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SUBSTANTIVE SELF-DETERMINATION: DEMOCRACY, COMMUNICATIVE POWER AND INTER/NATIONAL LABOR RIGHTS Property as an Instrument of Power in Nicaragua

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SUMMARY: ... The Somoza period was one of change with respect to the traditional ownership of property. ... The second group was the military sector, the Somoza family, and its supporters. ... By 1979, ownership of property had changed considerably and the influence of the Somoza sector was so great that the unease of the economic and social sectors began to clearly manifest itself. ... The traditional sector had been severely affected by the economic voracity of the Somoza regime. ... With the dismantling of the National Guard of Somoza's regime and the new Sandinista military control, modifications were made to gain political control. ... The Sandinistas confiscated huge lots of property in the rural areas which weren't being farmed, and in the urban areas, apartment buildings and residential areas, including empty lots, were confiscated as well. ... The grand beneficiaries of this law would be: 1) the Sandinistas, who were able to legitimize their ownership of property; 2) the military and police; 3) the Sandinista administration and its members; and, 4) the new economic group which supported the new liberal government. ... "Agricultural reform deeds are unprotected in urban areas of Managua and other cities. ...

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To better understand the subject of property in Nicaragua, it is necessary to review recent history.

1.1. Somoza Period

The Somoza period was one of change with respect to the traditional ownership of property. Property owners began to modernize their forms of ownership. Communal ownership was established, wherein individual land and money, which was historically used to create financial centers for small producers and commercial communities for the local and export markets, was reallocated with the goal of creating large agricultural entities, for example, coffee and cotton plantations.

These changes were brought about through several measures including:

- a.a. Expropriation from economically weak sectors.
- a.b. Expropriation of land which belonged to indigent communities.
- a.c. Expropriation of land belonging to rural farmers and workers, who had no deeds to the land.
- a.d. Small producers with title to their land were brought before the authorities.

All of these sectors were relieved of their properties, to be used for the cotton, coffee and banana plantations. The expropriated owners were forced by the military to move to zones in the jungle where there were no basic services, e.g. potable drinking water, electricity, telephone, and very little means with which to begin working the land, which was different from any they had worked before, as it was muddy and wet.

Together with these changes, new groups began to form, which were not necessarily agricultural in nature. These groups would centralize the money generated by the plantation ("hacienda") owners, which included rent from urban properties. These groups eventually became [*908] the banks and financial institutions which assisted the economic investments of the hacienda owners.

In urban areas, for example, landlords become less common, replaced by urban-planning companies, which focused their efforts on middle and high income areas. In low income areas, the companies would sell property, without deeds, to the emigrating farmers which arrived in the cities. When the farmers could not make the payments, they would be evicted, only to be replaced by another farmer. This resulted in a chain of property "owners" without any deeds who, as a result, had no claim on their property. For example, an owner of a lot who paid a fixed amount for five years or more and was able to construct a house on the property, but missed one payment, could be evicted and lose not only the lot, but the house as well. That lot, along with the house, would be resold. This process generated huge returns for the urbanization companies and allowed them to maintain ownership of their properties.

1.2 Property Was Concentrated in Two Groups

The first group was the historical family descended from the Spanish and European, which owned their property and investments since the colonization period, and have passed it down from generation to generation, e.g. Pellas, Chamorro, McGregor, etc..

The second group was the military sector, the Somoza family, and its supporters. This group eventually obtained economic, political and military power in Nicaragua, preventing other groups' participation in the economic as well as the political sector.

By 1979, ownership of property had changed considerably and the influence of the Somoza sector was so great that the unease of the economic and social sectors began to clearly manifest itself. Insurrections were started by the Sandinistas and reactionary guerrillas came forth. Additionally, the Catholic Church began demanding an equitable distribution of wealth. These groups, traditional, civil organizations and popular groups united in the guerrilla attack as the only way to topple the Somoza regime. The traditional sector had been severely affected by the economic voracity of the Somoza regime. As a result, even though some thought and others suspected, that the guerrilla movement was founded in Marxist philosophy, the traditional sector also supported the efforts to destroy the regime. They believed that, in Nicaragua, the redistribution of property would not be through Socialist measures.

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1.3 The Revolutionary Change: The Sandinista Period

The Sandinista revolution destroyed all the power structures previously in existence. Property ownership went from one where property ownership was dominated by two large sectors, the Somoza and the traditional, to a centralized state of ownership, which would nationalize all businesses, from agricultural to industrial.

With the dismantling of the National Guard of Somoza's regime and the new Sandinista military control, modifications were made to gain political control. With both of these in hand, new measures were implemented: more sectors would be confiscated, with several groups demanding the arrests of the Somoza

family and supporters of his government. The Sandinistas confiscated huge lots of property in the rural areas which weren't being farmed, and in the urban areas, apartment buildings and residential areas, including empty lots, were confiscated as well. Shortly thereafter, a state bank system was established as the only banking system in the country.

Agricultural reforms followed, characterized by redistribution of land, not with the goal of creating societies of individual ownership, but instead with the goal of creating cooperatives, where technical and financial assistance could be funneled. The thought of granting individual deeds could stop the fundamental property goal of the Sandinistas, which was to establish a Socialist state. These measures exemplified the fastest way to transfer property from individual ownership to state ownership, in the creation of Area Propiedad del Pueblo ("APP" or Land Owned by the State.)

