

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

<https://www.hrw.org/news/2021/09/20/nicaragua-trumped-charges-against-critics>

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Hazardous Detention Conditions, No Due Process, Arbitrary Prosecutions

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(Washington, DC) New evidence indicates that dozens of critics the [Nicaraguan](#) government arbitrarily detained for months, most of them accused of treason, are being held incommunicado and are often subjected to repeated interrogations and abusive conditions, including prolonged solitary confinement or insufficient food, Human Rights Watch said today. The government has charged many with serious crimes without providing substantiating evidence, strongly suggesting that these are politically motivated persecutions in retaliation for opposing the government.

The Nicaraguan government headed by President Daniel Ortega has arbitrarily detained 36 critics since late May 2021, in the run-up to presidential elections scheduled for November 7. On August 31, following accusations that the critics had been victims of enforced disappearances because their whereabouts remained unknown, Nicaraguan authorities allowed brief family visits for the first time since their arrests. In late August, the Attorney General's Office started filing charges against most of them in criminal proceedings that lacked basic due process guarantees. Charges, carrying prison sentences [of 15 to 25 years](#), ranged from money laundering to, most commonly, conspiracy to undermine national integrity.

In Nicaragua, President Ortega's rush to detain critics in horrendous conditions on spurious grounds and without due process ahead of the November elections shows that he has no intention of losing, said [Jos Miguel Vivanco](#), Americas director at Human Rights Watch. Ortega's government should immediately and unconditionally free all political prisoners, and the international community should keep up the pressure on the Ortega administration to increase the cost of its abusive practices.

On September 7, the Attorney General's Office [ordered the arrest](#) of Sergio Ramirez, a well-known writer and former vice president under Ortega, who is an outspoken critic of the current government. Ramirez [fled Nicaragua in June](#) after [testifying in one of the cases](#) against political opponents and remains abroad. The Attorney General's Office has also prosecuted and ordered the arrest of several journalists and academics living or exiled abroad.

Since August, Human Rights Watch has conducted phone interviews with 19 people who have information about 28 of the 36 cases of people arbitrarily detained since late May. Human Rights Watch is withholding the identities of the detainees whose cases were discussed and of the interviewees for fear of reprisals. Human Rights Watch also reviewed official sources, including police records, Attorney General Office news releases, court documents, media reports, and publications by local and international human rights groups to corroborate their testimonies.

Family members who were finally able to see the detainees, in some cases after months, [described](#) abusive prison conditions, including insufficient food and limited outdoor exercise, daily interrogations without legal counsel present, and, for some, prolonged solitary confinement.

Prolonged solitary confinement that is, solitary confinement that lasts 15 consecutive days or more amounts to torture and is prohibited under international law, Human Rights Watch said.

Between May 28 and September 6, the government [unleashed a wave of arbitrary arrests](#) to pave the way for President Ortega's re-election to a fourth consecutive term in November. Police arrested seven opposition presidential candidates and 29 government critics, including political opponents, journalists, human rights defenders, students, and business and community leaders. In some cases, police used violence during the arrests, including beating people who were not resisting arrest. Thirty-two of those arrested are being held at the Direction of Judicial Assistance prison (also known as El Chipote), where critics of the Ortega government have been tortured in the past, and four are under house arrest.

Nicaraguan authorities have initiated investigations against most of them for allegedly asking for military interventions, organizing

terrorist and destabilizing acts with funding from foreign powers, requesting, exalting, and applauding the imposition of sanctions against Nicaragua and its citizens, and inciting foreign interference in Nicaraguas affairs. Police cited provisions of [arecent law](#) prohibiting so-called traitors, defined in sweeping terms, from running for or holding public office. One presidential candidate was accused of money laundering through a press freedom organization, together with two other members of the organization.

Since February, an [amendment to the Code of Criminal Procedure](#) has allowed prosecutors to hold detainees for up to 90 days without charge, and in [almost all](#) cases involving government critics, the courts have permitted detention for up to 90 days.

