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The World Court and the Iran-Contra Scandal: Nicaragua, the International Court of Justice, Public Opinion, and the Origins of Iran-Contra

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Abstract: In November 1986, a Lebanese weekly published an article stating that high level officials within the administration of U.S. President Ronald Reagan had sold weapons to an embargoed Iran and diverted the profits to counterrevolutionary forces fighting the government of Nicaragua. Both of these facts violated domestic and international law. What ensued was the Iran-Contra scandal that almost ended Reagan's presidency and jeopardized the credibility of U.S. foreign policy. Drawing from periodicals from the U.S. and international presses, as well as U.S. Congressional records, this article demonstrates that studies on the origins of Iran-Contra have overlooked one critical cause of the scandal—a lawsuit that Nicaragua presented against the United States at the International Court of Justice in April 1984. While the case “Nicaragua v the United States of America” played an important causal role in the history of the Iran-Contra affair, its importance goes beyond mere causality. As this article demonstrates, the impact that this international lawsuit had on the origins of Iran-Contra elucidates the influence of public opinion on shaping domestic and foreign policy, on the extent to which foreign policy is driven by domestic political realities, and on the importance of international courts as the theaters where battles for legitimacy are waged.

Keywords: Iran-Contra scandal; Ronald Reagan; U.S. foreign relations; International Court of Justice; public opinion; international law



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1. Introduction

On 3 November 1986, the Lebanese weekly *Al Shiraa* blew the whistle on a top-secret operation carried out by the government of the United States. For a little over a year, *Al Shiraa* reported, U.S. government officials had been selling arms to Iranian militias (The New York Times 1988). This exposé broke the story that unleashed the greatest political scandal of Ronald Reagan's presidency and gave rise to one of the greatest challenges faced by a U.S. administration in the twentieth century: the Iran-Contra scandal. In the days and weeks after this story came to light, U.S. citizens and the international community learned that high level officials within the administration of U.S. President Ronald Reagan had sold weapons to an embargoed Iran and diverted the profits of these arms sales to counterrevolutionary forces seeking to overthrow the leftist Sandinista government of Nicaragua (Byrne 2014). Both acts violated domestic and international law and directly contradicted President Reagan's vow never to negotiate with terrorists. Public cognizance that these events had taken place jeopardized the credibility of the Reagan administration and of U.S. foreign policy. Furthermore, the scandal gave rise to debates that struck at the very heart of U.S. democracy. Amongst the questions that Iran-Contra spurred were: What was the optimal balance of power between congress and the executive branch? Was congress a delegative or a representative body? How did national security concerns relate to national and international legal orders, and should the former be subjected to the latter?

Given its significance, Iran-Contra remains a topic of interest and debate almost four decades later. As is evidenced by the broad body of literature on the subject, scholars and

policy makers continue to grapple with exactly what occurred, why it happened, and the political and historical legacies the fiasco left behind. While the Iran-Contra scandal was an international event involving Nicaragua, Lebanon, Iran, and the United States, historians have largely focused on the agency of U.S. actors when assessing the causes of the scandal. Specifically, scholars highlight the growing and ultimately irreconcilable tensions between cold war warriors in the Reagan administration, intent on rolling back communism around the world through whatever means necessary, and a U.S. Congress and citizenry which was increasingly in favor of diplomatic solutions over military conflicts and opposed to the egregious human rights record of the contras, which was becoming progressively more apparent. In December of 1985, Congress passed the Boland Amendment II, which blocked federal funds previously allocated for the contras and expressly forbade the U.S. government from providing military or paramilitary support to Nicaragua's counterrevolutionary forces. The amendment was signed into law by President Reagan in October 1984. Faced with a clear legal impediment and lacking legitimate sources of funding, government officials within the Reagan Administration that remained determined to support the contras and overthrow the Sandinista revolutionary government sought out extralegal sources of revenue for the counterrevolutionary forces whom the U.S. President was fond of praising as "freedom fighters" and "the moral equivalent of our founding fathers." (Boyd 1985). Secretly selling weapons to Iran for a profit that was then diverted into Nicaragua to support the contras seemed to offer the answer, and the covert illegal operations that would comprise the Iran-Contra scandal began to unfold (Byrne 2014; Draper 1991; Kagan 1996; Keeley 2020; Schmidli 2022).

