An Analysis of the Privatization of the Telecommunications Sector in Nicaragua

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Prof. Erhardt
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C. Connor Boone

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Abbreviations and Definitions:

C$: Symbol for Nicaraguan currency, the Córdoba (1USD = 31.09NIO)

Enitel: La Empresa Nicaragüense de Telecomunicaciones, S.A.

HIPC: Highly Indebted Poor Countries, a joint IMF/World Bank debt forgiveness program

IDA: International Development Association

IMF: International Monetary Fund

LDC: Least developed countries

Ley: The Spanish word for law

HSPA+, UMTS, LTE: Abbreviations for 3G/4G mobile telephone network radio standards

ITU: International Telecommunications Union

Sandistas or SNLF: Sandinista National Liberation Front

Telco: a telecommunications company

TELCOR: Telecommunication and Postal Regulator of Nicaragua (telecomunicaciones y correos)

Telmex: América Móvil, S.A.

Deconstructing the State Marketplace and Regulatory Divestiture

Nicaragua is located in Central America with a population of around 6,025,000 people, with most of the populace living in and around the capital, Managua. Nicaragua is the second poorest country in the Americas after Haiti. In 2016, some 48% of the population lived in abject poverty. The government has centralized its power in a single party, the Sandinista National Liberation Front (SNLF), more commonly known as Sandinistas. Since the consolidation of power, the government has exercised continuous human rights violations, such as: nepotistic, corrupt, and political manipulation of the judicial system, countless violations of respecting the freedom of the press (to the point of violence and threats by government officials to journalists), and also failure to provide as the government continually fails to dispense basic services to the entirety of its populace (Bureau of Democracy, et. all, 2012).

Many countries throughout the world publicly financed the development of a national telephone network because the market entry costs are prohibitive enough to completely stifle investment. Several modern telecommunication corporations that today operate as private corporations began as public companies, such as Orange (France), Telefónica (Spain), and América Móvil (Mexico). América Móvil is more commonly known as Telmex, which is its subsidiary. The National Assembly (hereon referred to as the legislature) reincorporated La Empresa Nicaragüense de Telecomunicaciones, S.A., literally the Nicaraguan Telecommunications Company, in 1979. This corporation was more commonly known by its acronym, Enitel. Enitel has roots dating back to the invention of the telephone and was originally incorporated in 1879, a century prior.

Antecedents to the privatization of the several state monopolies in Latin America can be analyzed as a collective group at first glance. The governments of these nations were persuaded by the international financial community through policies that were part of a series of market liberalization agendas called the Washington Consensus. Proponents for privatization of companies, like Enitel, saw the removal of state monopolies as a requisite for development and competition in the telecommunications sector. Loan eligibility from the banks was determined by persuading states to adhere to a set of economic policy guidelines set forth by the development banks themselves. These policies guided Central American politics from the early 1990s well into the new millennium.

These states desperately sought to become eligible to access low interest loans and more so to extend their credit lines from the international development banks (IMF, World Bank, etc.) which sought promote economic progress in LDCs. Because of this, Nicaragua sought to privatize its national telephone corporation and to establish a state regulatory body for telecommunications. Nicaragua however, struggled for decades with setting up an adequate regulatory framework. In addition to this, the state used inefficient methods in privatizing Enitel, which resulted in the process taking nearly a decade to close and resulted in public funds being wasted (Ansorena, 2007). Understanding how Enitel transitioned from a public to a private company is vital to make conclusions about how the market exists today.

Initially, Enitel operated as both a regulator and a telecommunications operator. Subsequently in 1982, TELCOR was created by Ley Nº1053, in order to monitor postal carriers and the telecommunications sectors of the economy. Initially, the coexistence of TELCOR and Enitel was somewhat insignificant however, as the number of fixed telephone subscribers in Nicaragua in 1982 was just under 36,000 customers, or on average around 7 telephones per 100 people (Narimatsu, J; Miranda, E. C., 2015). Others contest that this figure is inflated and was closer to 2.6 telephones per 100 people until the 1990s (Ansorena, 2007). Until very recently, telephone access in Nicaragua was a luxury reserved for mostly the affluent.

