



NICARAGUA
Compliance with the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment: Detention and Torture of Human Rights Defenders and Political Dissenters

Submitted by The Advocates for Human Rights
a non-governmental organization in special consultative status with ECOSOC since 1996

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The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact-finding, direct legal representation, education and training, and publications. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. A growing number of victims fleeing torture and cruel, inhuman, and degrading treatment in Nicaragua have requested legal assistance from The Advocates in applying for asylum in the United States. First-hand information from asylum-seekers about the human rights violations that they experienced in Nicaragua since the last review in 2009 has been used with their permission in this submission.

EXECUTIVE SUMMARY

1. Nicaragua continues to arbitrarily detain people for prolonged periods in violation of domestic and international law. Some have been arrested without a warrant or charged with fake crimes. Persons arrested have reported being denied access to their lawyers and families. People in detention have reported experiencing torture by Nicaraguan authorities who attempt to extract false confessions.
2. Conditions in Nicaragua's prisons are inhumane. Prisons are overcrowded and lack access to safe drinking water. Some persons in detention are only allowed to leave their cells for a maximum of 30 minutes every week.
3. Human Rights Defenders and Political dissenters are frequent targets of arbitrary detention, harassment, and violence from Nicaraguan authorities and from pro-government armed groups with the acquiescence of the State.

Nicaragua fails to uphold its obligations under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

I. Nicaragua fails to respect the rights of persons arrested or in detention (Article 3, LOIPR Paragraph 3,24)

6. In its 2020 List of Issues, the Committee requested Nicaragua to provide information about the State's measures on police oversight and accountability measures. The Committee sourced the cases documented by the United Nations Office of the High Commissioner for Human Rights (OHCHR) regarding mass arrests against the anti-government protestors in which the police failed to inform the reason for the arrest or their rights. The State failed to notify the families of the arrested person and denied arrested persons access to a lawyer, holding detainees for weeks without bringing them before a judge.¹
7. The Inter-American Commission on Human Rights (IACHR) received information regarding legal persecution, arbitrary detention and criminalization against dissidents, protestors, students, and human rights defenders. The IACHR found a failure of the police to inform them of their rights or of the charges against them at the time of their arrest. The Nicaraguan police showed no arrest warrants, nor notified their families or lawyers of their arrest and their place of detention.² The Inter-American Court on Human Rights has provided precautionary measures on multiple occasions like in the case of the *Centro Nicaragüense de Derechos Humanos y de la Comisión Permanente De Derechos Humanos (Cenidh-Cpdh)*³ in arbitrary detentions with similar circumstances as the described.

¹ Committee Against Torture, *List of issues in relation to the second periodic report of Nicaragua*, (DecZer 23, 2020), U.N. Doc, CAT/C/NIC/Q/2 ¶3.

² Inter-American Commission on Human Rights, *Persons Deprived of Liberty in Nicaragua* OEA/Ser.L/V/II. Doc. 287(October 2020); Press Release, Inter-American Commission on Human Rights, IACHR Confirms Reports of Criminalization and Legal Persecution in Nicaragua (August 2, 2018), https://www.oas.org/en/iachr/media_center/PReleases/2018/169.asp.

³ Inter-American Court on Human Rights, *Resolucion de Medidas Provisionales [Precautionary measures] Asunto Integrantes Del Centro Nicaragüense De Derechos Humanos y de la Comisión Permanente De Derechos Humanos (Cenidh-Cpdh) Respecto De Nicaragua*, (Oct. 14, 2021), https://www.corteidh.or.cr/docs/medidas/integrantes_centro_ni_se_04.pdf.

