

Should the U.S. Intervene in Nicaragua?

Some hope that support for Nicaragua's anti-communist rebels can prevent "another Cuba"; others fear that it will precipitate "another Vietnam." Here a

philosopher and a lawyer each examine current American policy toward Nicaragua, offering very different arguments to reach very similar conclusions.

* * *

Intervention and International Justice

The rights and wrongs of U.S. intervention in Nicaragua are not easy to determine. It is a general assumption of much public debate on this matter that if the Sandinista government is bad, or strongly pro-Soviet, then those who resist them, even with arms, are good and, consequently, support for them is good. Conversely, if the Sandinistas are themselves good, or at least no worse than many other regimes, then armed resistance to them is unjustified and likewise support for it. Accordingly, one side in the debate supplies evidence of human rights violations by the Sandinistas and of a growing Marxist-inspired tyranny, while the other documents its literacy campaigns, health-care programs, and the brutal conduct of the Contras who oppose it.

Argument of this sort is inconclusive, however, because *all* the parties involved emerge (from such independent inquiries as have been made) in varying shades of gray rather than the black and white which the argument requires. We may be certain now that President Reagan's descriptions of Nicaragua as a "totalitarian dungeon" and of the Contras as "the moral equivalent of our Founding Fathers" are, at the least, inaccurate. But neither is post-revolutionary Nicaragua the paradise some have suggested, as its emigrants testify.

A second source of inconclusiveness arises from the possibility of drawing different inferences from agreed facts. All are agreed that increasing numbers of people are leaving Nicaragua. Some see in this evidence of the increasing unpopularity of the Sandinista regime, others concede the unpopularity but attribute it to the conscription made necessary by the continuing activities of the Contras, while the Sandinista government itself describes it as "a normal and natural problem in any revolution" when those who are robbed of opportunities to exploit their fellow citizens set off in search of easier pickings elsewhere. Again, all are agreed that the Sandinistas have sought and obtained the help of

Cuba and the Soviet Union, but to some it is proof positive of Sandinista commitment to Soviet-backed communism, to others proof of the counterproductive character of U.S. policy in forcing Nicaragua into the arms of the enemy.

Third, and perhaps the greatest cause of inconclusiveness in the argument commonly used, is conflict of political ideals. The argument depends upon the concept of "good government," but there are deep differences between the contending parties as to what the mark of this might be. The abolition of private property, for instance, will constitute the violation of a basic right for the traditional liberal, while protection of private property will constitute a defense of entrenched privilege and an obstacle to social justice for the socialist. Similarly, disregard of the rule of law in order to promote "revolutionary justice" will appall the liberal democrat, whose "rule of law" on the other hand will appear as just another instrument of oppression in the eyes of the revolutionary socialist.

Plainly what is needed if there is to be any assessment of the rights and wrongs of the conflict which has any chance of commanding the assent of both sides is an argument which transcends rather than foment these differences. One possibility is recourse to international law, whose function just is to arbitrate between sovereign authorities. But the effectiveness of law in adjudicating disputes between sovereign nations is conditioned by the willingness of the parties subject to it to recognize its authority, and the United States, in an unprecedented action, has suspended recognition of the International Court of Justice and refused to take further part in legal proceedings because the court found in favor of Nicaragua.

Self-Determination

Another possibility lies with the doctrine of self-determination. Many U.S. citizens take the view that, however objectionable the regime in Nicaragua may be

to democratic observers, each country has the right to determine its own constitutional arrangements, and no other country has the right to interfere in its doing so.

The doctrine of the self-determination of peoples arouses much sympathy, but against it some have argued that no value we attach to self-determination can be absolute, and that if violations of human rights become extreme enough, as in Bangladesh in 1974 or Cambodia in 1980, intervention by neighboring countries is not only permissible but obligatory. If so, in any given case we must decide whether the conduct of the government of the country in question is bad enough to justify intervention. It may reasonably be doubted whether Nicaragua can be compared with Pol Pot's Cambodia, but the chief point to be made here is that,

that thieves and their victims, if they are of one nationality, should be left to sort things out for themselves.

Just War Theory

Neither appeal to law nor to the principle of self-determination, then, can persuade opposing parties that intervention in Nicaragua is right or wrong. Some third way of transcending claim and counterclaim is needed. Such is to be found in the theory of the Just War, developed by Christian theologians precisely to govern those cases in which conflicts arise between sovereign powers each of whom considers itself to be in the right. I want to examine three of its core principles for the light they shed on the justice of military and quasi-military intervention in the affairs of another

Photo credit B. Lynne Barbee



Nicaraguan women serving on guard duty.

if self-determination is overridable in this way, we have returned to the strategy of claim and counterclaim that we have seen to be inconclusive.

