

Patterns of repression and political persecution in Nicaragua:

**From prison to freedom, after
Operation Guardabarranco**

EXECUTIVE SUMMARY



10 YEARS



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Executive Summary

The report details the systematic human rights crisis that continues its course in Nicaragua, exacerbated since April 2018 with the social security reform proposed by the government of Daniel Ortega. The violent response to peaceful protests marked the beginning of a strategy of repression articulated in a systematic and generalized manner, in which different patterns can be identified, such as: arbitrary detentions, criminalization processes, acts of torture and other cruel, inhuman and degrading treatment, in the context of arbitrary deprivation of liberty and other serious crimes, pointed out as possible crimes against humanity by the Group of Independent Experts on Human Rights on Nicaragua (GHREN).[1]

On the other hand, since 2020, a new stage of state repression has been identified in the framework of the general elections that would take place in the country in 2021 with the aim of preventing the participation of the opposition, as well as harassing and repressing people considered to be opponents of the regime[2].

Various international organizations, including the UN and the OAS, have documented the situation, highlighting the political persecution of people perceived or identified as opponents, the instrumentalization of justice, and the erosion of the rule of law.[3] In response, follow-up mechanisms were established within the United Nations Human Rights Council[4] and the Inter-American Commission on Human Rights.[5] Both systems have issued resolutions to protect victims and denounce violations, as well as reports on the human rights situation in the country.[6]

Likewise, the denationalization after the release and expulsion from Nicaragua of these people has become a common practice on the part of the Regime,[7] which "have a clear component of discrimination because of the identity of the victims as opponents of the Government, or because they represent a threat to it." [8]

To illustrate the seriousness of the situation, the report is based on interviews with 34 people who were criminalized, arbitrarily deprived of their liberty, subjected to ill-treatment and acts of torture while in state custody, and finally released, denationalized and exiled from the country. It reveals a pattern of arbitrary detentions, enforced disappearances, ill-treatment and torture during detention and the violation of all procedural and judicial protection guarantees. In addition, it addresses the impact on the family life of people who were arbitrarily deprived of liberty and concludes with recommendations for international organizations and civil society, seeking to support the restoration of human rights in Nicaragua.

Content and Findings

The report presents the results of an exhaustive investigation based on interviews to carry out an analysis that illustrates the human rights crisis in Nicaragua and allows for a differentiated analysis according to the affected populations. The content of the report addresses:

- I.** The determination of the status of persons arbitrarily deprived of liberty for political reasons of those who were interviewed, in the light of international standards and the guidelines proposed by Race and Equality.
 - II.** Patterns and strategies of systemic repression relevant prior to arrests. In particular, it was observed:
 - a.** the creation and strengthening of parastatal groups as repressive means parallel to the official State forces that have helped to facilitate politically motivated persecution in Nicaragua;
 - b.** the implementation of normative changes as an instrument to sophisticate the mechanisms of political persecution, especially in criminal legislation and criminal procedure, using ambiguous language and criminal offences open to arbitrary use by the official authorities;
 - c.** patterns of persecution and stigmatization of persons prior to their arrest, such as acts of constant surveillance, threats, violation of freedom of movement, among others; and
 - d.** violations of other rights such as education and work of people who would later be detained, either because of direct influence by the government or because of the difficulty of continuing with them in the face of the constant need to flee from the persecution of the State.
 - III.** Considerations regarding the arrests, subsequent events and human rights violations suffered in that context, such as:
 - a.** Illegality and arbitrariness of detentions under Nicaraguan legislation and international standards;
 - b.** The excessive use of force at the time of arrests and human rights violations in this regard;
 - c.** Detentions and searches at times not authorized by Nicaraguan legislation or international human rights standards;
 - d.** Search, requisition and search of personal items without due guarantees;
 - e.** Alteration and manipulation of official judicial documentation to give the appearance of legality to the detentions; and
 - f.** Automatic application of preventive detention for 90 days to all victims.
 - IV.** I. Analysis of the manipulation of the administration of justice, addressing its lack of independence and impartiality when judging people persecuted for political reasons by the authoritarian regime of the Ortega-Murillo and the impact that this may have on the cases of people deprived of liberty for political reasons such as those who participated in the interviews.
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- V.** Considerations regarding the violation of judicial guarantees in which it is addressed:
- a.** The ineffectiveness of habeas corpus remedies and delay in reporting arrests to a judicial authority;
 - b.** Lack of access to the prosecution and court file by the defense;
 - c.** Lack of access to a technical defense by the detainees, including procedural and material obstacles such as lack of notification or imposition of a defense by the State, already having a trustworthy one;
 - d.** Violations during the holding of the trial such as the place to carry it out, the lack of public access to it, the arbitrariness of the sentences imposed, the ineffectiveness of remedies to review convictions, among others;
 - e.** Use of evidence that was manipulated, fabricated, or that did not meet the minimum procedural requirements for the conviction of a person accused of the crimes charged in the cases analyzed.
- VI.** Analysis of detention centers and violations of minimum international standards for conditions of detention of persons deprived of liberty. This section analyzes the differentiation between the treatment received by persons imprisoned for common crime offences and those deprived of liberty for political reasons, evidencing a clear pattern of discrimination against the latter.
- VII.** Documentation of cases of temporary forced disappearance, as well as restrictions on communication with family members or close friends. There were periods of incommunicado detention of up to three (3) months and a lack of official information about the whereabouts of the persons. It was documented that communication in many cases had to be by indirect or clandestine means, so that detainees could contact relatives or that they could receive information about the person deprived of liberty.
- VIII.** Lack of timely medical care and adequate food during prison time. This was physically evident in the detainees, with oral, ocular, and muscular affectations, among others.
- IX.** Verification of acts of torture and other cruel, inhuman and degrading treatment. There are cases of physical and psychological torture, as well as cruel, inhuman and degrading treatment in terms of treatment received by State forces and with respect to conditions of detention. It also analyzes that the use of the Directorate of Judicial Assistance as a trial and detention center would go against international human rights law and Nicaraguan legislation itself.
- X.** Situation and living conditions after detention and now in exile, in which important challenges are documented for access to a dignified life, work, health and education, as well as with respect to repercussions as a result of the detentions they have to face in vulnerable conditions abroad.
- XI.** The impact of the persons involved and of the family dynamics before and after the arrest is observed, with special consideration for minors linked to those who were detained for political reasons. The particular restriction of the human rights of family members as a result of the persecution of other relatives is analyzed.
- XII.** It is determined that the facts analyzed in the interviews would constitute crimes against humanity under international law.

Finally, the report concludes with recommendations addressed to international protection agencies and state entities, urging concrete actions to address the human rights crisis, including: (a) comprehensive reparation for human rights violations of persons who were arbitrarily deprived of their liberty for political reasons and who were expelled on February 9, 2023 to the United States, facilitating their safe and voluntary return to Nicaragua by guaranteeing the restitution of their rights, their nationality and their confiscated property; (b) the immediate release of all persons who are currently arbitrarily deprived of their liberty for political reasons; (c) measures for the restoration of the rule of law; and (d) the implementation of measures to guarantee access to justice and non-repetition of these violations.

Conclusions

In the interviews conducted, it was possible to obtain first-hand information and testimonies that reveal the situations and conditions that people who were imprisoned for political reasons and who were exiled on February 9, 2023 had to face and still suffer.

