

## INTERNATIONAL COURT OF JUSTICE - NICARAGUA/USA\*

## The witnesses

Synopsis of the testimony presented by the witnesses appearing on behalf of the Nicaraguan government:

1) Commander Luis Carrión, deputy minister of the interior. His responsibilities include monitoring and keeping updated files on the attacks launched against Nicaragua by the military and paramilitary forces financed and controlled by the United States.

- The counterrevolutionary forces are an instrument created by the United States. Without that country's support and direction, they would disappear in a short time.

- He explained the military evolution of the aggression waged against Nicaragua since 1981, when the contras began to act on the basis of well-defined plans, using high-powered arms and under the orders of a central command.

- Carrión gave a detailed account of the offensives launched by the counterrevolutionaries, as well as the military actions and sabotage that U.S. personnel have carried out against Nicaragua. These include an air attack on the Santa Clara military school in September 1984, the mining of Pacific and Atlantic ports, the sabotage of an oil pipe line at Puerto Sandino in October 1983.

- He also spoke of the permanent campaign of intimidation and threats carried out by the Reagan administration through its uninterrupted military maneuvers in Honduras and the constant presence of U.S. warships off Nicaraguan coasts.

2) David MacMichael, former CIA analyst, assigned from 1981-1983 to establish proof of the alleged Nicaraguan arms traffic to Salvadoran rebels.

- Although he did not reveal the identities of the officials with whom he had worked or any other classified information, he did say that in December 1981, the CIA submitted to the House Intelligence Committee and to President Reagan, a plan aimed at destabilizing Nicaragua and the rest of the Central American region. It proposed the organization of a secret force of 1,500 men to conduct border incursions and paramilitary and military actions in Nicaraguan territory. The plan was based on the premise that the revolutionary government was immature, impulsive and had a

guerrilla mentality. Consequently, it would pursue the military units and cross the borders into neighboring territory. Such a reaction would make the Nicaraguan government appear aggressive and totalitarian - supposedly it would also unleash a wave of internal repression - thus justifying a U.S. intervention. President Reagan approved the plan, but decided not to implement it, fearing it would jeopardize diplomatic relations with other nations.

MacMichael dismissed the credibility of satellite photographs of alleged Salvadoran bases in Nicaragua, which are used as a justification for U.S. attacks. He admitted that Salvadoran refugees in Nicaragua may collaborate with the insurgents in their country, just as there are Irish citizens in the United States who collaborate with the Irish Republican Army (IRA) in their homeland.

3) Michael Glennon, law professor at the University of Cincinnati and former legal adviser for the U.S. Senate Foreign Affairs Committee. He traveled to Nicaragua this year to investigate the human rights situation on a mission sponsored by the Washington Office on Latin America and the International Human Rights Law Group.

- In one month (February 1985) he documented 60 assassinations, three acts of torture and 34 kidnappings by the counterrevolutionaries.

- The United States is morally responsible for the acts of torture and systematic human rights violations practiced by counterrevolutionaries.

4) Jean Loison, French Catholic priest, unaffiliated with any political organization. Since 1980 he has worked in a small hospital in the town of La Trinidad, department of Estelí, some 90 km from the Honduran border.

- In northern Nicaragua, the counterrevolutionaries have created an atmosphere "infested" with terror through kidnappings, assassinations, rapes and torture.

- During their attack on La Trinidad, last August 1, the contras arrived at about 5:00 a.m., disguised

as Nicaraguan army soldiers. They attacked selected targets and asked for specific persons by name, among them, the local FSLN representative. Unfortunately, they located the persons and killed them. They set a missionary's house on fire and destroyed the community's corn silo with mortar fire.

- The contra bands usually strike in groups of 200-300 men in the middle of the night; attacking cooperatives or small hamlets inhabited by half a dozen campesino families.

- He displayed several photographs taken in a hospital of victims of terrorist violence. "I have seen some profoundly moving sights... a woman arrived one day with her belly cut open, I could see her abdomen. She had been pregnant. Two weeks ago, a 7 year old girl was admitted with gunshot wounds in her elbow, and another, about age 5, had also been wounded. She told me that her four brothers and sisters had been killed. I was told of a case in which the contras arrived at a house and machine-gunned it without bothering to find out if there were people inside. Two small children, hiding under a bed were killed.

