



## **Nicaragua's Compliance with the International Covenant on Civil and Political Rights**

**Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996

**for the 136<sup>th</sup> Session of the Human Rights Committee  
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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 2008 has been used with their permission in this submission.

## EXECUTIVE SUMMARY

1. Nicaragua continues to arbitrarily detain people for prolonged periods. 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. Reports establish that 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.
4. The Advocates has received first-hand information from our asylum-seeking clients about the human rights violations that they experienced in Nicaragua since the last review in 2008. Their information is used with their consent and collaboration.

### **Nicaragua fails to uphold its obligations under the International Covenant on Civil and Political Rights**

#### **I. Right to life and prohibition of torture and other cruel, inhuman, or degrading treatment (List of Issues, paras. 6-10)**

5. In its List of Issues, the Human Rights Committee ("Committee") required further information regarding excessive use of force by law enforcement officials, particularly during protests. The Committee asked Nicaragua to comment on reports of armed groups, aligned with the Government, attacking demonstrators and carrying out unlawful detentions with the acquiescence of high-level State authorities and the National Police."<sup>1</sup>The Committee also requested information on allegations of use of isolation in detention.<sup>2</sup>
6. The Advocates' clients have reported that police officers issue request letters to persons known to have attended political protests ordering them to present themselves to the police station. If someone presents themselves to the police, they are beaten, tortured, and sometimes killed.<sup>3</sup> Client's reported having to flee the country out of fear of torture by the police after receiving similar letters.<sup>4</sup>
7. Reports demonstrate that security forces and pro-government groups, with the government's acquiescence, tortured people in detention during interrogations to obtain false confessions. These false confessions tend to be used against political dissenters and to punish those who took part in the anti-government protests.<sup>5</sup>

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<sup>1</sup> Human Rights Committee, *List of issues in relation to the fourth periodic report of Nicaragua*, (29 Nov. 2019), U.N. Doc. CCPR/C/NIC/Q/4. ¶6.

<sup>2</sup> Human Rights Committee, *List of issues in relation to the fourth periodic report of Nicaragua*, (29 Nov. 2019), U.N. Doc. CCPR/C/NIC/Q/4. ¶8, 10.

<sup>3</sup> Interviews conducted by The Advocates (2015-2022).

<sup>4</sup> Interviews conducted by The Advocates (2015-2022).

<sup>5</sup> 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>.

8. A Client reported to The Advocates that he was abducted by the paramilitary pro-government groups and accused of financing “liberal terrorists” while he was withdrawing money. The paramilitary group 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 paramilitary members inserted a carrot in the Client’s anus.<sup>6</sup>

## II. Treatment of persons deprived of their liberty (List of Issues para. 11)

9. In its 2019 List of Issues, the Committee requested further information on steps taken by the State to improve conditions of detention, including a response to allegations of poor hygiene, poor food quality, and inadequate access to health care in detention facilities.<sup>7</sup>
10. Nicaragua has one of the worst rates of prison overcrowding and some of the worst detention conditions in the world.<sup>8</sup> 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. 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 conditions have only worsened since the publication of the report.<sup>9</sup>
11. Jhon Christopher Cerna Zúniga, detained in *La Modelo* prison, has testified to these unsafe conditions. He shares a 25-square meter cell with 22 other people, and the individuals are only allowed to leave the cell for fresh air 1 hour every two weeks. They receive only two small portions of food a day and are given water that is unsafe for drinking.<sup>10</sup>
12. 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.<sup>11</sup>
13. 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 often encourage inmates to inflict abuse upon other inmates. This is reportedly done to inflict punishment against political dissenters.<sup>12</sup>
14. The El Chipotle prison is a maximum-security prison for alleged terrorists.<sup>13</sup> This is a prison where, reportedly, torture often occurs. One of The Advocates’ clients was brought to this prison and forced to stay in a dark room for three days while being handcuffed the whole time.

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<sup>6</sup> Interviews conducted by The Advocates (2015-2022).

<sup>7</sup> Human Rights Committee, *List of issues in relation to the fourth periodic report of Nicaragua*, (29 Nov. 2019), U.N. Doc. CCPR/C/NIC/Q/4. ¶11.

<sup>8</sup> 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-letal-gobierno-nicaragua/>.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> 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/>.

<sup>12</sup> *Ibid.*

<sup>13</sup> 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>.

The client asserted to The Advocates that the police intended for him to confess his support to the opposition.<sup>14</sup>

### III. Right to liberty and security of person, rights of persons deprived of their liberty (List of Issues, paras. 16-19)

15. In its 2019 List of Issues, the Committee requested information about existing legislation to protect the right to freedom of assembly. The Committee required Nicaragua to indicate how many people were arrested and detained following protests in 2018 and 2019.<sup>15</sup> The Committee also requested information about cases of arbitrary arrest or detention, including cases where people were detained for prolonged periods without a warrant or a motive.<sup>16</sup>
16. 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 human rights defenders of their rights or of the charges against them at the time of their arrest. The Nicaraguan police neither showed the arrested individuals arrest warrants nor notified their families or lawyers of their arrest and their place of detention.<sup>17</sup> The Inter-American Court on Human Rights has provided precautionary measures regarding arbitrary detentions similar to the ones described on multiple occasions, including in the case of the *Centro Nicaragüense de Derechos Humanos y de la Comisión Permanente De Derechos Humanos (Cenidh-Cpdh)*.<sup>18</sup>
17. The Inter-American Commission on Human Rights has also reported that Nicaragua has failed to respond to regional human rights mechanisms when it was required to provide concrete and detailed information about the conditions of the people in detention for political reasons.<sup>19</sup>
18. 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. No information was provided to the families of

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<sup>14</sup> 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.