With the Contras uprising, other measures involving property were implemented, for example, businesses lost their capital and properties were abandoned. The goal of these measures was to acquire all property belonging to those who did not support the Sandinista government. To do so, the Sandinistas eliminated as much capital as possible, while property owners who feared military rule fled the country, abandoning their homes, or leaving them with a friend or employee. The Sandinista government also took political measures against the business sector, which remained in Nicaragua as the only opposition to their government. These measures included confiscation of the business' property, and in some cases, incarcerating their directors.

The Sandinista period was one during which a limited number of deeds were being granted in rural areas: the farmers and cooperative members owned the property without deeds. At the same time, in the urban areas, the occupants of low-income apartments, lots and residential areas, occupied the properties, but never held title to them. Clearly, the objective of the Sandinista government was not to create new property owners, but instead to create new tenants and people to work the land, with the sole property owner being the State. During this period, an attempt to create a Socialist state was made by establishing the requisite political and social bases, but no changes were made to the judicial system, which would have legalized many of the atrocities committed during that period.

1.4 The Beginning of Conflict: The Violeta Chamorro Period

Upon being elected, Violeta Chamorro addressed anew the problem of property, which by now had become much more complicated. The new government was dealing with a "Sistema Judicial" ("Judicial System") or "CADUCO" which was unable to legally resolve the property situation. This group began to negotiate with Chamorro's First Governor, and allegedly Sandinista representatives, in an attempt to resolve the property situation through political means, without even attempting to make changes in the judicial system.

The Chamorro government began privatizing state-owned businesses and attempted to return those properties previously confiscated by the Sandinistas, with the exception of those owned by the Somoza family, members of the military during his regime and his supporters. At that time, the popular sector began to organize to defend their rights to property. This was manifested in a petition by factory workers and businesses, requesting 25% ownership in these properties, which at that time still belonged to the State.

In the case of small properties like houses and small business the problem was much more difficult. The claims received by the tribunals were nearly impossible to process and the judicial system so slow and obsolete, that it was estimated it would take fifteen years to resolve the problem. n3

1.5 Liberal Government: Arnoldo Aleman

With the inception of the Aleman government, the situation was rendered yet more tense, resulting in a round of negotiations with the Sandinistas to create a new law known in the national political scene as "The Final Point Law". This law, while pretending to be a resolution of the problem, is rather a continuation of a never ending problem that leaves unprotected the popular sector, which had benefited from the agricultural and urban reforms, and hurts small property owners as well.

The grand beneficiaries of this law would be: 1) the Sandinistas, [*911] who were able to legitimize their ownership of property; 2) the military and police; 3) the Sandinista administration and its members; and, 4) the new economic group which supported the new liberal government. This new group sought to consolidate itself to confront the Sandinistas and the traditional sector.

To better to understand this "Final Point Law" I have chosen to include small fragments of the same. These are parts of a critique made by the magazine Envio from the Central American University, UCA.

"Agricultural reform deeds are unprotected in urban areas of Managua and other cities. This article estimates that agricultural reform deeds issued within the urban limits of Managua, established during the zoning process in 1982, will be declared null. These deeds will be void and their registration inscription will be canceled. It is assumed that in those cases, the INRA ("Instituto Nacional de Reforma Agraria") (National Institute of Agricultural Reform) will reassign the occupants of those properties other lands so they can continue their productive activities... All of these lands have increased in value, but the person(s) responsible for that increase in value over the years will not benefit from that increase and will be sent to remote lands, without the necessary conditions for production or commercialization of the property. This measure is similar to that which the Somoza government used when it displaced thousands of farmers into the jungles." Additionally, urban sectors in the same area will suffer. "Article 93 of the new law states that occupants of residential housing which have been consolidated since 1994, even if they were permanently placed, will be subject to decisions made by the authorities responsible for addressing urban issues, and can be relocated, when the urban areas in question which the current occupants reside in are affected by the natural urban development of the city." n4

The new law seemingly resolves a problem, even if momentarily, but in reality it benefits the groups in power. This law, which supposedly is the end-all of a problem, actually fertilizes a problem even more profound - just distribution of property among all social groups in Nicaragua. I believe that instead of a "final solution" it is the beginning of a new struggle - now with other "haves" and the same "have nots".

1.6 Conclusion

The problem of property in Nicaragua is very complex and no government has really had the political will to establish the necessary bases to start a true exchange in terms of possession of the land and ownership [*912] of the property. The solutions proffered by the Sandinista, Chamorro and Aleman governments have been superficial and incapable of reaching the crux of the problem. These solutions can be characterized as attempts to solve crises between centers of power which seek more power: control over new areas of property, because these centers understand that if they don't obtain such power, they will lose political control as well. On the other hand, the popular class and its civil organizations continue to be dominated, subordinate in a country where the wealth is concentrated in few hands with each passing day, and the dispossessed sectors' opportunities become fewer and fewer.

FOOTNOTE-1:

n1. "Traditional ownership," in this context, the ownership of land and properties made useful and productive without major complexity in production and distribution, and without need of tools such as banks and financing.

n2. Popular Groups: workers, farmers, civil servants, domestic workers, the unemployed, etc.

n3. See Latin American and Caribbean Program, The Disputes of Property in Nicaragua (March 15, 1995) (on file with The Carter Center, Atlanta, Ga.)

n4. The Problems of Property and Its Owners, Invio (Central American University, UCA), Oct. 1997.