



**Nicaragua's Compliance with the Convention Against Torture  
Suggested List of Issues Relating to Domestic Violence and Human Rights Defenders**

**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 non-governmental 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 has published twenty-five reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to implement effectively new and existing laws on domestic violence. 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 persecution 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 has been used in this submission with their permission.

## EXECUTIVE SUMMARY

1. Widespread domestic violence and gender-based violence against women continue to be serious problems in Nicaragua. Entrenched patriarchal attitudes and negative stereotypes about women and their role in the family perpetuate this problem and leave women without the protection they need. Women activists who participated in protests in 2018 and 2019 also report that the Nicaraguan Government engaged in violent retaliation against them.
2. In 2012, in response to pressure from grassroots organizers, Nicaragua passed Law 779, the country's first legislation combatting violence against women. The Law included a provision that prohibits the use of mediation in cases of domestic violence. In 2013, however, the National Assembly passed a modified law that reintroduced mediation for first and minor domestic violence offenses. President Daniel Ortega also issued two decrees in 2014 that reduced the scope of femicide and shifted responsibility for implementing the law to the Ministry of the Family.
3. Law enforcement and other governmental bodies perpetuate gender-based violence and domestic violence. Women report that officials close or dismiss cases because they do not have adequate training on the seriousness of domestic violence. Many women also report that officials reinforce negative stereotypes and attitudes. Further, women often do not report violence because they fear the negative perceptions of law enforcement, their families, and society at large.
4. The Advocates for Human Rights has received direct information about gender-based violence against women, domestic violence, and retaliation against political opposition activists from survivors seeking asylum in the United States. The firsthand experiences of The Advocates' asylum clients confirm that the country's legal system and policies fail to protect women from violence, both in the public sphere and in the home.<sup>1</sup>

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

#### **I. The Government of Nicaragua fails to protect women from domestic violence and gender-based violence against women. (Concluding Observations Paragraph 17)**

5. In its 2009 Concluding Observations, the Committee acknowledged the Government's National Plan of Action for the Prevention of Domestic and Sexual Violence. The Committee expressed concern, however, about the prevalence of domestic violence and violence against women.<sup>2</sup> The Committee also noted the rise of murders of women as well as the larger problem of gender violence, and in particular domestic and sexual

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<sup>1</sup> The case information presented in this submission is compiled from intake and other interviews conducted by The Advocates for Human Rights with asylum seekers from Nicaragua between 2015 and 2019 (hereinafter referred to as "Interviews conducted by The Advocates (2015-2019)"). Some details have been removed to maintain confidentiality and to protect the identities of clients and their families. Information is used with permission.

<sup>2</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Comments of the Committee Against Torture: Nicaragua*, (10 June 2009), U.N. Doc. CAT/C/NIC/CO/1 ¶ 17.

violence.<sup>3</sup> The Committee recommended that the State Party increase efforts to respond effectively to the ill-treatment of members of the family and to intensify efforts to combat all forms of violence, especially within the family.<sup>4</sup>

6. Nicaragua's 2019 State Party Report cites a variety of laws, organizations, and policies that prevent and combat sexual and domestic violence against women, including Law 779 on violence against women.<sup>5</sup>
7. Violence against women is a serious problem in Nicaragua. The most recent statistics available on violence against women show that one in every two women has experienced violence of some kind in her lifetime.<sup>6</sup> In 2017, the National Police reported that 198 women experienced bodily injuries related to violence against women, and 1080 women experienced rape or sexual assault. In the same year, there were an estimated 58 victims of femicide due to "problems in the home."<sup>7</sup>
8. Nicaragua has taken some steps to combat violence against women. In 2012, the Nicaraguan National Assembly passed Law 779, a comprehensive piece of legislation that protects women against violence. The law offers women protection from violent perpetrators and a means of seeking legal action. A key provision of Law 779 prohibits the use of mediation in cases of domestic violence.<sup>8</sup>
9. In 2013, however, the National Assembly approved a modified law that reinstated mediation for first-level and minor offenses. Religious and other groups opposed the law both before and after it went into force. Members of the Association of God Church, for instance, claimed the law would "destroy marriage and the family."<sup>9</sup> In July 2012, the Association of Democratic Lawyers filed a formal challenge to the law with the Supreme Court. Though the Supreme Court ruled that the law was constitutional, the court asked the National Assembly to reintroduce mediation. The National Assembly then approved a modified law that allows mediation if the perpetrator has no prior offenses, if it is a minor offense, or if the victim chooses to use mediation. The modified law entered into force in

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<sup>3</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Comments of the Committee Against Torture: Nicaragua*, (10 June 2009), U.N. Doc. CAT/C/NIC/CO/1 ¶ 15.