This article re-engages with the backstory of the Iran-Contra scandal and explores one critical cause of the affair that scholars have largely overlooked, i.e., a lawsuit that the government of Nicaragua presented against the United States at the International Court of Justice, also known as the World Court, in The Hague, The Netherlands, in April 1984. "Nicaragua v the United States of America," as this case came to be known, played an important yet seldom discussed causal role in the history of Iran-Contra. This case was pivotal in turning both U.S. and global public opinion against the contras and Reagan's support for them and was central to the U.S. House and Senate decision to pass the Boland Amendment II in the summer of 1984. This article evidences that the Sandinistas' actions on the international stage were a leading cause of the Iran-Contra scandal, because the lawsuit that the Sandinista government of Nicaragua brought against the U.S. at the World Court hindered Washington's ability to directly support the contras. This, in turn, led high-ranking members of the Reagan Administration, determined to overthrow the leftist Sandinista government, to pursue other, illegal means of supporting Nicaragua's counterrevolutionary forces, which resulted in the unlawful acts that gave rise to the Iran Contra scandal.

By highlighting the importance of Nicaragua's 1984 lawsuit against the U.S. for Iran-Contra, this paper acknowledges how the Sandinista regime of Nicaragua helped shape U.S. foreign and domestic politics during the Reagan Presidency. By so doing, "The World Court and the Iran Contra Scandal" engages with the most recent historiography within three distinct fields. First, the arguments presented in this article resonate with the newer historiography on the global Cold War, which highlights the agency of actors in the global south and their influence on broader Cold War geopolitics. This scholarship has challenged the notion of actors in the global south as passive observers of the foreign policies and interests of larger more powerful actors (Connelly 2003; Chamberlin 2012; Byrne 2016; Gleijeses 2013). Second, it contributes to the burgeoning scholarship on the Latin American Cold War that reveals how Latin American state actors pushed back against U.S. hegemony in the region and carved out their own foreign policies and diplomatic agendas, often in subtle or overt defiance of U.S. interests, creating a unique inter-American Cold War (Harmer 2011; Garrard-Burnett et al. 2013; Field et al. 2020; Keller 2015; Booth 2021). Third, this paper engages with the two broader fields that have dominated scholars' understanding of U.S. foreign relations, i.e., international history and U.S. domestic history, and it demonstrates

how both lenses are necessary to make sense of U.S. foreign policy as it pertains to the Iran-Contra Affair (H-Diplo 2016; Reeder 2022).

Considering the significance of “Nicaragua v the United States of America” to Iran-Contra goes beyond establishing causality. The impact that this lawsuit had on the U.S. public and the international community sheds light on the influence of public opinion on shaping domestic and foreign policy, on the extent to which foreign policy is driven by domestic political realities, and on the importance of courts as the theaters where battles for legitimacy are waged. It was fitting that the first whistle on the Iran-Contra scandal was blown by a news source from Lebanon. As this paper will demonstrate, the printed media and global public opinion played a decisive role in much of what unfolded during the Iran-Contra affair.

2. Materials and Methods

This article utilizes U.S. and international periodicals that were published at the time of this study and are available to view online through each periodicals historical database, as well as U.S. Congressional records that are openly available to the public through the website <https://www.congress.gov/> (accessed on 3 March 2022) to examine how Nicaragua’s 1984 lawsuit against the United States at the International Court of Justice (ICJ) affected the perceptions of key opinion makers—both in the United States and abroad—leading many to turn against President Ronald Reagan’s foreign policy in Nicaragua. It also draws from these periodicals and congressional records to uncover how the case shaped opinion and policy within the U.S. Congress, leading a strong bipartisan bloc to reject the Reagan Administration’s support for Nicaragua’s counterrevolutionary forces, known as contras, by passing the Boland Amendment II. In turn, the Boland Amendment is what led key members of the Reagan administration to engage in the unlawful acts at the heart of the Iran-Contra scandal.

3. The Policy That Went Astray

Between January and February 1979, Iranian insurgents overthrew the U.S.-backed authoritarian regime of Mohammad Reza Shah Pahlavi, commonly referred to as the Shah. The Shah had come to power in 1953 through a U.S. backed coup and, over the course of his 26 years in power, had become increasingly corrupt, anti-democratic and unpopular with important sectors of the Iranian population. Given the exhaustive ties between the pre-revolutionary Iranian regime and the United States, the 1979 revolution that overthrew the Shah had a strong anti-American sentiment. Initially, the U.S. sought to normalize relations with Iran in efforts to regain an important ally in the Middle East, keep the Soviet Union out of the region and maintain access to Iranian oil (Saikal 2010, pp. 112–34; Brown University 2010). However, the anti-Western platform of the new Iranian leader, Sayyid Ruhollah Musavi Khomeini, also known as Ayatollah Khomeini, made the normalization of relations between the countries all but impossible. In November of that year, radicalized Iranian students seized the U.S. Embassy in Tehran and took diplomatic staff hostage. The Iranian students’ seizure of the embassy unleashed a hostage crisis that rattled U.S. society and helped doom President Carter’s re-election (Robb 2016). On the heels of the embassy’s take-over, the Carter administration imposed an embargo on Iran. Additional embargoes were subsequently placed on Iran by the Reagan Administration who launched “Operation Staunch” in 1983 in a global diplomatic effort to block arms supplies to Iran (Byrne 2014; Saikal 2010).