8. Nicaraguan police allegedly have arrested innocent persons without a warrant. According to the IACHR, between November 5 and 7, 2021, at least 23 individuals were arbitrarily detained in nine departments, without arrest warrants or providing information to the detainees' families.⁴ The Nicaraguan Human Rights Center has reported that since May 2021, at least 43 human rights defenders and political opponents, including seven presidential pre-candidates, are in detention.⁵ In the atmosphere of the anti-government protests in 2018, Amnesty International has reported that at least 30 persons were detained in the “*El Chipote*” detention center who were not committing any offense at the time of the arrest and were presented with no arrest warrant.⁶
9. The Amnesty Law in Nicaragua conditioned the release of detained persons in exchange for no investigation against those responsible for the state violence that has occurred since April 2018.⁷ The IACHR has expressed its concern about “the ambiguity of [the Amnesty Law] content and scope of application, which could leave in impunity the serious human rights violations committed in the country and which have been widely documented by the IACHR and other international and national human rights organizations.”⁸
10. The Nicaraguan Constitution requires persons arrested to be brought before a judicial authority within 48 hours of arrest.⁹ This practice has not been consistently observed. There have been reports of persons deprived of liberty held in prolonged pre-trial detention in police or clandestine centers or penitentiaries for up to several months before being brought before judicial bodies.¹⁰
11. The Nicaraguan Government has used vague laws against terrorism, such as the laws No. 977, Law No. 1055, and Law No. 1060, to arbitrarily persecute political opponents and civil society organizations, as well to hold detainees for 90 days before charging them with any crime or justifying the necessity and proportionality of the deprivation of their liberty upon a judge.¹¹ The OMCT, FIDH, and the Nicaragua Human Rights Center have exposed that at least seven presidential pre-candidates were arrested invoking the Law No. 1055. The organizations alleged that pre-candidates are subject to torture and inhuman

⁴ Civicus, “Arbitrary Detentions Continue As Nicaragua Announces Decision To Withdraw From OAS,” accessed June 1, 2022, <https://monitor.civicus.org/updates/2021/12/02/arbitrary-detentions-continue-nicaragua-announces-decision-withdraw-oas/>.

⁵ CENIDH, “Nicaragua: El Estado tortura y somete a sufrimientos graves, físicos y mentales, a prisioneros políticos y defensores,” (Jan. 10; 2022) <https://www.cenidh.org/noticias/1237/>;

⁶ Amnesty International, “Nicaragua: Government maintains strategy of repression and criminalizes the right to protest,” accessed June 1, 2022, <https://www.amnesty.org/en/latest/news/2018/10/nicaragua-continua-represion-criminaliza-derecho-a-manifestarse/>.

⁷ Inter-American Court on Human Rights, *Asunto Diecisiete Personas Privadas de Libertad Respecto de Nicaragua*, Resolución de medidas urgentes, (Oct. 14, 2019) ¶3, https://www.corteidh.or.cr/docs/medidas/diecisiete_personas_se_02.pdf

⁸ Press Release, Inter-American Commission on Human Rights, CIDH manifiesta preocupación por aprobación de Ley de Amnistía en Nicaragua, No. 145/19, (Jun. 12, 2019), <https://www.oas.org/es/cidh/prensa/comunicados/2019/145.asp>.

⁹ Constitución Política de la República de Nicaragua art. 33 [NI].

¹⁰ Inter-American Commission on Human Rights, *Persons Deprived of Liberty in Nicaragua*, OEA/Ser.L/V/II. (October 2020).

¹¹ Human Rights Council, Report of the United Nations High Commissioner for Human Rights Situation of human rights in Nicaragua, (24 February 2022) UN Doc. A/HRC/49/23. ¶ 23.

treatment.¹² Regarding the new legislation, the IACHR has observed that “these laws form part of a repressive apparatus that facilitates the concentration of power in the executive branch through the use of force, manipulation of criminal law, and the silencing of dissidence in the country.”¹³