Following the establishment of TELCOR, the government doubled down on its commitments to the international community on having a strong regulatory system and also to privatizing Enitel. This was in response to several problems relating to the low productivity of Enitel, such as: low level of telephone network integration, outdated technologies, and poor quality of services, all of which resulted from lack of investment. Moreover, price distortion and poor training left the company struggling to grow (Ansorena, 2007).

In 1992, the government began to prodigally invest into the company, and had the highest level of telecommunications investment in Central America. Nearly $104 million was apportioned for infrastructure investments, which made Enitel the primer telco in the region at the time. This was an attempt to make the operator a more attractive investment to private companies. By 1995, 78% of the telephone network was digitalized, and by 1996 this figure reached 90% (Ansorena, 2007).

The government made several attempts to market the sale of Enitel with a series of legislative actions that each sought to achieve different goals. Beginning in 1995 with the passage of Ley 200, which today is most notable for giving more power to TELCOR, also set the groundwork for a “private monopoly”. This private monopoly would have to comply with rules set forth by the government as means for acquiring the company, such as mandatory expansion and connection guidelines. This was path was chosen as the preferred method of privatization of Enitel as opposed other goals such as establishing a marketplace with several private competitors. This attempt at privatization failed, but TELCOR remained the government regulator with new powers and responsibilities for consumer protections (Ansorena, 2007).

Ley 200 is a vital piece of legislation because it shows how the motives of the government changed from the beginning of the sale until its closure in 2004, and how the legislature became obsessed with divesting the company off of its books, instead of securing the best deal for the people of Nicaragua. In addition to la Ley 200 providing new mandates to TELCOR, it also guaranteed new protections for consumer rights and established the rules for telco exchanges that state all companies must provide uninterrupted interconnection access to their networks (Ansorena, 2007).

Soon after, in 1997 the legislature passed Ley 210, which allowed for 40% of the shares of Enitel to be sold to the highest bidder. The government priced the entire organization as valuing some $203 million. This privatization attempt was unsuccessful due to strong legislative and public pushback. At this point, another telco operator, BellSouth, had entered the marketplace which placed more strain on the sale of the Enitel (Ansorena, 2007).

BellSouth (which is now a telco holding company owned by AT&T) entered the market in 1997 by acquiring the first company in Nicaragua to offer mobile service, called Telefonía Celular de Nicaragua, S.A (TCN), and until the entrance of Claro into the marketplace in 2001, this network was the exclusive provider of mobile telephone services. Meanwhile, Enitel was the sole provider of fixed telephony. As an interesting side note, although Grupo Carso (parent company of América Móvil) had majority control of Telmex since it was privatized in the early 1990s, Grupo Carso obtained 100% control of Telmex from AT&T in 2011 for $1.4 billion (Fontevecchia, 2011).

With the passage of Ley 210, the government begins to become more desperate to find a buyer. The law included terms to ensure that whoever eventually obtained control of the corporation, would be given a three-year market exclusivity agreement that outlawed other companies from entering the market until a time at which such contractual obligations had been met. In 1998, the legislature further promoted the sale of Enitel by passing Ley 293, which allowed for Enitel to be sold under majority control (wherein 51% of the company's shareholders were to be Nicaraguan nationals) and with more flexible sale terms, including a restructuring of the company's public pension plans, which provoked massive opposition, protests, and walkouts from syndicates for several years (Reyes, 2003).

Ley 293 was the final set of legislation passed to facilitate the sale of the Enitel. There were three sets of offers by various international companies that were rejected by the legislature. The companies were most dissatisfied from the subsidized rates that Enitel collected for telephone service, that led to an inadequate revenue to cover the company's growing debt. The World Bank also adds that in the early 2000s, the world economy was unfavorable to telecommunication investments, which was an out-of-government-control obstruction to privatization of several state telcos during this time (Narimatsu, J; Miranda, E. C., 2015).