<sup>4</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Comments of the Committee Against Torture: Nicaragua*, (10 June 2009), U.N. Doc. CAT/C/NIC/CO/1 ¶ 17.

<sup>5</sup> Convention on the Elimination of All Forms of Discrimination against Women, *Seventh, Eighth, Ninth and Tenth Combined Report of Nicaragua*, (02 May 2019), U.N. Doc. CEDAW / NIC / ¶7-9, 10.

<sup>6</sup> Pamela Neuman, *In Nicaragua, a Failure to Address Violence Against Women*, North America Congress on Latin America, 28 Apr. 2017, <https://nacla.org/news/2017/04/28/nicaragua-failure-address-violence-against-women>.

<sup>7</sup> Government of Reconciliation and National Unity, *Mapa de Violencia Contra la Mujer en Nicaragua 2016-17* (21 March 2018), 2-4,

<https://www.el19digital.com/app/webroot/tinyMCE/source/2018/00-Marzo/Del19al25deMarzo/Lunes19Mar/Mapa%20Violencia%20Contra%20las%20Mujeres%20-%20Municipios%20%20Completos.%20ACTUALIZADO.pdf>.

<sup>8</sup> D'Amico, Mara, *Law 779: Addressing Violence Against Women in Nicaragua*, The Arkansas Journal of Social Change and Public Service, 2014.

<sup>9</sup> Pamela J. Neumann, "Transnational Governance, Local Politics, and Gender Violence in Nicaragua," *Latin American Politics and Society*, 17 Apr., 2018, 73, [https://www.cambridge.org/core/services/aop-cambridge-core/content/view/C2F90E9F19DF6E1C5BD7E27F58EA0930/S1531426X18000067a.pdf/transnational\\_governance\\_local\\_politics\\_and\\_gender\\_violence\\_law\\_in\\_nicaragua.pdf](https://www.cambridge.org/core/services/aop-cambridge-core/content/view/C2F90E9F19DF6E1C5BD7E27F58EA0930/S1531426X18000067a.pdf/transnational_governance_local_politics_and_gender_violence_law_in_nicaragua.pdf).

2013.<sup>10</sup> Mediation, however, runs contrary to international best practice standards that discourage its use in cases involving domestic violence, for reasons as described below.

10. In 2014, President Ortega issued two decrees that changed both the scope and implementation of Law 779. The decrees reduced the scope of femicide to include only killings that occur in the home and in the context of pre-existing relationships, rather than in both the private and public sphere. President Ortega also shifted responsibility for implementing the law from an interinstitutional commission to the Ministry of the Family. He appointed religious and political leaders to conduct neighborhood-based counselling with victims to attempt to resolve family conflict before taking legal action.<sup>11</sup>
11. Police continue to recommend mediation in cases involving domestic violence. Mediation, no matter how serious the offense, is a harmful practice for victims because it leads to re-victimization and re-traumatization.<sup>12</sup> Standard mediation assumes that both parties are equal, meaning “that the parties should have relatively equal power in the relationship, full information about the resources available to each person and any outstanding or future financial obligations, sufficient independent economic capacity . . . and the ability to protect their own interests in the process of mediation.”<sup>13</sup> In cases involving domestic violence, however, these preconditions are not present. Rather,<sup>14</sup> Public Radio International documented the story of a 25-year-old woman named Exania Obregón. Obregón’s ex-husband broke into her house in the middle of the night and tried to kill her. She reported the incident to local police under Law 779 they told her to seek mediation.<sup>15</sup> Though the incident occurred in 2014, after the modified law went into force, the police still failed to appropriately enforce the law for a serious offense.
12. The Nicaraguan Government does not allocate adequate funding to resources for victims of domestic violence. By 2015, Nicaragua had 162 police units, called *comisarias*, specially designed to deal with cases of gender-based violence. Between 2006 and 2012, however, the *comisarias* had only enough resources to process 187 of 403,740 total cases they received.<sup>16</sup> Due to budget cuts, the Government ultimately shut down the *comisarias* altogether in 2016.<sup>17</sup>