II. Prison conditions amount to cruel, inhuman, and degrading treatment (Article 11, LOIPR Paragraph 14)

12. In its 2020 List of Issues, the Committee inquired Nicaragua to indicate if any steps were taken on the poor conditions of detention and the quality of food in prisons *La Modelo* and *La Esperanza*. The Committee observed OHCHR documented that these prisons “included access to sunlight for but 30 minutes a week and insufficient access to water (and water of poor quality at that).”¹⁴
13. Nicaragua has one of the worst rates of prison overcrowding and one of the worst detention conditions in the world.¹⁵ Amnesty International, citing The Nicaraguan Center for Human Rights, has reported that the *La Modelo* prison has a total capacity of 2,400 people, but as of 2013, it was already holding around 4,600 people in detention. Since then, the organization has not been allowed to visit the prison facility, but experts and lawyers who work with those detained in prison say that the condition has only worsened since the publication of the report.¹⁶
14. For example, Jhon Christopher Cerna Zúniga, detained in *La Modelo* prison, shares a 25-square meter cell with 22 other people, and they are only allowed 1 hour every two weeks to go out of the cell for fresh air. They receive only two small portions of food a day and are given water that is unsafe for drinking.¹⁷
15. The detention conditions in the *La Esperanza* prison are reportedly not very different from that of the *La Modelo* prison. Persons in detention likewise have to deal with overcrowding, lack of potable water and food, and lack of access to medical care.¹⁸
16. In the *La Esperanza* prison, guards have been reported to harass and abuse persons in detention who are believed to be critical of the Ortega administration. Prison guards would

¹² Observatorio para la Protección de los Defensores de Derechos Humanos & CENIDH, *Nicaragua Las Nuevas Leyes de la Represión*, by Diana Milena Murcia Riaño, p. 6. https://www.fidh.org/IMG/pdf/obs_nicaragua_04.pdf

¹³ Inter-American Commission on Human Rights, *Nicaragua: Concentration of power and the undermining of the Rule of Law*, OEA/Ser.L/V/II Doc.288/21 (Oct. 25, 2021). ¶ 15, https://www.oas.org/en/iachr/reports/pdfs/2021_Nicaragua-EN.pdf.

¹⁴ Committee Against Torture, *List of issues in relation to the second periodic report of Nicaragua*, (December 23, 2020), U.N. Doc, CAT/C/NIC/Q/2 ¶14.

¹⁵ Amnesty International, “Prison and the pandemic: The lethal cocktail used by the Nicaraguan government against those who criticize them,” accessed June 1, 2022, <https://www.amnesty.org/en/latest/news/2020/08/carcel-covid19-coctel-lethal-gobierno-nicaragua/>.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ Amnesty International, “‘She doesn’t want to die there’: Women activists punished with jail in Nicaragua amid COVID-19,” accessed June 1, 2022, <https://www.amnesty.org/en/latest/news/2020/08/women-activists-punished-jail-nicaragua-amid-covid19/>.

often encourage other inmates to inflict abuse upon other inmates. This is done reportedly to inflict punishment against political dissenters.¹⁹

17. The El Chipotle prison is a maximum-security prison for alleged terrorists.²⁰ This is a prison where, reportedly, torture would often occur. One of The Advocates' clients was brought to this prison and forced to stay in a dark room for three days while being handcuffed behind his back the whole time. The client asserted to The Advocates that the police intended for him to confess his support to the opposition.²¹

III. Nicaraguan authorities engage in torture and cruel, inhuman, and degrading treatment during arrests, interrogations, and detentions (Article 11, LOIPR Paragraph 17)

18. In its 2020 List of Issues, the Committee asked Nicaragua to comment on the solitary confinement cases documented by the OHCHR. The Committee mentioned the reported cases of collective punishment, beatings, and other cruel acts against persons in detention.²² The Committee also required Nicaragua to indicate the existence of rehabilitation measures for victims of torture,²³ taking into account the entry into force of Amnesty Act No. 996 of 2019.²⁴
19. Security forces and pro-government groups, with the government's acquiescence, have been reported to torture detainees during interrogations to obtain false confessions to be used against political dissenters and to punish those who took part in the anti-government protests.²⁵
20. Police officers issue invitation letters to persons known to have attended political protests giving an order to present themselves to the police station. If someone presents himself to the police, they are beaten, tortured, and sometimes killed.²⁶
21. One of The Advocates' clients shared that two of his friends have been captured and tortured by the police. He received a similar letter of invitation from the police but refused to present himself to the police and decided to move away from his family for their safety.²⁷

¹⁹ Ibid.