Despite the limitations (*supra*, para. 20), the human rights violations committed against persons persecuted and arbitrarily detained for political reasons in Nicaragua have been dealt with in detail, even before their arrests until the time of their release and expulsion, so that they are situations that have touched all aspects of their lives. This provides a detailed overview that can be summarized in the following conclusions:

- The human rights violations documented here do not correspond to isolated cases, but rather evidence of a policy of systematic and generalized persecution and repression by the authoritarian regime of the Ortega-Murillo in Nicaragua.
- The persons interviewed were not only arbitrarily deprived of their liberty but also of their nationality and suffered numerous violations of their human rights, including their personal integrity, their honor and reputation, their political rights and their economic, social and cultural rights; both while they remained in state custody and afterwards, while they remain in exile after their exile and denationalization.
- This systematic policy is evident both in the contextual elements addressed (*supra* paras. 34 et seq.) and in the common patterns of human rights violations confirmed by the persons interviewed.
- The people interviewed before their arrest were already facing arbitrary and unlawful restrictions on their human rights.
- The interviewees faced illegal detention and subsequent trial in each and every one of its phases from their arrest to their exile.
- A systematic pattern of simulated compliance with formalities was documented to give the appearance of legality to arbitrary detentions and criminal proceedings that violate the guarantees of due process.
- The conditions of detention in which the interviewees were held violate the international legal framework and put them in situations of vulnerability and extreme danger to their lives and integrity.
- There were differentiated discriminatory and arbitrary patterns among detainees based on political motives, gender, sexual orientation, and the profile of the detainee.
- Statelessness has placed people who have been stripped of their nationality and sent into forced exile in a situation of extreme vulnerability.
- Arbitrary detentions and subsequent banishment have had devastating consequences on families, such as: the impact on minors and family disintegration.
- The repressive practices that the regime has continued after the expulsion are generating a deterrent effect on the people released from prison, who do not denounce, expose or point out in any way the human rights situation in Nicaragua or the violations they suffered while in political prison.

This means that conclusions have to be self-contained with a low profile imposed by fears of the regime's repression against both them and their families. This in turn means that, in the face of this imposed self-containment, the concentration of the regime's power is maintained, by silencing many voices of the opposition even now in forced exile.

- Expelled persons and their families due to expulsion to an unknown country face a context of stigmatization and lack of opportunities that impact not only their work and educational life but also their family life.
- There are sufficient elements to establish the commission of crimes against humanity to the detriment of the persons interviewed, from the history of their arrests to the time of their exile and denationalization.

From the foregoing conclusions, it can be inferred in a general and absolute manner that the State of Nicaragua has failed to comply with its obligations under international law on human rights as a systematic and generalized practice that is orchestrated from the highest sphere of power in the country, aimed at silencing any voice critical of the regime or those perceived as such to perpetuate themselves in power by any means possible. In this regard, it should be recalled that at the time of writing this report, 45[9] persons remain deprived of their liberty for political reasons in Nicaragua, subject to the same treatment as those described in this report.

It is necessary to insist that the democratic and human rights situation in Nicaragua represents a regional issue not only because of the seriousness of the human rights violations that were committed and continue to be committed today, but also because of their implications for neighboring countries. A regional alert should be generated about the weakening of the rule of law in the Americas, which requires a coordinated approach between States, international organizations and civil society that demonstrates that the anti-democratic actions of Nicaragua and those countries that seek to follow in its footsteps will not be tolerated and will have repercussions.

In this regard, it is recalled that States have several obligations regarding the situation in Nicaragua based on international law and commitments to protect human rights, such as: (a) the obligation not to recognize and reject governments that seriously violate human rights or commit crimes against humanity; (b) protection of refugees and displaced persons, such as those who are expelled or forced to leave their territory with appropriate humanitarian and technical support to facilitate their integration into host countries and communities; (c) international denunciation condemning human rights violations and promoting sanctions and mechanisms of diplomatic and economic pressure; and (d) preventing the spread of repressive practices and strengthening democratic values in the region, understanding these as necessary for the stability, development and security of the continent.

Finally, it is recognized that the situation in Nicaragua as presented in the present report is extremely serious and may even be heartbreaking. However, the interviews also showed the hope of a free and democratic Nicaragua through the resistance of those people who refuse to be silenced, the support of the international community and regional solidarity represent a path towards the restoration of the rule of law. Every act of denunciation and every voice raised is one more step towards justice and democratic reconstruction, because, although the present is bleak, history shows that oppression cannot prevail forever.