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<sup>10</sup> Pamela J. Neumann, “Transnational Governance, Local Politics, and Gender Violence in Nicaragua,” *Latin American Politics and Society*, 17 Apr., 2018, 73, [https://www.cambridge.org/core/services/aop-cambridge-core/content/view/C2F90E9F19DF6E1C5BD7E27F58EA0930/S1531426X18000067a.pdf/transnational\\_governance\\_local\\_politics\\_and\\_gender\\_violence\\_law\\_in\\_nicaragua.pdf](https://www.cambridge.org/core/services/aop-cambridge-core/content/view/C2F90E9F19DF6E1C5BD7E27F58EA0930/S1531426X18000067a.pdf/transnational_governance_local_politics_and_gender_violence_law_in_nicaragua.pdf).

<sup>11</sup> Pamela J. Neumann, “Transnational Governance, Local Politics, and Gender Violence in Nicaragua,” *Latin American Politics and Society*, 17 Apr., 2018, 74, [https://www.cambridge.org/core/services/aop-cambridge-core/content/view/C2F90E9F19DF6E1C5BD7E27F58EA0930/S1531426X18000067a.pdf/transnational\\_governance\\_local\\_politics\\_and\\_gender\\_violence\\_law\\_in\\_nicaragua.pdf](https://www.cambridge.org/core/services/aop-cambridge-core/content/view/C2F90E9F19DF6E1C5BD7E27F58EA0930/S1531426X18000067a.pdf/transnational_governance_local_politics_and_gender_violence_law_in_nicaragua.pdf).

<sup>12</sup> Press release, UN Watch, Defend the Rights of victims in Nicaragua (19 Sept., 2014), <https://unwatch.org/defend-the-rights-of-victims-in-nicaragua/>.

<sup>13</sup> National Advisory Council on Violence Against Women, *Chapter 3: Enhancing the Response of the Justice System: Civil Remedies*, in TOOLKIT TO END VIOLENCE AGAINST WOMEN 14 (2001).

<sup>14</sup> The Advocates for Human Rights, Stop Violence Against Women, “Mediation,” accessed February 3<sup>rd</sup>, 2020, <http://www.stopvaw.org/mediation/>.

<sup>15</sup> Sara Van Note, *The promise of justice is receding, Nicaraguan women say*, Public Radio International, 10 Sep, 2015, <https://www.pri.org/stories/2015-09-10/promise-justice-receding-nicaraguan-women-say>.

<sup>16</sup> Pamela J. Neumann, “Transnational Governance, Local Politics, and Gender Violence in Nicaragua,” *Latin American Politics and Society*, 17 Apr., 2018, 68, [https://www.cambridge.org/core/services/aop-cambridge-core/content/view/C2F90E9F19DF6E1C5BD7E27F58EA0930/S1531426X18000067a.pdf/transnational\\_governance\\_local\\_politics\\_and\\_gender\\_violence\\_law\\_in\\_nicaragua.pdf](https://www.cambridge.org/core/services/aop-cambridge-core/content/view/C2F90E9F19DF6E1C5BD7E27F58EA0930/S1531426X18000067a.pdf/transnational_governance_local_politics_and_gender_violence_law_in_nicaragua.pdf).

13. Nicaragua's failure to institute adequate protections for women leaves them vulnerable to violence and abuse. For example, a client of The Advocates reported that her husband subjected her to physical and sexual abuse for years. He threw her against a table while she was pregnant, repeatedly raped her, and subjected her to physical and emotional abuse. When she sought help from the police, her husband threatened to kill her and her children.<sup>18</sup>
14. **Suggested questions** for the Government of Nicaragua relating to violence against women and domestic violence:
- What is the current status of Law 779? What policies and procedures are in place to facilitate implementation of the law? What further policies and procedures are still needed? Please describe which agencies and bodies are responsible for which facets of implementation.
  - What training has the State Party provided to law enforcement and other governmental bodies about the harms of mediation and its effect on victims of domestic violence?
  - What steps is the Government taking to prohibit the use of mediation in all cases involving domestic violence and to ensure adequate screening takes place to identify cases involving domestic violence?
  - What funding does the Government provide to the Ministry of the Family to facilitate the implementation of Law 779?
  - What funding and other support has the Government allocated to police units designed to handle cases of domestic violence?
  - Please describe the work of the *comisarias* and explain how and to what extent that work has continued since 2016.