In what would become a protracted armed conflict, Iran and Iraq went to war in September 1980 when Iraqi armed forces invaded western Iran. By 1985, Iran was crippled by its inability to procure weapons openly on the international market due to the embargoes placed by the Carter and Reagan administrations. It was in this context that Tehran made a secret request to buy weapons from the United States. Reagan saw this as an opportunity to secure the release of seven U.S. American hostages being held in Lebanon by Iranian terrorists and agreed to an arms-for-hostages deal with Iran. While the revelation that

weapons were sold by the Reagan Administration to Iranian militias in violation of the U.S. embargo would have sufficed to stir-up turmoil in Washington, especially considering the continued effort by Secretary of State George P. Schultz to cut off the flow of all armaments to Iran from everywhere in the world through “Operation Staunch,” it soon became evident that this affair carried far grander legal and political implications. Not only had the weapons been sold to Iranians in exchange for hostages held in Lebanon, but also, a large portion of the proceeds from the arms sales had been divested to help the counterrevolutionary guerrilla forces in Nicaragua. The first constituted a breach of the United States’ long-stated position on terrorism; the second was a clear violation of U.S. federal laws and, specifically, the Boland Amendment II.

When *Al Shira’a* first revealed the weapons-for-hostages deal between the US and Iran, the U.S. President denied any wrongdoing, but set up a commission to investigate the case. Less than three weeks later, on 22 November 1986, Attorney General Edwin Meese discovered that Lieutenant Colonel Oliver North, a member of the National Security Council, had diverted twelve million dollars from an arms sale with Iran to the contras in Nicaragua (Draper 1991). The President subsequently gave a catastrophic press conference in which he admitted that North, with the approval of National Security Adviser John Poindexter, had funded the contras through the Iran arms deal. Reagan said that he had no knowledge of the deal. North and Poindexter both left their positions in the administration, ostensibly in disgrace. A joint congressional committee formed to investigate the matter further, and North, Poindexter and more than thirty other witnesses close to the President were called to testify. The report of the congressional investigation, presented in August 1987, led to a public televised address by President Reagan on 12 August 1987. While Reagan denied knowledge of the illegalities behind the Iran-Contra scandal, he conceded that his preoccupation with the hostages and with “preventing the Soviets from establishing a beachhead in Central America” had led to serious mistakes. In his words, “I was stubborn in my pursuit of a policy that went astray.” (Boyer 1990).

While the congressional committee’s findings were inconclusive regarding President Reagan’s role in the affair, and to this day, the extent of his direct involvement is uncertain, the Iran-Contra scandal threatened not only Reagan’s Central American policy but also his presidency. Domestically, his approval rating plummeted from 63% in late October 1986 to 47% in early December, staying relatively low throughout 1987 (Newport et al. 2004). Allusions to the Watergate scandal—that prematurely ended Richard Nixon’s presidency twelve years prior—led commentators to refer to the affair as “Contragate.” In the opinion of senior political commentator to *The New York Times*, James Reston, the scandal produced “a crisis of confidence in the government.” (Draper 1991). Internationally, the Iranian connection damaged America’s credibility among moderate Arab states and allies in Western Europe. The *contra* connection was particularly troubling for moderate governments in Latin America—especially countries such as Mexico, Colombia, Panama, Venezuela and Costa Rica—who had spent years working on negotiated solutions to Central America’s civil wars, and the matter raised doubts about the Reagan administration’s competence in handling foreign policy matters.