In fact, though, the appeal to self-determination can be dismissed in a more devastating fashion by asking what reason there is to respect it at all. The assumption that the self-determination of nations or peoples is to be respected flows from its association with individual self-determination. But it is an error to assume that the self-determination of peoples invokes the same sort of value as the moral autonomy of the individual. A people comprises a multiplicity of persons, each the bearer of basic moral rights, and it is these that command our respect. A nation or people is not a moral subject in this sense. When a country is described as "tearing itself apart" the reflexive form of the expression is misleading — it means that fellow citizens are fighting one another. And some may be doing so unjustly. It is often said that Nicaragua should be left to sort things out for itself, but there is no more reason to accept this principle of restraint than the principle

country. These, adapted for the purposes of intervention, are:

1. Intervention must be in a just cause.
2. Those who intervene must have a reasonable hope that their intervention will be successful.
3. The evil and damage which the intervention entails must be judged proportionate to the harm which it is designed to remedy.

The first of these principles is as contentious as anything in the argument with which we began. Bringing down a communist state is itself a just cause in the understanding of many Americans, whereas building up a communist state is a just cause in the eyes of many Sandinistas. So it is the second two principles that must do the work. But this, I believe, they can do very effectively.

It is a characteristic of intervention that it does not aim at conquest. It aims to alter the regime of another country, but acknowledges that the other country should and will remain independent. As such,

however, the control of the intervening state is greatly lessened. In this case, whatever effect U.S. Marines might have in Nicaragua, in carrying out the aims of the United States, the Contras can be relied upon less. Similarly, even if U.S. Marines were employed, the same argument would apply at another level. Whatever good might be accomplished by direct U.S. rule (i.e., conquest) in Central America, there is much less reason to expect any native government that might be installed by the United States to be able to do as much. In fact, case after case shows that the effectiveness of third parties as instruments of policies of intervention is extremely low. In South Vietnam the government was incapable of sustaining the advantages given to it by American might and fell to communism within hours of U.S. withdrawal. In Cambodia, the protection of individuals which formed part of the reason for Vietnam's overthrow of Pol Pot was short lived, and the Heng Samrin government is now not only ineffectual as an independent authority; it also presides over wholesale abuse of individual rights. Likewise in Uganda, and even in Bangladesh, where intervention has been an instrument of policy, its success has been slight.

This conclusion is of the utmost importance because, according to the second principle above, success is not merely a matter of political prudence, but of justice itself. If we have little reason to expect success, intervention is not only foolish, but unjust. This is not a simple matter of cost/benefit analysis. It does not say that the end must be of greater value than the means, but that the infliction of any costs in a hopeless cause, however worthy, is unjust. And in the case of Nicaragua, the conclusion must be that intervention is unjust, partly because of past experience of U.S. foreign policy, where at best it is only intervention against narrowly based regimes which has been successful to any degree, but chiefly because the sorts of measures proposed by the present administration cannot ser-

*If we have little reason to expect success, intervention is not only foolish, but unjust. . . .
And in the case of Nicaragua, the conclusion must be that intervention is unjust. . . .*

iously be said to have a reasonable chance of altering the political structure of Nicaragua. A few million dollars of aid to the ill-assorted and poorly trained Contras who have had no significant military successes is *most* unlikely to do more than cause a modicum of death and suffering. My guess is that current policy is more likely to bring about the opposite of that at which it aims, namely the creation in Nicaragua of another Cuba, than it is to bring about an allied democratic society. But even if this is not so, it is sufficient to show that the declared aim of the policy is an un-

likely effect of it, and hence to show that U.S. intervention in Nicaragua as currently conceived is unjust.

It might be supposed that this argument leads to an undesirable conclusion, namely, that indirect intervention should give way to direct conquest. One should ask, of course, why this would be an undesirable conclusion. If the creation of free and democratic institutions for the people of Nicaragua is really so important, then we ought to make them participants in

My guess is that current policy is more likely to bring about the opposite of that at which it aims, namely the creation in Nicaragua of another Cuba, than it is to bring about an allied democratic society.

the free and democratic institutions of the United States, if this is the best way to accomplish it. Many will believe, of course, that this would *not* work, but still more will think, plausibly, that the cost in lives and long term commitment is not warranted by the end. If this is so, and I think it is, it follows that direct action of this sort is ruled out by the third principle given above. From which in turn it follows that the United States has no just way in which it can engage in the conflict between the Sandinistas and those who oppose them.

It is of the greatest importance to remember that this conclusion follows regardless of one's view of the merits or demerits of the Sandinista government, of the status of the International Court of Justice, or of the doctrine of self-determination of peoples. The only possible source of dispute is the probability of actually effecting some specific change in the government or constitution of Nicaragua. Most will agree, I think, that the chances are slight. Some will contend that the purpose is not the implementation of specific changes, but rather "keeping pressure" on the Sandinistas. Such indeterminacy is also outlawed by the theory of just intervention I have been elaborating, since it merely disguises with metaphor the maintenance of pain and death for no very clear, and thus for no just, purpose.

The great advantage of employing just war theory in the way it is used here is that it brings together the ethical and pure policy questions. It shows, in short, that the unwisdom of a policy is its injustice, and thus bridges any gap which political "realists" might like to open up between their own opinions and those of the so-called "moralist."

— Gordon Graham

Gordon Graham is executive director of the Centre for Philosophy & Public Affairs at the University of St. Andrews in Scotland. This past spring he was a visiting research scholar at the Center for Philosophy and Public Policy.