Finally, in 2001 a joint venture between a company from Honduras (Megatel) and a Swiss company (Telia-Swedtel) reached a deal with the government to acquire 40% of the company following a financial restructuring. The joint-venture paid the government some $83 million to close the deal. The government mandated that the number of fixed landline coverage, therefore availability of subscriptions for consumers, raise substantially, and also mandated that Megatel publically disclose the terms of the terms of their interconnectivity conditions so that other providers could be established in the country after the exclusivity clause of the contract expired. Part of this deal saw that another 11% of the shares that were to be sold, should be acquired by the employees of Enitel, but not long after, Megatel also acquired these shares from company's employees (Ansorena, 2007). This is one of the major points of contention in the ongoing corruption charges against the former president of the company, Arnoldo Aléman (Mayorga, 2002).

In 2004, the government entered into a deal to divest the remaining 49% of shares of Enitel to Telmex. However, earlier in 2004 Telmex had acquired complete control (100% ownership) of Megatel and rebranded that company to its brand, Claro. Once Telmex had finalized acquisition of the remaining shares of Enitel, it had 100% control of both Enitel, Megatel, and several other Central American telcos (Ansorena, 2007) (Martínez, 2004). These series of acquisitions mark the end of a complicated path to privatization, which took nearly a decade (1995-2004).

In an unrelated series of transactions, Telefónica also saw the profitability of the Latin American telecommunications market and made a dramatic reentrance into the region starting in 1990 by acquiring the Argentinean state telco, Entel, in 1990 ("Telefónica de Argentina S.A.," 2018). In 2004, Telefónica entered into an agreement to acquire all of BellSouth's Latin American operators, comprising some 12.5 million customers, for a transaction valued at $5.85 billion ("Telefonica Moviles," 2004). BellSouth had merged with BellSouth Mobility (later renamed Cingular Wireless) and its parent company, SBC communications in 2001, leading to a complicated series of corporate reorganizations that led to several acquisitions and a blanket name change of all the companies to AT&T. This series of events was partially funded by the sale of BellSouth's Latin America assets to Movistar and Telefónica (Vorman, 2007).

Involvement of the Development Banks

Telecommunication regulators are crucial for development of a functionally competitive marketplace, maintenance of communications for emergency services, and most importantly, overseeing spectrum allocation. TELCOR most struggled with regulating spectrum allocation, which is vital to guarantee uninterrupted access to mobile networks and also allows for them to coexist at different spectra (Ansorena, 2007). If networks broadcast at the same frequencies it can cause network failures, and this is called interference, which is illegal in nearly every country and is more a violation of ITU directives (PUBLIC LAW 97-259). Spectrum is considered to be property of the people, and therefore mobile network operators must petition for authorization to broadcast in order to be in compliance with regulators.

In 1998, the World Bank allotted $15.9 million to an IDA project to benefit the Nicaraguan telecommunications sector. The project was used to finance the organizational changes to TELCOR, the development of a radio spectrum management system, investments for rural telecommunications infrastructure, cooperation between the international finance community and Enitel to aid in its privatization, and several other minor goals. (Narimatsu, J; Miranda, E. C., 2015).

The managerial role of the World Bank in this process is actually quite impressive. The IDB team established a project implementation unit to completely control the inept TELCOR regulatory system in order to bring the regulator into compliance with ITU directives, and to teach the staff how to properly behave as a regulatory entity. The goal of the IDA projects that were authorized by the World Bank focused on “shifting the government's role from ownership and operations to policy making and regulation" (Narimatsu, J; Miranda, E. C., 2015).

As stated prior, an important factor to consider when promoting development by the international community was the shockingly low level of telephone network integration. In 1999, only 2.99 out of every 100 people had access to a landline telephone, whereas in the United States this figure was around 67 out of every 100 people. However, it is worth noting that after 2000, there is a general downward trend around the world of people disconnecting their landline subscription in favor of mobile telephones ("Fixed Telephone Subscriptions," 2018)

The most significant role of the World Bank in regard to the privatization process of Enitel was the financial aid in promoting the sale of the company. The World Bank allotted $3.93 million dollars to aid in legal consultancy, international bank fees, a revised financial audit, and the development of a public relations campaign to sway public opinion towards favoring privatization, as it would supposedly increase the availability and quality of services while also lowering prices overall. When investigating the effectiveness of TELCOR in lowering prices, by 2005, the average call from Nicaragua to the United States had fallen from $1.00/min in 1999 to an average rate of $0.15/min (Narimatsu, J; Miranda, E. C., 2015).