The Iran-Contra affair has largely been understood through the lens of US domestic policy. A conservative President and administration determined to actively contain anything resembling communist expansion clashed with a Congress and citizenry that, while not sympathetic to the Sandinistas, were increasingly opposed to military intervention in Nicaragua and critical of the egregious human rights record of the contras (Smith 1996). In particular, the origins of the affair are traced to the passing of the Boland Amendment II by the United States’ Congress. The significance of Boland is unequivocal. In the first years of Ronald Reagan’s presidency, U.S. support for the contras was unconcealed. On 4 May 1983, President Reagan publicly announced that he was willing “to accept the idea of overt aid to the anti-Sandinista guerrillas in Nicaragua.” (Draper 1991). Up until 1984, Congress allocated federal funds for Nicaraguan counterrevolutionary groups. Boland II changed

this, however, when, at the end of 1984, it outlawed all types of assistance for Nicaragua's counterrevolutionaries.

Why did Congress decide to pass an amendment limiting U.S. involvement in Nicaragua, and why did it do so at this time? In a book on Nicaraguan-U.S. relations published shortly after the Iran-Contra affair, former national security advisor Robert A. Pastor argues that the growing discontent amongst Congress and the U.S. public culminated in Boland II (Pastor 1988). While Pastor does not determine whether a catalyst for such discontent existed, historians Sean Wilentz and Theodore Draper see the U.S. mining of Nicaraguan ports in 1984 and the crisis that ensued as the last straw that put an end to Congress and the public's acquiescence (Evans et al. 1993; Wilentz 2008; Draper 1991). In January 1984, the CIA with the approval of President Reagan began to place magnetic mines in Nicaragua's harbors. In March 1983, a Soviet tanker struck one of the mines off the Nicaraguan coast. A Greek vessel with British passengers, and a Dutch and Japanese carrier were subsequently damaged. Although the mining was no secret, it initially attracted little international attention because the contras—at the instigation of the CIA—claimed credit for them (Draper 1991). On 6 April, however, *The Wall Street Journal* published an extended article in which it revealed that the CIA and not the contras had been responsible for the action. The mines were U.S. American, the ships placing them were U.S. American, and the order to do so had come from Washington (Rogers 1984b). The reaction from Capitol Hill to the news of CIA involvement in the mining was irate, particularly in the Senate Select Committee on Intelligence, of which Republican senator Barry Goldwater of Arizona was chairman. Senator Goldwater sent a vehemently angry letter to CIA Director William Casey reproaching the fact that he had not been informed of the mining operation. The letter, which was published in full by *The New York Times* on 11 April, was unequivocal:

All this past weekend, I've been trying to figure out how I can most easily tell you my feelings about the discovery of the President having approved mining some of the harbors of Central America. It gets down to one, little, simple phrase: I am pissed off!

...

Bill, this is no way to run a railroad and I find myself in a hell of a quandary. I am forced to apologize to Members of the Intelligence Committee because I did not know the facts on this ... The President has asked us to back his foreign policy. Bill, how can we back his foreign policy when we don't know what the hell he's doing?...I don't like this, I don't like this one bit from the President or from you ... in the future, if anything like this happens, I'm going to raise one hell of a fuss about it in public. (Goldwater 1984)

Two days before Senator Goldwater's letter was made public, and a mere three days after *The Wall Street Journal* revealed that the CIA and President Reagan were behind the mining operations, Nicaraguan Foreign Minister Miguel d'Escoto brought a lawsuit against the United States to the World Court in The Hague, the Netherlands. The lawsuit concerned the United States' role in mining Nicaraguan harbors and supporting counterrevolutionary guerrillas seeking to overthrow the Nicaraguan government. It gave rise to the International Court of Justice case: "Case Concerning Military and Paramilitary Activities in and Against Nicaragua: Nicaragua v the United States of America." Scholars have either completely overlooked or made only cursory mention of this international case, and yet as will be discussed in the following pages, this case was a decisive precursor of the Boland Amendment II and thus a crucial instigator of the Iran-Contra scandal.

4. Resolving Conflicts Like a Civilized Nation

The Sandinistas had good reason to bring their grievance against the United States to the World Court. The covert mining of Nicaraguan harbors constituted an act of war and a clear breach of international treaties regulating the law of the seas. Furthermore, recent history offered the Sandinistas an important precedent that they could lean on.

In November 1979 the United States had brought a suit against the Iranian Government to the ICJ. The case concerned sixty-six American citizens taken hostage at the US Embassy in Tehran when militant students and militants supporting the Iranian Revolution had taken over the embassy with the tacit approval of Iran's revolutionary leader, Ayatollah Khomeini. The demonstrators had stormed the U.S. embassy and taken diplomatic personnel hostage with the compliant acquiescence of Iranian state forces, the U.S. charged. The ICJ admitted the case against Iran and in May of the following year the Court ruled that Iran was guilty of violating its international obligations, should immediately release the hostages, and owed reparations to the United States.