**II. Patriarchal attitudes and harmful stereotypes about gender roles and the family create a system where women cannot receive legal redress and support in cases of violence. (Concluding Observations Paragraph 15)**

16. In its 2009 Concluding Observations the Committee found, with concern, that there is insufficient access to justice for victims of domestic violence. The Committee urged that the State Party give priority to efforts to combat and eliminate violence against women, and further advised that women should have access to redress, protection, support, and legal assistance immediately. Police officers should likewise be given further training on gender violence and violence against women.<sup>19</sup>

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core/content/view/C2F90E9F19DF6E1C5BD7E27F58EA0930/S1531426X18000067a.pdf/transnational\_governance\_local\_politics\_and\_gender\_violence\_law\_in\_nicaragua.pdf.

<sup>17</sup> Pamela Neuman, *In Nicaragua, a Failure to Address Violence Against Women*, North America Congress on Latin America, 28 Apr 2017, <https://nacla.org/news/2017/04/28/nicaragua-failure-address-violence-against-women>.

<sup>18</sup> Interviews conducted by The Advocates (2015-2019).

<sup>19</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Comments of the Committee Against Torture: Nicaragua*, (10 June 2009), U.N. Doc. CAT/C/NIC/CO/1 ¶ 15.

17. Nicaragua's 2019 State Party Report cited the 2015 Family Code, which, in Article 50, details the State's obligation to prevent domestic violence. These obligations include educational and awareness-raising measures, as well as psychosocial support, legal assistance, and protection for victims.<sup>20</sup>
18. Due to harmful perceptions of women and the family, police fail to adequately protect women who are victims of domestic violence. Stereotypes negatively affect the police response to violence. For instance, the police told one woman who was a victim of domestic violence that they were closing the case because it was a "private, family matter."<sup>21</sup>
19. Based on similar misperceptions, members of the justice system also limit women's access to protection from violence. Officials perpetuate stereotypes about gender roles and do not adequately respond to cases of domestic violence. In one case handled by The Advocates, for instance, the local Commission of Women told a victim of domestic abuse that her husband had the right to beat her. They informed her that by leaving her husband she was abandoning her family and her duties as a wife.<sup>22</sup>
20. Such harmful perceptions about domestic and sexual violence discourage women from seeking protection. In more than one case, The Advocates' clients have not been able to convince their families that they experienced abuse and those clients did not receive protection they needed.<sup>23</sup> According to one study, Nicaraguan girls report that the biggest barrier they face to reporting violence is the fear that their families will perceive them negatively or dismiss their story.<sup>24</sup>
21. Women also do not report domestic violence due to distrust of the police. In multiple cases handled by The Advocates, victims did not believe the police would protect them from retaliation by the perpetrators.<sup>25</sup> As a result, they chose not to report incidents of violence to the police.
22. **Suggested questions** for the Government of Nicaragua relating to perceptions of domestic violence:
  - What action has the State Party taken to conduct awareness-raising campaigns for Government officials, especially justice systems actors, about the severity and dynamics of domestic violence?
  - Please describe the policies and procedures in place to ensure that law enforcement and other members of the justice system appropriately respond to and process cases of domestic violence.

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<sup>20</sup> Convention against Torture and Other Cruel or Degrading Treatment or Punishment, Second periodic report submitted by Nicaragua under article 19 of the Convention, due in 2013, (01 Oct 2019), U.N. Doc. CAT / C / NIC / 2, ¶15-16.

<sup>21</sup> Interviews conducted by The Advocates (2015-2019).

<sup>22</sup> Interviews conducted by The Advocates (2015-2019).