The World Bank found that a financial reorganization of Enitel was necessary to promote the sale of the company. Before this time, Enitel had no accounting system in place, and therefore was not producing any financial statement reports before reorganization. The IBD team increased financial solvency and transparency. Also, the international bank would authorize a one-time cash injection to the tune of $3.93 million to Enitel. Furthermore, in an effort to make the company more attractive to potential bidders, the Government of Nicaragua directly assumed a percentage of the company's massive insolvent debt, which would later be partially forgiven by the World Bank's HIPC program (Narimatsu, J; Miranda, E. C., 2015).

Finally, the World Bank included clauses that revised connectivity mandates proposed by TELCOR. They would ensure that the company that assumed control of Enitel would provide new telephone access to rural areas of Nicaragua, where on average the rural resident would have to travel some 19 kilometers to access a pay phone. By 2006 this figure had risen to 37% of the population having regular access to a landline telephone, and 2.81% of people having access to the internet. This figure has since risen significantly due to the rise of mobile telephony in the country (Narimatsu, J; Miranda, E. C., 2015).

Marketplace today

Fixed telephone lines are disfavored in underdeveloped markets for several reasons like geographic and strategic disadvantages, especially when other options for deploying communication services like mobile telephony are significantly more cost effective. Since the complete privatization of Enitel, the number of mobile cellular subscriptions has skyrocketed from 3.18% in 2001 to 122.14% in 2016; whereas in the United States this figure was 44.7% in 2001, and 127.16% in 2016, respectively (World Bank, 2018). By 2005, three distinct telcos had taken a majority control in the mobile marketplace, Enitel (later completely rebranded to Claro), Telefónica (Movistar), and PCS Digital (also owned by Telmex).

The market was further consolidated in 2006 when América Móvil reorganized the corporate structure of Enitel and PCS Digital to merge them into one company named Claro Nicaragua. Although a Russian company, Yota, and later a Chinese company, Cootel, entered the mobile market in 2009 and 2011, respectively, a duopoly between Claro and Movistar controls nearly the entire mobile market today. Market data for Nicaragua is not released on a regular basis, however recent documents from 2014 show Claro controls 53.9% of the market, and Movistar encompasses 46.1% of the mobile market (Chavarria, 2013).

Although the availability of mobile services today reaches around 80% of the country with 3G connectivity (HSPA+, UMTS), 4G coverage (LTE) reaches only 7.3% of the population. Meanwhile, 4G coverage reaches 99% of the United States. Moreover, smartphone adoption rates rate among some of the lowest in the world, with under 1/3 of consumers currently using a smartphone, which further disincentives investment in newer, faster network connectivity ("GSMA LA Operators") ("GSMA Mobile Connectivity Index," 2016). Nevertheless, foreign investments seek to bring more 4G network availability to Nicaragua, with Movistar recently having brought 4G LTE connectivity to 10 cities in four national departments last year ("Movistar Triplica Cobertura LTE," 2018).

An interesting effect of high prices of contract lines forces a majority of the populace to use prepay services, with some 79% of mobile users being prepay customers as of Q4 2017 ("Nicaragua Markets," 2017). Since over 50% of the people in Nicaragua use Claro as their mobile carrier, its rate tariffs will be used as a representative data set of prices in the country. The longest pre-pay plan available for the network lasts for 15 days of service before expiring, while the shortest and cheapest plan lasts only 3 days. The 15-day plan costs $6.79 (C$210) and includes: 60 airtime minutes (calls to other Claro users are airtime free), 100SMS, and 1GB of data. In contrast, the cheapest post-pay contracted option costs $34.99/month, and includes: 100 airtime minutes, 7500SMS, and 6GB of internet ("Planes Destacados," 2018).

The requisites to a contract plan such as proof of income, bank accounts, and other financial documents are major impediments to the average person in Nicaragua from obtaining contracted lines, because most of the populace simply cannot produce these documents. The result of these price discrepancies is that prepaid users will have to recharge their plan at least twice a month to maintain service, when in actuality a majority of prepay users go several times a month to recharge their accounts. Interestingly, contract prices on Claro's network are charged in US dollars, whereas prepaid plans are charged in cordobas; further showing how distant the poor are from being able to obtain a post-pay phone plan.