The Nicaraguan government referred to the case *United States of America v Iran* several times in its own application to the Court against the United States due to the mining of its ports. The Nicaraguan government argued that the U.S. case against Iran evidenced that the U.S. government recognized the Court as a legitimate channel for the resolution of contentious conflicts between nations. According to Carlos Arguello, a prominent American-trained lawyer and Nicaraguan diplomat who served as Nicaragua's lead counsel before the ICJ, the Iran case offered a most convenient referent. "By bringing its grievance against Iran to the ICJ, the United States had shown the world that this was the way civilized nations resolved conflicts. So, our logic was, let's resolve this conflict like a civilized nation. Let's bring this to the Court and see what happens." (Arguello 2012).

Notwithstanding myriad U.S. attempts to block the admission of Nicaragua's lawsuit, including an attempt to block the Court's jurisdiction on matters concerning Central America for a two year period, the ICJ declared itself competent to try the case and promptly ordered, as a provisional measure, that "the United States of America immediately cease and refrain from any action restricting, blocking or endangering access to or from Nicaraguan ports, and, in particular, the laying of mines." (International Court of Justice 1984). Upon being informed that the ICJ had agreed to try the case, the U.S. appealed that it did not recognize the Court's jurisdiction on the matter at hand and that the U.S. would consequently not participate in the case. When the court finally ruled in Nicaragua's favor in June 1986, the U.S. did not recognize the ruling and refused to pay the reparations it now owed the state of Nicaragua.

The fact that the United States refused to participate in the case and that it did not abide by the ICJ's final ruling came as no surprise to the Sandinista government in Nicaragua. The importance of this case would not lie with proceedings inside the wood and marble chambers of the World Court, but rather with how the case was perceived outside of the courtroom. The significance of this trial rested with how it affected perceptions within the U.S. media, the international press, and in Capitol Hill. The fact that this case could rattle public opinion escaped no one. When asked in January of 2012 whether the Sandinista government truly believed that the Court's ruling could change U.S. foreign policy towards Nicaragua, Arguello responded with an unequivocal "No." And then followed with "what can you do when a superpower violates international law? All we could do was mobilize the politics of shame." (Arguello 2012).

The Sandinista lawyer and diplomat was not the only one to realize the potential of this case to affect public opinion. In fact, the Reagan administration used this very argument when defending its decision not to participate in the case, as did journalist and opinion makers supporting the U.S.'s refusal. Three days before Nicaragua presented its case in The Hague, the U.S. vainly attempted to suspend the role of the ICJ on matters concerning Central America for a two-year period. Evidently, someone in the Reagan administration had gotten word of Nicaragua's intent to sue and the U.S. hoped it could act first and block the proceedings before they began. In justifying this action, a government official told a *New York Times* reporter: "We did not want to turn the World Court into a big propaganda forum...We did not wish to see the Court abused as a forum for furthering a propaganda campaign." (Gwertzman 1984). One day after Nicaragua presented its case before the ICJ, the United States called Nicaragua's suit a "propaganda exercise" and told the Court that it would reject any attempt to rule on the case (New York Times Staff Writer

1984). On a similar note, a piece published on 12 April 1984 in *The Wall Street Journal* upheld the attempt to block the Court's jurisdiction because the case "would be turned into a circus by the Sandinista regime and its radical allies in the third world. It would be foolish for the US to submit itself to public assault from a regime that routinely disregards international law and norms . . ." (Pines 1984).

Fears about the potential impact of the case on public opinion turned out to be well founded. From the moment the case was brought forth by Nicaragua, the issue became a matter of public discourse, both at home and abroad.

5. The Politics of Shame in Action

The Reagan administration's rejection of the ICJ's jurisdiction in the case concerning the mining of Nicaragua's harbors was widely covered and vehemently criticized by both the U.S. press and the international media. On 9 April, the day Nicaragua presented its lawsuit in The Hague, the *New York Times* carried a front-page article, entitled "U.S. Voids Role of World Court on Latin Policy," in which it documented U.S. attempts to modify the scope of the ICJ's compulsory jurisdiction so it would exclude matters concerning Central America (Gwertzman 1984). On a more condemnatory note, *The Wall Street Journal* carried an article on page two, entitled "Reagan Snubs World Court Over Nicaragua," that warned that the issue was sure to cause controversy because it suggested that U.S. activities in Nicaragua were illegal. Alfred Rubin, professor of international law at the Fletcher School of Law and Diplomacy was cited as saying "Every sophisticated analyst of international affairs will conclude that the United States is confirming that what it is doing is illegal." (Rogers 1984a). The following day, on 10 April, *The Chicago Tribune* described the strong congressional reactions that Reagan's obstruction of the Court's jurisdiction had provoked. The Chicago paper also reported that Democratic presidential contender Walter Mondale had called the administration's decision on the International Court of Justice "a mistake." "I think it will cost us substantially in terms of moral authority that we need to conduct an effective foreign policy," Mondale was reported to have said on the campaign trail (Mitchell and Axelrod 1984).