²⁰ See Human Rights Watch, "Government Critics Languish in Nicaraguan Prisons," (March 10, 2022) Accessed. Jun. 10, 2022, <https://www.hrw.org/news/2022/03/10/government-critics-languish-nicaraguan-prisons>.

²¹ Interviews conducted by The Advocates (2015-2022). The case information mentioned throughout this report has been taken from client intake and interviews conducted by The Advocates for Human Rights between the time periods of January 2015 and June 2022. The case information, documented by asylum-seekers from Nicaragua, is anonymous and confidential. As such, some information has been removed from this submission in order to protect the identities of the individuals and their families.

²² Committee Against Torture, *List of issues in relation to the second periodic report of Nicaragua*, (December 23, 2020), U.N. Doc, CAT/C/NIC/Q/2 ¶17.

²³ Committee Against Torture, *List of issues in relation to the second periodic report of Nicaragua*, (December 23, 2020), U.N. Doc, CAT/C/NIC/Q/2 ¶5.

²⁴ Committee Against Torture, *List of issues in relation to the second periodic report of Nicaragua*, (December 23, 2020), U.N. Doc, CAT/C/NIC/Q/2 ¶24.

²⁵ Amnesty International, *Instilling Terror: From Lethal Force to Persecution in Nicaragua*, (London: Peter Benenson House). Also available online at <https://www.amnesty.org/es/wp-content/uploads/2021/05/AMR4392132018ENGLISH.pdf>.

²⁶ Interviews conducted by The Advocates (2015-2022).

²⁷ Interviews conducted by The Advocates (2015-2022).

22. Another client of the Advocates was abducted by the paramilitary while he was withdrawing money and was accused of financing “liberal terrorists.” The paramilitary covered his head, forced him into a van, and took him to an unknown place where he was beaten, starved, and interrogated for two days. At one point, he was sexually abused — the men inserted a carrot in his anus.²⁸

IV. Women human rights defenders and activists experience violent retaliation from the Government of Nicaragua (Article 17, LOIPR Paragraph 27)

23. In its 2020 List of Issues, the Committee requested more information on the government’s steps to do away with the torture and ill-treatment of women in policing operations.²⁹

24. Women activists have played a key role in recent opposition to the Government and have experienced violent retaliation from the Government. The Nicaraguan Constitution gives citizens the right to criticize the Government (Article 52) and the right to peaceful assembly (Articles 53 and 54).³⁰

25. The government abused, detained, and executed many protestors, including women. According to Madelaine Caracas, a prominent political activist, women played an important role in the protests. Members of the Government frequently sent her death threats and threats of rape. She fled to Costa Rica after the government ordered her arrest.³¹ Armed forces shot at one client of the Advocates with the intent to kill. She knew their objective was to deter her from participating in political protests because she recognized them as members of President Ortega’s political party.³² Similarly, Frontline Defenders denounced the Nicaraguan National Police for detaining, physically assaulting, and threatening women human rights defenders from the collective *Asociación Madres de Abril* (AMA).³³

26. *The Iniciativa Mesoamericana de Defensoras de Derechos Humanos* reported that nine (9) of the 83 organizations affected by the Legislative Decrees³⁴ are feminist or women’s rights organizations.³⁵ The coalition has also exposed that the women human rights defenders Ana Margarita Vijil, Dora María Téllez, Suyen Barahona, and Tamara Dávila were imprisoned in June 2021. Allegedly, “[these] four women have been held for more than six

²⁸ Interviews conducted by The Advocates (2015-2022).