Recommendations

To the State of Nicaragua

- a. To make full reparation for violations of the human rights of persons who were arbitrarily deprived of their liberty for political reasons and who were expelled on February 9, 2023, to the United States, facilitating their safe and voluntary return to Nicaragua, guaranteeing the restitution of their rights, their nationality, and their confiscated property.
- b. Immediately and unconditionally release all persons detained for political reasons who still remain in the various state detention centers in Nicaragua.
- c. Ensure that these releases are carried out in compliance with the principle of good faith and without subsequent reprisals against these persons or their families.
- d. While the release is taking place, inform relatives and trusted legal representatives of detainees about their place of detention, facilitate their immediate contact with relatives and lawyers, and ensure immediate access to health services, medicines and adequate food, taking into account the special needs of groups of people who require differentiated care.
- e. To report on the whereabouts of persons who are currently forcibly disappeared for political reasons and to take appropriate measures to protect their rights to life, liberty and personal integrity.
- f. Keeping detailed and accessible records on forcibly disappeared persons to evaluate procedures to be followed that can provide information on their whereabouts.
- g. Immediately stop all forms of repression and persecution against anyone perceived as an opponent of the regime.
- h. Provide full reparation for violations of human rights of which they were victims and the relatives of persons who were arbitrarily detained for political reasons, including psychiatric and/or psychological care as required. In particular, those victims of torture should be guaranteed an environment of justice and support that allows victims to regain their dignity and rebuild their lives in a framework of respect for human rights according to the standards developed by the United Nations Committee against Torture.
- i. That comprehensive reparations for damage pay special attention to groups in situations of vulnerability, such as children, women, people with disabilities, the elderly, or any other analyzed in this report, and be established with the differentiated and intersectional standards that these populations require. Specifically, that:
 - i. Women victims of torture and persecution are provided with specialized mental and physical health care aimed at treating specific traumas such as threats or executions of any type of violence. Likewise, that they be protected against re-victimization with safe protocols for the reporting of these acts. Finally, that assistance for family reunification be guaranteed to those who have been separated from their relatives due to the actions of the regime.
 - ii. LGBTI+ people should be guaranteed psychosocial care that is sensitive to diversity and that they respond to their traumas and specific needs.

- iii. To reinstate the rights of older persons to retirement and social security and to provide them with timely and adequate medical care to treat those consequences resulting from the conditions in which they were detained.
- iv. Incorporate comprehensive reparation measures that address the impact of persecution on family dynamics, especially on minors.
- v. Implement protection measures for human rights defenders and journalists who remain exposed to threats, including in exile.
- vi. Promote employment and entrepreneurship programs for displaced young people who decide to return to Nicaragua, ensuring their economic integration after the stigmatization and deprivation of academic and labor opportunities of which they were victims by the regime.
- j. Cease the manipulation of criminal proceedings and the administration of justice in general, implementing reforms that ensure the impartiality, independence, and objectivity of the Nicaraguan courts of justice.
- k. Initiate independent investigations that make it possible to know about human rights violations with the eventual prosecution and punishment of those responsible without the establishment of legal or bureaucratic mechanisms that allow evasion and impunity of possible criminal responsibilities. At the same time, these processes must have the participation and access of the victims to all stages of the process and can be heard, all as a form of reparation.
- l. Comply in good faith with its international human rights obligations by complying with the resolutions, opinions, and orders issued by mechanisms of the Inter-American Human Rights System and the United Nations System.
- m. Adopt all necessary measures to ensure the safe return of Nicaraguans who were victims of arbitrary imprisonment for political reasons if they wish to return to their country.
- n. Repeal or reform, as the case may be, the legislation that has been instrumentalized as a mechanism for the persecution and criminalization of persons arbitrarily detained for political reasons, so that the Nicaraguan judicial framework complies with international human rights standards and eradicates arbitrary detention for political reasons.
- o. Establish a National Mechanism for the Prevention of Torture to oversee and monitor conditions of detention to prevent torture and ill-treatment in the future.
- p. To re-ratify the OAS Charter and to fulfill the responsibilities that are still binding on it with respect to the American Convention on Human Rights.
- q. Collaborate in good faith with international human rights bodies of the Universal System and the Inter-American System and civil society organizations that require access to Nicaragua and monitor the human rights situation in the country.