Beyond the media attention granted to the ICJ case in the United States, the matter evoked a strong reaction abroad. Media sources from around the globe took an interest in the issue and newspapers in France, Ireland, Great Britain, Lebanon, the Soviet Union, India, amongst others, ran cover stories detailing Reagan's rejection of the ICJ's jurisdiction. The editorial piece "Out of Court," published in *The Irish Times* on 11 April was prophetic in warning that "there can be no doubt that this treatment of the Court will fuel anti-American propaganda all over the world. Whatever the small print says, the wiser course for Mr. Reagan would be to meet the Nicaraguan complaint head-on and argue it out in public view." (The Irish Times Staff Writer 1984). Mondale had also been right when on the campaign trail when he predicted that rejecting the Court would imply heavy costs for the credibility of U.S. foreign policy.

Not surprisingly, the Reagan administration's decision to snub the International Court of Justice evoked a strong reaction from the Nicaraguan government. But the Sandinista's reaction to this was also featured on the front page of *The New York Times*, a leading U.S. newspaper. On 10 April, in a cover article entitled "Nicaragua Takes Case Against U.S. to World Court," *The New York Times* quoted Nicaragua's Foreign Minister Miguel d'Escoto: "to dispense with the rule of law in international relations is tantamount to condemning humanity to a future of suffering, death and destruction." (Taylor 1984). On the same day, *The New York Times* also quoted Soviet Delegate to the United Nations, Oleg A. Troyanovsky, who at a news conference said that the United States' move to block action by the International Court of Justice showed the "inconsistency" of American policy. "Ever since the World Court was set up, the United States has been keen on making the point that it recognizes its compulsory jurisdiction," Mr. Troyanovsky said, "but in this case it realizes that it may lose the case." (New York Times Staff Writer 1984).

While criticism by Nicaragua and the Soviet Union came as little surprise, the animosity and condemnation in the European press and by Western European governments was much more damning. At the United Nations, thirteen members of the Security Council, including France and the Netherlands, voted for a resolution condemning the U.S. (LeoGrande 1998). France, under the leadership of social democratic President Francois Mitterrand, offered to help Nicaragua sweep the mines from its harbors and Britain informed the Reagan administration that it disapproved of U.S. actions (Southerland 1984). The animosity of Great Britain must have been a heavy blow for President Reagan, whose close relationship with British Prime Minister Margaret Thatcher was unrivaled.

As the case evolved in The Hague, notwithstanding the absence of U.S. participation in the proceedings, the printed press continued to refer to the matter and to document opposition to what was largely perceived as the White House's contempt for international law and its admission of guilt for the mining crisis. It is important to note that in the widespread coverage of the ICJ case there was little sign of support for the Sandinista regime or of advocacy for the advancement of the Nicaragua Revolution. What seemed to be at issue for U.S. opinion makers and the international community was not the fate of the Sandinista government, per se, but the fact that the United States was jeopardizing the international legal order. This was particularly troubling for U.S. allies in Western Europe who had experienced first-hand the horrors that an anarchic international order could unleash. Unlike the United States who had escaped virtually unscathed from the two major wars of the twentieth century, Western Europe had sacrificed much blood, toil, tears and sweat to breakdowns of the international order. The effort to prevent such breakdowns from reoccurring had led to the establishment of institutions such as the International Court of Justice at the end of the First World War.

6. The Real Power of the Court

The World Court lacks mechanisms to enforce its rulings or punish defectors. The Court's real power rests in its ability to sway world opinion and "mobilize the politics of shame." In the case of "Nicaragua v the United States of America" this reality had important policy implications to the extent that opinions, swayed by the ICJ case, affected the United States Congress and helped shape its legislation.