- "I know of a village where all the draft-aged men have been abducted; of an invalid who was killed "for the fun of it;" of women raped; of a body found with its eyes gouged out; of a 15 year old girl who was forced to become a prostitute at a camp located on the Honduran side of the border. A girl of 16 was murdered, cut into pieces, and her remains scattered about. A truck with postal workers who had volunteered to pick coffee was attacked by mortar fire in an ambush. The contras took their clothes, money and identification documents. They poured gasoline on the truck and set it on fire with the passengers still inside. For a long time, you could still see the remains of the truck and the bodies on the road. I have seen coffee plantations destroyed and bakeries and schools set on fire."

5) William Hupper, Nicaragua's Finance Minister:

- The damages suffered by Nicaragua due to U.S. aggression can be calculated at US\$1.3 billion, although some international organizations speak of up to US\$3 billion. The country has suffered losses in its crops, fishing and mining production, and the diversion of important resources from all programs toward defense. In 1981, 12 percent of the national budget went for defense; today, that figure has climbed to 40 percent.

- The economy has also felt the negative effects of the trade embargo declared by the United States last May and the 90 percent reduction of the quota for Nicaraguan sugar on the U.S. market, which represents an annual loss of income to our country of US\$15 to US\$18 million.

- Nicaragua has decided to request a US\$370 million indemnification from the United States for direct damages, although the figure is very low in relation to the total costs of the aggression. We have asked the Court to designate an international organization such as, for example, the International Monetary Fund to evaluate the total damages.

6) Edgar Chamorro, former university professor and ex-member of the "political directorate" of the FDN. He was "relieved" of his responsibilities in November 1984, following several disputes with other contra leaders. He sent a 24-page written and notarized testimony, as he was unable to leave the United States to attend the trial. Since he broke from the contra, he has had immigration problems with the United States.

- The United States government, through the CIA, maintains absolute control over the attacking forces.

- The former assistant Secretary of State, former vice director of the CIA and current U.S. ambassador to the United Nations, retired General Vernon Walters, encouraged Nicaraguan exiles to unite with the Somocista guards already operating out of Honduras, in exchange for large-scale economic and military aid. Thus, the FDN was formed in Guatemala in 1981, made up of former Somoza guards who had sought refuge in Honduras, Guatemala, El Salvador and the United States.

- He spoke of the direct participation of U.S. officials in the supervision of contra military activities. He identified Lt. Col. Oliver North and Ronald F. Lehman, U.S. National Security Council officials, as advisers in the meetings of counterrevolutionary groups since May 1984, in open violation of U.S. laws then in effect.

- He denounced the forced recruitment into counterrevolutionary ranks of thousands of men from small towns as well as the murder of military personnel and officials in the presence of the inhabitants of the villages. The spectators, he explained, had no alternative but to join the execution.

- The CIA has bought off, with dollars, dozens of journalists in Honduras and Costa Rica to strengthen the publicity campaign against the Sandinista government.

- He swore that the mining of Nicaragua's ports was an operation carried out by "Latin American CIA agents," and that the FDN only claimed public responsibility for an action it had not carried out.

- The FDN receives financing and military aid from the Reagan administration through the CIA and is made up primarily of former guards and Somoza sympathizers.

\*The above appeared in Barricada, Vol.V-177 of 26 January, 1985, the International Weekly of the Sandinista National Liberation Front. This summarises the evidence given by witnesses on behalf of Nicaragua and submissions of her counsel.

A summary of the judgement of the Court appeared in [1985] Australian International Law News p.733.

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Military and Paramilitary Activities in and against  
Nicaragua (Nicaragua v. United States of America) \*

Progress of Public Hearings

The following information is made available to the Press by the Registry of the International Court of Justice:

At the hearings which opened on 12 September 1985 on the merits of the case concerning Military and Paramilitary Activities in and against Nicaragua, between Nicaragua and the United States of America, Nicaragua began by calling witnesses.

The witnesses made their statements between 12 and 17 September after making the solemn declaration required by Article 64 of the Rules of Court. The Court heard in turn statements by Commander Luis Carrion Vice-Minister of the Interior of Nicaragua, on 12 and 13 September, Dr. David C. MacMichael, on 13 and 16 September, Mr. Michael J. Glennon on 16 September, and Father Jean Loifon and Mr. William Hupper, Minister of Finance of Nicaragua, on 17 September. Questions were put to Commander Carrion by President Nagendra Singh, Vice-President de Lacharri er, Judges Lachs, Schwebel, Sir Robert Jennings and Colliard. Questions were put to Dr. David C. MacMichael by Judges Ni and Schwebel. Questions were put to the other witnesses by Judge Schwebel.

