bring economic development into the country. Of course, there are people within the Sandinista party who see privatization as a political matter. They radically oppose any sort of privatization policy by the new government.

**QUESTION:** *The Nicaraguan economy is suffering from simultaneous inflation and recession. Many people believe that the huge civil service machinery created by the former Sandinista government is overburdening the economy. Perhaps such a large civil service was necessary during wartime, but it is certainly burdening the country at the moment. In light of recent labor strikes, is the Sandinista party willing or plan-*

*ning to help ease the burden on the economy by compromising on this issue?*

**RAMIREZ:** The real problem you are identifying is that Nicaragua is a very poor country. To illustrate, divide the Nicaraguan government into three sections: education, health, and "other sectors." To reduce the public budget and alleviate this situation, cuts must be made in education and health. Making cuts in "other sectors" would yield insignificant results. Unfortunately, cutting back on education and health is not easy. There are approximately fifty thousand teachers and about fifty thousand health workers in Nicaragua. Making cuts would obliterate the education and health service systems. For example, last week the Chamorro government cut all university budgets by twenty percent in an effort to relieve the budget problem. As a result, students and teachers protested in the streets.

We must also consider the army and the police. The army has been cut by fifty percent. However, there are ten thousand men in the Nicaraguan police forces. The national budget deficit is a very difficult problem to solve. I understand the problems of the new government because I had to deal with those problems over the last ten years.

The real problem in Nicaragua is not public expenditure, but the lack of external aid. I recall President Bush saying during the electoral campaign that if Mrs. Chamorro was victorious, the United States would give economic support to the new government. On the other hand, if the Sandinistas won, the war would continue, the embargo would not be lifted, and conscription would continue in Nicaragua. This is one of the main reasons the Sandinistas lost the election.

Since the elections, what has happened? The United States Congress has approved \$300 million in aid for this year, and \$200 million for 1991. However, to date, the Nicaraguan government has only received \$60 million, an amount barely sufficient to cover the apportion for health service workers. That alone was \$45 million. The problems in Nicaragua cannot be solved with \$200 million. It will require \$1 billion over two or three years. Furthermore, some Western European nations which had previously supported the Sandinista government, have cut back on aid, presumably reasoning that since Chamorro was elected, Nicaragua is now the problem of the United States.

**QUESTION:** *With respect to revitalizing the Nicaraguan economy, do*

*you seek American and foreign investments, and what type of investments or joint ventures do you support?*

RAMIREZ: I cannot speak for Mrs. Chamorro and the present government of Nicaragua. However, the Sandinista Front believes that Nicaragua should be open to external investment and industry. We approved a very modern law to attract foreign investments. Of course, the economic conditions for investment in Nicaragua were very different during the war. The Sandinistas believe that foreign investment is necessary for Nicaragua's economy to grow. Further, it is necessary for Nicaraguans who removed their capital from the country during the war to be allowed to return and reinvest their capital. What the country needs is economic revitalization. We are not going to survive politically or ideologically without economic recreation. We do not want an economically stagnant country. Revolution means change. Revolution means creating better conditions for the people. Without improving conditions for people, revolutions are useless.

QUESTION: *Nicaragua's Constitution enumerates a great deal of social and economic rights; many more in fact, than the United States Constitution. Are these rights a reality, and who protects these rights? Are these social and economic rights being realized by the people of Nicaragua?*

RAMIREZ: Well, the problem is the condition of the Nicaraguan government in relation to what we call social and economic transformations. Through the revolution and its system of laws, these transformations created the basis for a new society. Of course, the creation of that society in Nicaragua is not yet complete. Again, Nicaragua is a very poor country, but we have laid the foundation for the development of a new society.

Transformations are necessary in all Latin American cultures which have very traditional social and economic structures. For example, in Nicaragua, land reform is one of the milestones of the revolution. We returned land to families in the countryside. One hundred thousand families received thirty-million acres of land. In the last ten years, we offered one hundred thousand land sites. Thus, in a sense, we introduced the idea of private property to Nicaragua.

We increased the number of Nicaraguans in schools to one million out of a population of about four million. One million Ni-

caraguans are now in school; this is a radical transformation. Everyone now has an opportunity to be educated. Of course, the quality of education and material conditions are still affected by our financial problems. Nevertheless, people have the opportunity to attend universities, as well as technical and primary schools. The Sandinista education campaign reduced illiteracy from seventy percent to twelve percent. This is also a real transformation of the structure of Nicaraguan society. We now have the base to begin working toward building a new Nicaraguan society.