The Reagan administration had hoped that by not participating in the ICJ's proceedings it would limit the impact of the case upon domestic and global opinion. Not participating, it hoped, would thwart public attention away from the entire matter. The strategy backfired as rejection of the Court merely added an additional layer of opposition to what the administration already faced on account of the mining incident. News of CIA involvement in the mining coupled with the White House's snubbing of the World Court produced a strong bipartisan opposition in Congress. This opposition would prove to be the main impetus behind the Boland Amendment II.

The mining and World Court episodes gave new ammunition to long-time critics of Reagan's foreign policy. More importantly, however, they turned a significant number of previous Reagan supporters against the administration's actions in Nicaragua. Outrage over Reagan's foreign policy now expanded beyond groups that supported the Sandinista regime and the more liberal members of the U.S. Congress. Now, more moderate Congressional niches where Reagan's policies had enjoyed support or at least acquiescence were also opposing continued support for the contras. As major newspapers in the U.S. detailed, Congressional reaction to the mining and World Court incidents was wrathful. On 10 April, *The Chicago Tribune* quoted Republican member of the House foreign affairs committee, James Leach, as saying that "withdrawing from the World Court made the U.S. look like it is above the law." (Atlas and Worsham 1984). Democratic representative John Selberling was more explicit, saying that the action "reduces our nation to the position of international scofflaws." House Speaker Thomas O'Neill, a Democrat from Massachusetts, condemned President Reagan for overstepping the jurisdiction of the World Court. "Up to this point, I have contended that the Reagan administration's secret war

against Nicaragua was morally indefensible. Today, it is clear that it is illegally indefensible as well." ([Atlas and Worsham 1984](#)). House Speaker O'Neill was cited on the front page of the *Los Angeles Times* as saying: "thirty-eight years of U.S. support for the peaceful and lawful resolution of disputes between nations has been undermined by this unfortunate decision." ([McManus and Houston 1984](#)).

In effect, controversy over the mining crisis and rejection of the World Court drove a marked wedge between the executive and the legislative branches of the U.S. government. Senators argued that the President had abused his authority and intruded in the war-making powers of Congress. The Reagan administration contended that it had both the authority and moral duty to act in the way that it had. In the immediate aftermath of the mining and World Court crises, Congress members mobilized to end their country's support for the contras. In a closed session in early April 1984, the House Foreign Affairs Committee approved a non-binding resolution expressing opposition to the mining operation ([Wall Street Journal Staff Writer 1984](#)). In the Republican-dominated Senate, Senator Edward Kennedy of Massachusetts promptly spearheaded the approval—by an overwhelming majority of 84-12—of a non-binding resolution calling for an end to the use of CIA funds to assist in the mining of Nicaraguan ports. This resolution passed on the night of 10 April with the support of Senate majority leader, Howard H. Baker Jr., and 41 other Republicans ([Tolchin 1984](#)). Senator Kennedy also tried to pass an amendment that would reverse Reagan's attempt to block ICJ jurisdiction on matters concerning Central America. The House soon began hearings that aimed to revise the first Boland Amendment, which had been passed by Congress in 1982. Boland I sought to constrain Reagan's efforts in Nicaragua by outlawing American financial aid for efforts geared towards overthrowing the Sandinistas, but Boland I had done little to contain Reagan's support for the contras because the administration argued that these groups sought to democratize the country, not to overthrow the Sandinistas. To avoid any confusion or circumvention, Boland II would be unequivocal in its prohibition of any support for the contras for the 1985 fiscal year and hearings for Boland II kept the House and Senate occupied throughout the summer of 1984.

The congressional hearings surrounding the second Boland Amendment evidenced that "Nicaragua v the United States of America" shaped perceptions within the United States Congress. Furthermore, the hearings reflect that these shifting perceptions had concrete policy implications that help explain the Iran-Contra story. In assessing Reagan's foreign policy, U.S. Congress members supporting the Boland amendment referred directly to the case at the ICJ and to global public opinion. House Representative from Massachusetts, Edward Patrick Boland—after whom the Amendments restricting aid to the contras were named—frequently referenced the World Court and world opinion as factors that should move Congress to block all aid to the contras ([United States Congress 1987](#)). Members from both the House and Senate argued that the contras had produced "our growing isolation in world affairs" and that withdrawal from the World Court had "been widely interpreted as a sign of our contempt for international law and world opinion." ([Panetta 1987](#)). Republican Senator from Maryland Charles Mathias took a more pragmatic approach when assessing the costs of the ICJ case. Mathias pointed out that the U.S. had interests in many parts of the world that relied "on the protection that the law can only provide." It would thus come at a high cost that the U.S. had demonstrated contempt for international norms and for the institutions charged with upholding them ([Mathias 1987](#)). Mr. Leach of Iowa presented an emotive appeal that compared US inaction to block aid to the contras to US inaction in the face of the Holocaust ([Leach 1987](#)). Even those who opposed the Boland Amendment recognized that public opinion had turned against support for the contras. Mr. McCain of Arizona addressed the House stating: "I fully appreciate that a majority of the American people do not support the Contras nor our efforts in Nicaragua. However, as Edmund Burke so eloquently stated: 'Your representative owes you, not his industry only, but his judgment: and he betrays, instead of serving you if he sacrifices it to your opinion.'" ([McCain 1987](#)). The two scandals that broke out almost simultaneously in early April 1984, the mining of Nicaraguan ports and the Nicaraguan's international lawsuit