On 18 September counsel for Nicaragua began their statements. Following an introduction by H.E. Mr. Argu ello, Agent of Nicaragua, oral arguments were presented by Mr. Abram Chayes and Mr. Paul Reichler.

The oral proceedings will continue over the next few days.

The Government of the United States has not represented itself at the hearings.

A list of the persons representing Nicaragua in the case is attached.

The Government of Nicaragua was represented as follows:

His Excellency Mr. Carlos Argu�ello Gomez	Ambassador, <u>as Agent and Counsel;</u>
Professor Ian Brownlie, Q.C. F.B.A.	Chichele Professor of Public International Law in the University of Oxford; Fellow of Alls Souls College, Oxford,
Hon. Abram Chayes	Felix Frankfurter Professor of Law, Harvard Law School; Fellow, American Academy of Arts and Sciences
Hon. Alain Pellet	Professor of Law, Universit�e de Paris Nord,
Hon. Paul S. Reichler	Reichler & Appelbaum, Washington, D.C., <u>as Counsel and Advocates;</u>
Mr. Augusto Zamora Rodriguez	Legal Adviser to the Ministry of the Exterior, Managua, Nicaragua,
Mrs Judith C. Appelbaum	Reichler & Appelbaum, Washington, D.C.,
Mr. David Wippman	Reichler & Appelbaum, Washington, D.C., <u>as Counsel.</u>

\* [This is the text from the International Court  
of Justice Communiqu  No. 85/17 of 18 September 1985]

INTERNATIONAL COURT OF JUSTICEMilitary and Paramilitary Activities in and against  
Nicaragua (Nicaragua v. United States of America) \*Hearing to open on the merits

The following information is communicated to the press by the Registry of the International Court of Justice:

On Thursday 12 September 1985, at 10 a.m., at the Peace Palace in The Hague, the Court will begin oral proceedings on the merits of the case concerning Military and Paramilitary Activities in and against Nicaragua, between Nicaragua and the United States of America.

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The case was submitted to the Court on 9 April 1984 by an Application of the Republic of Nicaragua instituting proceedings against the United States of America in respect of a dispute concerning responsibility for military and paramilitary activities in and against Nicaragua. Nicaragua filed at the time a request for the indication of provisional measures under Article 41 of the Statute of the Court.

By an Order dated 10 May 1984, the Court indicated a number of provisional measures and also decided that the proceedings would first be addressed to the questions of the jurisdiction of the Court to entertain the dispute and of the admissibility of the Application.

The Republic of El Salvador having filed a declaration of intervention under Article 63 of the Statute, on 4 October 1984 the Court made an Order in which it decided not to hold a hearing on the declaration of intervention of the Republic of El Salvador, also deciding that this declaration was inadmissible inasmuch as it related to the phase of the proceedings concerning jurisdiction and admissibility.

The Court heard the representatives of Nicaragua and of the United States in public sittings held between 8 and 18 October 1984. On 26 November 1984, it delivered a Judgment in which it found that it had jurisdiction to entertain the case and that the Application of Nicaragua was admissible.

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\*[This is the text of unofficial communique 85/16, 10 Sept. 1985, from the International Court of Justice].

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By a letter dated 18 January 1985, the Agent of the United States made it known that, notwithstanding the Judgment of 26 November 1984, in the view of the United States "the Court is without jurisdiction to entertain the dispute and that the Nicaraguan Application of 9 April 1984 is inadmissible" and that accordingly "the United States intends not to participate in any further proceedings in connection with this case". On 22 January 1985 the Agent of Nicaragua informed the President that his Government maintained its application and availed itself of the rights provided for in Article 53 of the Statute whenever one of the Parties does not appear before the Court or fails to defend its case.

By an Order dated 22 January 1985 (I.C.J. Reports 1985, p. 3), the President fixed time-limits for the filing of pleadings on the merits. The Government of Nicaragua filed its Memorial within the prescribed time-limit (30 April 1985). No Counter-Memorial has been filed by the Government of the United States within the time-limit allotted to it, which expired on 31 May 1985, and no extension of such time-limit was requested by that Government.

The case being ready for hearing, the President decided, under Article 54 of the Rules of Court, to fix 12 September 1985 as the date for the opening of the oral proceedings in the case.