²⁹ Committee Against Torture, *List of issues in relation to the second periodic report of Nicaragua*, (December 23, 2020), U.N. Doc, CAT/C/NIC/Q/2 ¶27b.

³⁰ Constitución Política de la República de Nicaragua art. 52, 53, 54 [NI].

³¹ Kenning, Chris, *A year into Nicaragua Crisis women face ‘dramatic consequences,’* Aljazeera, 18 Apr. 2019, <https://www.aljazeera.com/news/2019/04/year-nicaragua-crisis-women-face-dramatic-consequences-190418212037100.html>.

³² Interviews conducted by The Advocates (2015-2022).

³³ Frontline Defenders, “Detention and assault of Women Human Rights Defenders from the Asociación de Madres de Abril (AMA), accessed Jun. 10, 2020, <https://www.frontlinedefenders.org/en/case/detention-and-assault-women-human-rights-defenders-asociación-madres-de-abril-ama>.

³⁴ *Infra* note 49.

³⁵ *Iniciativa Mesoamerica de Defensoras de Derechos Humanos*, “Another round of massive closures raises the tally to 49 feminist and women’s rights organizations illegally cancelled by Daniel Ortega since 2018” (3 June 2022), Accessed Jun. 10, 2022, <https://im-defensoras.org/2022/06/whrd-alert-nicaragua-another-round-of-massive-closures-raises-the-tally-to-49-feminist-and-womens-rights-organizations-illegally-cancelled-by-daniel-ortega-since-2018/>.

months in almost total isolation with restrictions on family visits. This has made it impossible for them to see their sons and daughters and entails constant interrogations, food deprivation or access only to food lacking in nutrients, the absence of adequate attention to chronic illnesses, sensory deficits, and the want of warm clothing, among other rights violations.”³⁶

V. Political dissenters face harassment, excessive force, arbitrary detention, and imprisonment (Article 16, LOI Paragraph 29)

27. In its 2020 List of Issues, the Committee noted the violence and killings committed by Nicaraguan authorities following the series of demonstrations that started in April 2018. CAT observed “a pattern of excessive and disproportionate use of force, which is related to the use of lethal ammunition by the police against non-lethal threats and/or intervention by armed backers of the Government in a bid to clamp down on protests.”³⁷
28. The IACHR Special Monitoring Mechanism for Nicaragua (MESENI)³⁸ found that about 300 protesters have been killed in the demonstrations,³⁹ 435 have been injured,⁴⁰ and hundreds more have been arrested.⁴¹
29. Security forces have been reported to have used excessive and lethal force to end anti-government protests that resulted in the deaths and arrests of protesters. With the state’s acquiescence, pro-government groups have likewise been reported to assault journalists and protesters⁴² Those known to have joined the anti-government protests in 2018 are continuously intimidated by both actors.⁴³ One of the clients of the Advocates reported being followed by people armed with *machetes*, who threatened her and her family with killing them for being politically opposed to the government. These people also threw stones client’s house.⁴⁴ Another client asserted her husband was murdered after being threatened on several occasions because he decided not to participate -and/or allow his son to

³⁶ Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos, “Feminist Political Prisoners Face Torture and Abuse” (Dec. 17, 2021) Accessed Jun. 10, 2021, <https://im-defensoras.org/2021/12/whrd-alert-nicaragua-feminist-political-prisoners-face-torture-and-abuse/>.

³⁷ Committee Against Torture, *List of issues in relation to the second periodic report of Nicaragua*, (December 23, 2020), U.N. Doc, CAT/C/NIC/Q/2.

³⁸ See Inter-American Commission on Human Rights, “Special Monitoring Mechanism for Nicaragua (MESENI)”, Accessed Jun. 10, 2022. IACHR: Special Monitoring Mechanism for Nicaragua (oas.org).