<sup>23</sup> Interviews conducted by The Advocates (2015-2019).

<sup>24</sup> Plan International, *Counting the Invisible: Girls' Rights and Realities*, by Jean Casey and Linda Campbell (February 2017), 64. Available at file:///C:/Users/elacy/Downloads/countingtheinvisible\_nicaragua.pdf.

<sup>25</sup> Interviews conducted by The Advocates (2015-2019).

- What training, if any, does the State Party provide to members of law enforcement and the judiciary about domestic violence? Are these trainings led by or conducted in consultation with NGOs that serve victims of domestic violence and best understand their needs?
- What steps has the State Party taken to raise awareness on gender-based violence among the general public in order to change harmful perceptions of gender roles in the family and in society at large?
- What measures has the State Party undertaken to educate families about the importance of reporting domestic violence and about the systems in place to respond to reports of domestic violence?

### **III. Female human rights defenders experience violent retaliation from the Government of Nicaragua. (Concluding Observations Paragraph 18)**

23. In its 2009 Concluding Observations, the Committee noted with concern the alleged cases of harassment and death threats against human rights defenders, in particular against female defenders of women's rights. For this reason, the Committee urged the State party to institute measures that prevent, investigate, and punish those who systematically harass and issue death threats to human rights defenders.<sup>26</sup>
24. Nicaragua's 2019 State Party Report details a variety of laws, protocols, and instruments to support human rights activists, including Circular MP-FGR-006-2017. The Public Prosecution Service adopted this protocol to ensure that there is a prompt response to situations where a human rights defender has been a victim of an offense.<sup>27</sup>
25. Since President Ortega came into power, the Nicaraguan Government has cracked down on civil disobedience. Women human rights defenders have played a key role in recent opposition to the Government and have experienced violent retaliation from the Government.
26. The Nicaraguan Constitution gives citizens the right to criticize the Government (Article 52) and the right to peaceful assembly (Article 53 and 54).<sup>28</sup>
27. During protests against the Government between 2018 and 2019, the Government of Nicaragua engaged in violent retaliation against protestors. The Inter-American Commission on Human Rights reported that police and armed groups committed abuses against largely unarmed protesters. Due to the government's support for these actions, members of the armed forces faced few consequences. Moreover, while acting as chief of police, President Ortega promoted officials involved in the violent crackdown, rather than bringing them to justice.<sup>29</sup>

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<sup>26</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Concluding Comments of the Committee Against Torture: Nicaragua*, (10 June 2009), U.N. Doc. CAT/C/NIC/CO/1 ¶ 18.

<sup>27</sup> Convention against Torture and Other Cruel or Degrading Treatment or Punishment, Second periodic report submitted by Nicaragua under article 19 of the Convention, due in 2013, (01 Oct 2019), U.N. Doc. CAT / C / NIC / 2, ¶147-149.

<sup>28</sup> Constitución Política de la República de Nicaragua art. 52, 53, 54 [NI].

<sup>29</sup> Human Rights Watch, *Crackdown in Nicaragua* (June 19, 2019), <https://www.hrw.org/report/2019/06/19/crackdown-nicaragua/torture-ill-treatment-and-prosecutions-protesters-and>.

28. The government tortured, 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 rape threats. She fled the country after the government ordered her arrest.<sup>30</sup> 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.<sup>31</sup>
29. Many women who participated in the protests have received threats from the Government. Several female clients of The Advocates fled the country due to threats from the government or supporters of the government.<sup>32</sup> One client said the police frequently visited her home and threatened her after she posted about the protest on social media.<sup>33</sup>
30. **Suggested questions** relating to retaliation against women political activists:
  - What measures has the State Party taken to stop and investigate threats against women political activists? Please provide data detailing the number of reports and investigations, as well as the findings and outcomes of each case.
  - Have authorities investigated any allegations of Government officials or police officers threatening a woman human rights defender? Have any officials been tried or held accountable for such threats?
  - What steps has the State Party taken to ensure the safety of women human rights defenders?

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<sup>30</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>31</sup> Interviews conducted by The Advocates (2015-2019).

<sup>32</sup> Interviews conducted by The Advocates (2015-2019).

<sup>33</sup> Interviews conducted by The Advocates (2015-2019).