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No New Property Waiver for Nicaragua's Daniel Ortega *Ambassador Robert J. Callahan and Ray Walser, PhD*

If the Obama Administration is serious about promoting democracy in Nicaragua, it can emphatically do so later this month when it decides whether to grant a property waiver to President Daniel Ortega's corrupt and authoritarian government.

If it opts to withhold the waiver, it will compel the U.S. to oppose Nicaragua's loan applications at the Inter-American Development Bank, International Monetary Fund, and World Bank. This could cost Nicaragua millions of dollars in grants and concessionary loans.

Confiscation of Property. The waiver is mandated by legislation that requires countries that have confiscated properties belonging to American citizens to compensate those citizens. Any failure to do so, in the judgment of the State Department, may result in the waiver

being denied. Nicaragua has secured waivers over the past two decades.

The confiscations occurred largely during the 1980s, when Daniel Ortega and the Sandinista government adopted disastrous Marxist policies and applied them to a fragile agrarian economy. Beginning with property owned by the Somoza family, confiscations quickly spread to lands and houses of anyone opposing the regime. As more middle-class Nicaraguans fled abroad, the Sandinistas helped themselves to the property that was left behind, ostensibly to benefit their social programs. In 1990, following electoral defeat, Ortega and the Sandinistas went on a rampage of confiscations—known as the “Piñata”—by occupying expensive houses and ranches as well as seizing banks and businesses for personal enrichment.

It fell to the opposition governments that defeated Ortega and the Sandinistas in three consecutive elections to undertake compensation. Between 1990 and 2008, the Nicaraguan government paid over \$430 million in compensation to some 1,600 American claimants. There are still around 200 American citizens claiming restitution. In the current waiver period, the Nicaraguan government has settled

some 50–55 claims, about the average of the past several years.

Based solely on this figure, Nicaragua might well earn yet another waiver, but there are other factors to consider as well. For example, land invasions—including at least 10 that involve property belonging to Americans—have become more frequent, and the Ortega government has done nothing to prevent or reverse them.

Pros and Cons of Denying the Waiver. Is the waiver, as the legislation stipulates, in America's “national interest”?

That is a fair question and difficult to answer. If the U.S. denies the waiver, it may undermine its leverage to compel the Sandinistas to compensate those who still have outstanding property claims. It may also provoke Ortega into expelling the Agency for International Development mission, thus depriving civil society, small businesses, and other worthy recipients of U.S. assistance. And, most important, if Nicaragua can no longer secure loans through the international lending institutions, it will have a deleterious effect on the economy with obvious consequences for the poor and the middle class.

But by denying the waiver, the U.S. might help to restrain, if not reverse,

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Nicaragua's steady slide toward one-man rule and force Ortega to spend more of the half-billion dollars he receives each year from Venezuela on the social programs he endlessly touts. It might also encourage the people to demand government transparency and accountability (both sadly lacking) and prompt the private sector to put pressure on the Sandinistas to respect basic democratic norms. At the same time, it would speak—as no mere rhetoric ever could—of the Obama Administration's serious commitment to defending representative democracy.

Corrupt Regime. Essentially, it comes to this: Is Ortega's misconduct in office sufficiently grave to justify these harsh measures? Would the Nicaraguan people ultimately benefit—economically, socially, and politically—from this action? The answer to both questions is yes.

After winning the presidency in 2006 against a divided opposition, Ortega proceeded to steal the municipal elections of 2008 and manipulate the results of national elections in 2011. He has repeatedly abused or disregarded the constitution, allowed over 30 high officials to remain in office after their terms have expired, co-opted much of the political opposition, harassed civil society, and made a mockery of the separation of powers and rule of law.

Using money from Hugo Chavez's Venezuela, he has purchased most of the independent media to mute criticism and has tried, with mixed success, to intimidate others into silence. He has placed his children in positions of authority. He and his cronies have grown rich through their web of influence peddling, ill-gotten businesses, and access to Chavez's money.

In short, he has fashioned a nepotistic, corrupt regime. And all the while, he has never wavered in his support for Bashar al-Assad in Syria, Mahmoud Ahmadinejad in Iran, the Castro brothers in Cuba, and, until his death, Muammar Qadhafi in Libya.

Although Ortega has made life marginally better for the poorest Nicaraguans and has maintained prudent macroeconomic policies that benefit the middle and upper classes, he has done so at enormous cost to the country's social fabric and political integrity. Society is once more polarized. The Supreme Court and the Supreme Electoral Council, two co-equal branches of government, are hand puppets for the Sandinista Party, which also holds a supermajority in the legislature. And despite enjoying every electoral advantage, including money, Ortega persists in stealing elections and manipulating their results.

Ortega is intent on creating a version of the Somoza dictatorship of decades past. His influence already reaches deeply into government, commerce, defense, the media, and culture. If left unchecked, he will transform Nicaragua into his personal fief and then bequeath it to his children.

Leveraging Democracy. Smart and well-intentioned Nicaraguans have argued that the U.S. should grant the waiver and let them sort through their domestic problems. However, these same Nicaraguans have been unable to unite in the last two national elections, continue to bicker among themselves, and give no evidence of being able to coalesce around a person, plan, or idea.

The Obama Administration should:

- Refuse to renew the present property waiver. As with the recent refusal to grant a transparency waiver, the Obama Administration should now employ its largest “stick” against Ortega in order to leverage greater democracy.
- Specify preconditions for renewal. Ortega and company must be prepared to end land invasions, continue to compensate the victims of property confiscations, and restore independence to the courts and electoral council. If they do this, the U.S. should consider reissuing the waiver in a year's time.
- Support free and fair municipal elections. The November 2012 municipal elections offer a major litmus test for a potential democratic recovery. They must be conducted in a transparent and accountable fashion with active civil society participation and a reformed Supreme Electoral Council.
- Conduct a public diplomacy campaign. Clearly demonstrate that the U.S. took the decision on the waiver because of the misdeeds of the Ortega regime and with a view to the long-term interests of all Nicaraguans.

Needed Impetus. America's denial of the property waiver might be the impetus Nicaragua's democratic opposition needs to put aside their differences and work together to reestablish accountability, transparency, and rule of law in their country. It might also serve as a wake-up call to President

Ortega and the Sandinistas and slow Nicaragua's inexorable slide toward authoritarianism.

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