Consequences and Conclusions

The acquisition of Enitel and many other similar national telephone companies in Latin America by Telefónica and Telmex are some of the most flagrant commercial examples of an economic theory coined neocolonialism, wherein a nation takes economic, political, or cultural advantage of another country, especially where the latter is a former dependency. Telefónica and Telmex are the eighth and ninth largest telecommunication companies in the world in terms of revenue, respectively. When considering market penetration today of the two companies, 60% of total subscribers in the Latin American mobile market are customers of one of the two companies (Castañares, 2017).

Changes to make the market healthier have achieved the goals set forth by the government of Nicaragua and World Bank/IMF directives, although significant challenges in guaranteeing access to a majority of the populace remain. This is in part due to the low percentages of smart phone adoption rates, and the prevalence of 3G-only networks. 3G is based on technologies from 1998, with the last technical updates being approved by the ITU in 2010. This causes overloaded towers, especially as more mobile subscribers come online (Warman, 2010). This is especially important in Nicaragua, because in many places telcos have opted for mobile networks as the only way for people to access the Public Telephone Switched Network and the internet; mobile networks are effectively the only way for a significant portion of the population to be able to access communication services.

Most importantly however, the methods by which the government orchestrated the sale of this company have been noted by various national and international organizations as being fundamentally corrupt (Berthin, 2009) (Loáisiga, 2014). The former president of Enitel is being indicted of corruption charges, but there is fundamental doubt about who orchestrated the crimes and even more uncertainty regarding the scope to which Enitel's funds were mismanaged (Miranda, 2007). This is in part due to the lack of availability of accounting documents prior to the World Bank ordering a restructuring of the company. This is a reoccurring theme in Central American politics, where in nearby Guatemala, government officials are currently being criminally investigated for corruption following the sale of Telgua, the state telephone company, to Telmex in the late 1990s ("Julio Carlos Porras Zadik Reveló," 2017).

The population of this region is severely underserved by their government and is disadvantaged further by cold grasp of poverty. The average person in Nicaragua earns \$193/month, and for many families this could be the only income their family has for the entire month. If service on the cheapest prepay plans costs nearly \$60/month for a family of four to have access to mobile phones, then nearly 1/3 of the family's income is spent on mobile phone access. This is obviously a major exploitation of an already extremely venerable population that deserved to be investigated further, as this practice is not uncommon in Central America, but affects the poor spanning several continents. Networks claim to have prices set as cheap as possible to be able to make reliable networks profitable, but when considering the major role of governments and world development banks in the deployment of these networks, it does raise some very important humanitarian issues. ("Nicaragua Reports," 2018).

The market needs to improve in two critical aspects to ensure the continuity of services to its entire populace, or at least an acceptable majority of the population, with fair prices. Bringing justice to those who stole from Nicaragua and the international banks by corruption from the privatization of Enitel would legitimize the transaction, and further would ideally give restitution to the public employees of Enitel whose pension assets were compromised by the closed-door negotiations of the deal. The government needs to ask intra-national organizations such as the Organization of American States and the UN to help bring these criminals to justice, because the scope of this scandal could have extraterritorial implications and actors. This further means that the SNLF needs to detain activities that hamper journalistic freedoms and judicial integrity. The actions the state takes against journalists and the judicial branch not only misinforms the public about the proceedings of such investigations, but in effect deters foreign investment into the region due to lack of political stability.

Also, TELCOR needs to assume a more effective role in setting maximum prices, especially for the impoverished who meet certain economic conditions, and also to ensure that carriers extend coverage to a more acceptable geographic area of the population. This however seems unlikely, as the government has no current plans to guarantee access to basic services, let alone communication services, to those without the means to secure such access by their own means. The government further needs to disincentivize the prepay system to bring lower prices and more reasonable service plans to those who are underserved, especially people in rural areas of the nation.

In conclusion, until Nicaragua can free itself from the clench of its own despotic rule, the state of the mobile market will continue to be controlled exclusively by foreign actors, namely Telefónica and Claro. These companies will be able to exploit a large portion of the dismal salaries of the population of Nicaragua until a systemic change sees an overall lowering of prices and a complete overhaul of the prepay system as it exists today.

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