<sup>15</sup> Human Rights Committee, *List of issues in relation to the fourth periodic report of Nicaragua*, (29 Nov. 2019), U.N. Doc. CCPR/C/NIC/Q/4. ¶16.

<sup>16</sup> Human Rights Committee, *List of issues in relation to the fourth periodic report of Nicaragua*, (29 Nov. 2019), U.N. Doc. CCPR/C/NIC/Q/4. ¶17.

<sup>17</sup> 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](https://www.oas.org/en/iachr/media_center/PReleases/2018/169.asp).

<sup>18</sup> 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](https://www.corteidh.or.cr/docs/medidas/integrantes_centro_ni_se_04.pdf).

<sup>19</sup> Inter-American Commission on Human Rights, “*CIDH solicita a Corte IDH medidas provisionales para 45 personas privadas de libertad en 8 centros en Nicaragua*.” (Sep. 8, 2022), <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2022/200.asp>

these detained individuals.<sup>20</sup> 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.<sup>21</sup> During anti-government protests in 2018, Amnesty International reported that at least 30 persons were detained in the “*El Chipote*” detention center. These individuals were not committing any offense at the time of the arrest and were presented with arrest warrants.<sup>22</sup>

19. The Amnesty Law in Nicaragua required the release of detained persons in exchange for ceasing investigations against those responsible for the state violence that has occurred since April 2018.<sup>23</sup> 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.”<sup>24</sup>
20. The Nicaraguan Constitution requires persons arrested to be brought before a judicial authority within 48 hours of arrest.<sup>25</sup> 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.<sup>26</sup>

#### **IV. Freedom of expression and association and arbitrary or unlawful interference with privacy (List of Issues, paras. 20-25)**

21. The Committee requested information about measures taken by the State to uphold freedom of expression and opinion.<sup>27</sup> The Committee asked Nicaragua to respond to reports about retaliation against human rights defenders, including violence, threats, and arbitrary arrest.<sup>28</sup>
22. 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

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<sup>20</sup> 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/>.

<sup>21</sup> 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/>.

<sup>22</sup> 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/>.

<sup>23</sup> 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](https://www.corteidh.or.cr/docs/medidas/diecisiete_personas_se_02.pdf)

<sup>24</sup> 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>.

<sup>25</sup> Constitución Política de la República de Nicaragua art. 33 [NI].

<sup>26</sup> Inter-American Commission on Human Rights, *Persons Deprived of Liberty in Nicaragua*, OEA/Ser.L/V/II. (October 2020).

<sup>27</sup> Human Rights Committee, *List of issues in relation to the fourth periodic report of Nicaragua*, (29 Nov. 2019), U.N. Doc. CCPR/C/NIC/Q/4. ¶21.

<sup>28</sup> Human Rights Committee, *List of issues in relation to the fourth periodic report of Nicaragua*, (29 Nov. 2019), U.N. Doc. CCPR/C/NIC/Q/4. ¶21-23.

citizens the right to criticize the Government (Article 52) and the right to peaceful assembly (Articles 53 and 54).<sup>29</sup>

23. 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, and to hold detainees for 90 days before charging them with any crime or justifying the necessity and proportionality of the deprivation of their liberty before a judge.<sup>30</sup> The OMCT, FIDH, and the Nicaragua Human Rights Center have reported that at least seven presidential pre-candidates were arrested for invoking Law No. 1055. These organizations alleged that pre-candidates are subject to torture and inhuman treatment.<sup>31</sup>
24. 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.”<sup>32</sup>
25. The government attacked, detained, and executed many protestors, including women during different public protests since 2018. 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.<sup>33</sup> Armed forces shot at one client of the Advocates with the intent to kill. She knew the Government’s objective was to deter her from participating in political protests because she recognized them as members of President Ortega’s political party.<sup>34</sup> 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).<sup>35</sup>
26. *The Iniciativa Mesoamericana de Defensoras de Derechos Humanos* reported that nine (9) of the 83 organizations affected by the Legislative Decrees<sup>36</sup> are feminist or women’s rights organizations.<sup>37</sup> The coalition has also revealed that the women human rights defenders Ana

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<sup>29</sup> Constitución Política de la República de Nicaragua art. 52, 53, 54 [NI].

<sup>30</sup> 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.

<sup>31</sup> 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](https://www.fidh.org/IMG/pdf/obs_nicaragua_04.pdf)

<sup>32</sup> 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](https://www.oas.org/en/iachr/reports/pdfs/2021_Nicaragua-EN.pdf).

<sup>33</sup> 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>.

<sup>34</sup> Interviews conducted by The Advocates (2015-2022).

<sup>35</sup> 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>.

<sup>36</sup> *Infra* note 30.

<sup>37</sup> 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/>.

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 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.”<sup>38</sup>

## V. Recommendations

The Advocates would like to suggest the following recommendations to the government of Nicaragua:

- Release people in detention for political reasons.
- Investigate allegations of torture and ill-treatment of people in detention by State officials, especially the reports of torture and ill-treatment of political dissenters.
- Investigate improper use of force and firearms by the police and prosecute offenders.
- Allow independent monitoring and investigation regarding the allegations of systemic violations of human rights within the country by international mechanisms.
- Allow independent investigation and reporting regarding the conditions of prisons and detention centers in the country.
- Immediately release all women who are imprisoned for political reasons and repair and compensate these women for the damage caused to them during the period of imprisonment.
- Comply with the United Nations Standard Minimum Rules for the Treatment of Prisoners. Nicaragua must ensure that people in detention have access to their lawyers, necessary medical treatments, and visits from their families and humanitarian organizations that can verify the conditions of detention.
- Abolish any legislation that restricts the freedom of expression and the freedom of association such as Law No. 977, Law No. 1055, and Law No. 1060.

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<sup>38</sup> 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/>.