against the United States of America, had a profound impact on how the public perceived Ronald Reagan's foreign policy in Nicaragua. In what seemed like something out of a parody, the Washington Post reported that during a rose garden ceremony attended by administration officials President Reagan designated 1 May as "Law Day USA" and hailed a 200-year-old partnership between law and liberty ([The Washington Post Staff Writer 1984](#)).

The mining scandal and World Court affair produced notable schisms within the US government. They were most evident in the relationship between the President and Congress. So marked did the wedge between Congress and the Presidency become that Reagan took from it the most important lesson from Iran-Contra. In a public address to the nation regarding the Congressional Committee's conclusions on the Iran Contra affair, Reagan said: *"The problem goes deeper, however, than policies and personnel. Probably the biggest lesson we can draw from the hearings is that the executive and legislative branches of Government need to regain trust in each other. We've seen the results of that mistrust in the form of lies, leaks, divisions, and mistakes."* ([Boyer 1990](#)).

7. Conclusions

This paper has argued that although the Sandinista's international lawsuit against the United States was a leading cause of the Iran-Contra scandal, its significance has been largely overlooked. This seems understandable, given that, on the face of it, the case had little significance. The United State refused to participate in the proceedings, and when the Court ruled in Nicaragua's favor, the Reagan administration recognized neither the sentence nor its international obligation to pay reparations to its southern neighbor. The proceedings at the World Court suggest that the case had little impact on U.S.-Nicaraguan relations or U.S. foreign policy more broadly. What is more, the case appears to offer a prime example of the limits of international courts and international jurisdiction given the lack of enforcement mechanisms at their disposal. "Nicaragua v the United States of America" looks like a poster child for the realist argument that ultimately, in the international arena, might makes right.

As this paper has demonstrated, however, the case brought forth by the Sandinista government to the International Court of Justice was consequential, but its significance rested in the realm of public opinion rather than in international law. The case instigated the passing of Boland II by the U.S. Congress thus creating the conditions that propelled the hostage-for-arms transfers that made up the Iran-Contra scandal. Changes in public opinion and bipartisan congressional opposition to continued aid for the Nicaraguan contras were behind the passing of the Boland Amendment II. The lawsuit brought before the ICJ by the Sandinista government of Nicaragua played a major role in changing public opinion in the U.S. and internationally and it moved majorities in the U.S. Congress to reject continued aid for the contras even while this did not equate to support for the Sandinistas.

The Nicaraguan government's appeal to the international legal order affected U.S. policy indirectly and did so by mobilizing what the Sandinista counsel Carlos Arguello has called the politics of shame. The printed media—both in the United States and abroad—played a central role in the success of this strategy. That the Sandinistas' appeal to the World Court had policy implications because it impacted public opinion echoes much of the literature on transnational activist networks and international civil society organizations, particularly in how their efforts in the second half of the twentieth century contributed to the advancement of human rights policies ([Simmons 2009](#); [Iryie 2002](#); [Keck and Sikkink 1998](#)). The Sandinistas' appeal to the World Court is also of import to the degree that it offers a specific, concrete example of how a small and seemingly powerless state was ultimately able to affect the domestic politics of a superpower and did so not by engaging with the country directly but by engaging with an international institution at the global level.

While the ICJ case affected U.S. domestic politics, and this in turn shaped U.S. foreign policy towards Nicaragua, one cannot escape the reality that, ultimately, the United States continued to support the *contras*. While the Sandinista's efforts to mobilize opinion against U.S. support for the *contras* forced the Reagan administration to change the tactics it

employed, the Sandinistas could not alter the aims of Reagan's foreign policy towards Nicaragua or the determination by certain U.S. public servants to carry these aims out irrespective of public opinion, Congress, and domestic and international laws.

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