To international human rights bodies and mechanisms

- a. Continue to pay attention to the situation of exiled and denationalized persons, with special consideration for their state of vulnerability.
- b. To support through legal and advocacy actions people who were expelled and denationalized, and who are currently in a situation of extreme vulnerability.
- c. Continue to monitor and document the human rights situation in Nicaragua.

- d. Continue to press for the immediate release and comprehensive reparation of those still detained for political reasons in Nicaragua.
- e. Within the framework that their powers allow, they should create facilities and mechanisms for the international criminal prosecution of those responsible for the serious human rights violations committed in Nicaragua in the face of the ineffectiveness of its internal judicial institutions.
- f. Develop new standards for the protection of human rights for politically motivated prisoners in forced exile that allow for a comprehensive approach to the situation they face and its repercussions on areas of their lives such as those outlined in this report.

To the States

- a. Condemn through diplomatic and economic manners the actions of the regime of Daniel Ortega towards people persecuted for political reasons and for all the actions of repression that have been widely documented.
- b. That the host countries of the 222 allow the prompt recognition of asylee or refugee status, as appropriate, to persons residing in their territories who have had to leave Nicaragua for political reasons, with special attention to persons who were deprived of their nationality.
- c. That in compliance with the collective guarantee, they continue to monitor the human rights crisis in Nicaragua and generate sufficient pressure for the release of persons imprisoned for political reasons, the restitution of their rights to denationalized persons, and the fulfillment of their other international human rights obligations.
- d. Implement support programs that allow Nicaraguans in exile and in a condition of vulnerability due to their denationalization to restart their life projects and successfully insert themselves in the host countries and communities. Likewise, that these actions allow for an intersectional approach that allows:
 - i. Facilitate family reintegration for mothers when they have been left away from their children and other relatives due to the actions of the regime, as well as their successful economic integration in their host places, taking into account the conditions of special vulnerability to which they are exposed in formal or de facto statelessness in a foreign country.
 - ii. Support people from the LGBTI+ community to integrate into communities where they are facilitated to welcome and respect their human rights in respect of their identity.
 - iii. Provide older persons with priority access to adequate and specialized medical care, especially to address chronic diseases and physical sequelae associated with torture and conditions of detention in Nicaragua.
 - iv. That opportunities for study and labor insertion be provided to students and young people who had difficulties in exercising these rights because of the persecution of the regime and now in forced exile.
 - v. Encourage the creation of networks of journalists and defenders in exile to maintain their work and guarantee their safety and integrity in the exercise of their work.
- e. To support justice and accountability efforts for human rights violations committed by the Nicaraguan regime against politically motivated persons.

To civil society organizations, academic and research institutions

- a.** Continue to document and denounce the serious human rights violations in Nicaragua, maintaining the visibility of the situation on the international agenda in coordination with States and other organizations when circumstances permit.
- b.** Within the framework of its competences and possibilities, to provide legal and humanitarian support to persons detained for political reasons, exiles, denationalized persons and their families, facilitating the overcoming of the difficulties they face.
- c.** Develop advocacy and awareness-raising mechanisms that sensitize and inform about the human rights situation in Nicaragua and of Nicaraguans in exile.
- c.** Investigate or encourage research into the human rights situation in Nicaragua, especially with respect to persons deprived of liberty for political reasons, and publish reports that can serve as inputs in legal and advocacy actions on behalf of these persons.

It is hoped that these recommendations will provide a framework for comprehensive action that will make it possible to address the realities faced by persons who were detained for political reasons in Nicaragua and their situation now in exile, as well as with respect to their families and close persons. Likewise, a comprehensive reparation plan is proposed in which the conditions can be generated so that events such as those described in this work do not occur again.

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