³⁹ Press Release, Inter-American Commission on Human Rights, IACHR Confirms Reports of Criminalization and Legal Persecution in Nicaragua (August 2, 2018). Also available online at https://www.oas.org/en/iachr/media_center/PReleases/2018/169.asp.

⁴⁰ Human Rights Watch, “Nicaragua: Protests Leave Deadly Toll,” Accessed June 2, 2022, <https://www.hrw.org/news/2018/04/27/nicaragua-protests-leave-deadly-toll>.

⁴¹ BBC News, “Nicaragua opposition activist Félix Maradiaga faces arrest,” September 25, 2018, Accessed Jun. 2 2022, <https://www.bbc.com/news/world-latin-america-45637087>.

⁴² Human Rights Watch, “Nicaragua: Protests Leave Deadly Toll,” Accessed June 2, 2022, <https://www.hrw.org/news/2018/04/27/nicaragua-protests-leave-deadly-toll>.

⁴³ Interviews conducted by The Advocates (2015-2022).

⁴⁴ Ibid.

participate- in demonstrations in favor of the government.⁴⁵ The client’s son witnessed the death of his father, which created emotional suffering and trauma for the child.⁴⁶

30. One of the clients of The Advocates who joined the anti-government protests in 2018 reported having experienced constant harassment and intimidation from security forces or pro-government groups in the form of stalking, surveillance, attempted conscription, and threats of arbitrary detention.⁴⁷
31. Nicaragua reportedly continues to put pressure on those who express opposition to the government through a practice of filing trumped-up charges against dissenters. One of the clients of the Advocates who attended the protest reported being framed for possession of marijuana.⁴⁸
32. Another client of the Advocates claimed that his brother, a judge, was forced by the government to charge innocent people who opposed the government with fake crimes or convict them of terrorism. When his brother refused to do so, the government persecuted him.⁴⁹
33. The OMCT-FIDH Observatory for the Protection of Human Rights Defenders has also reported the systemic persecution of national human rights organizations.⁵⁰ In May 2022, the Nicaraguan National Assembly approved four initiatives of Legislative Decrees that allowed the revocation of the legal personality of at least 83 non-profit organizations.⁵¹ Since 2018 at least 336 civil society organizations have suffered the revocation of their legal personality.⁵²

VI. Suggested recommendations

34. The Advocates for Human Rights suggests the following recommendations to the government of Nicaragua:
 - Provide training to police officers and members of the security sector as regards maximum tolerance and proportionate use of force during legitimate police operations
 - Stop and investigate the reported cases of abuse and torture being committed by Nicaraguan police during arrests and in detention centers

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Interviews conducted by The Advocates (2015-2022).

⁵⁰ See also Due Process of Law Foundation, “Nicaragua: CSOs denounce authorities’ intensified repression of activists, human rights defenders, and journalists,” (Sep. 18, 2020) Accessed Jun. 8, 2020, <https://www.dplf.org/en/news/nicaragua-csos-denounce-authorities-intensified-repression-activists-human-rights-defenders-and>.

⁵¹ OMTC, “Nicaragua: Objetivo del regimen Ortega-Murillo: desaparacer el espacio para la sociedad civil independiente,” (Jun. 2, 2022) Accessed Jun. 8, 2022, <https://www.omct.org/es/recursos/declaraciones/nicaragua-objetivo-del-régimen-ortega-murillo-desaparecer-el-espacio-para-la-sociedad-civil-independiente>.

⁵² Ibid.

- Address overcrowding in prisons and provide sufficient and clean drinking water and medical attention to persons in detention.

Take measures to stop and investigate threats against women political activists

- Hold government officials or police officers known to have threatened a woman political activist accountable for their actions.
- Take steps to ensure that women political activists are able to carry out their work without fear of harassment, violence, criminal investigations, and other reprisals
- Condemn the violence and harassment carried out by pro-government armed groups against political dissidents
- Take measures to stop, investigate, and hold to account pro-government support groups that target political dissidents and human rights defenders.