Most critics have been prosecuted for conspiracy to undermine national integrity through procedures that lacked the most basic due process guarantees. Many have been held incommunicado for months without family visits or access to their lawyers, despite numerous petitions to the courts. The authorities barred the critics lawyers from participating in public hearings and imposed public defenders instead. For months, most lawyers had no access to court documents, despite repeatedly requesting them.

In cases where Human Rights Watch was able to review the charging documents, prosecutors had often failed to identify specific acts by the defendants to support the charges. The acts they did identify were often behavior that is protected by international human rights standards on freedom of expression and should not be criminalized.

In many cases, prosecutors repeated the same allegations verbatim against various people in different files. In every document Human Rights Watch reviewed, the prosecutors justified serious charges of undermining Nicaraguas national integrity solely based on claims that the accused had given interviews to media outlets, shared WhatsApp messages, participated in meetings, or signed letters expressing their support for sanctions against Nicaraguan officials, calling for free elections, or demanding international condemnation of the governments abuses.

Some detainees have chronic medical conditions or require regular access to medicine, yet judges have failed to answer petitions by their legal teams requesting access to medical examinations. Prison guards have sometimes received or requested medicines from relatives, but in some cases, authorities have refused to allow relatives to deliver medical supplies.

In addition to the 36 detentions carried out since late May 2021, Nicaraguan rights groups report that another 104 people perceived as critics were detained earlier and remained in detention as of August. [Many](#) had been held for over a year, and they faced similarly abusive detention conditions.

**For additional details about the cases and charges, please see below.**

### **Trumped-up Charges**

Human Rights Watch was able to review formal prosecution documents outlining evidence against 14 government opponents and found in each case that the prosecution had failed to allege acts that were appropriate to criminalize.

In nearly all of the indictments reviewed, though some were issued on different days and signed by different prosecutors, the language describing the charges was exactly the same. They accused the detainees of conspiring against the Nicaraguan state and society to perform acts aimed at affecting the sovereign and independent state and of belonging to an organized crime group that is structured with the purpose of committing serious crimes against the security of the State and its citizens.

Based on the indictments, between 2019 and 2021, most of the 14 detainees had allegedly sought or supported economic, commercial, and financial sanctions against Nicaragua, incited foreign interference in domestic affairs, and/or promoted destabilizing acts with funding from foreign powers aiming to discredit the legitimate government of Nicaragua.

The specific actions that prosecutors claimed justified these indictments include the following behaviors protected by international standards on freedom of expression or association:

None of these alleged acts mentioned in the prosecutors documents are appropriate to criminalize, as they constitute protected activities under international human rights law, Human Rights Watch said.

In one case in which a presidential candidate and others linked to the Violeta Chamorro Foundation, a press freedom group, are being accused of money laundering, the prosecutors claim the accused have used funds for purposes different from those for which the organization was created and that they have funded people and organizations that have aimed at destabilizing the economic and social development of the country.

However, the only specific allegation in that indictment is that the organization received more international funding than it allegedly reported to authorities. The document says nothing about how the alleged unreported funds were used. Even if there were no requirement to prove how the funds were used to open an investigation into allegations of money laundering, the fact that prosecutors include unfounded allegations about destabilization attempts in the indictment, together with the timing of the detentions and prosecutions, which occurred at the beginning of the recent wave of arrests of opponents, raise serious concerns about these charges.

All the indictments list testimonies as evidence against the accused, but they do not provide an account of what the testimonies say nor an analysis of how the testimonies provide meaningful evidence to substantiate the charges.

### **Detention Conditions**

Until August 30, authorities held most detainees incommunicado, without allowing family visits or communication with their lawyers, in violation of Nicaraguas Constitution and Code of Criminal Procedure. The length of incommunicado detention varied from 8 to 92 days. Despite multiple requests from the detainees legal teams, the authorities did not release information on the whereabouts or detention conditions of most of them. In some cases, when families brought food and water, prison guards at El Chipote verbally and surreptitiously confirmed that the detainees were there.

Although the Nicaraguan Code of Criminal Procedure requires allowing a detainee to communicate with a family member or lawyer within three hours of the arrest, most were held incommunicado for 30 days or more by the time the Attorney Generals Office authorized family visits on August 30, in a [news release](#) posted online. As of September 2, critics relatives had been allowed one visit at El Chipote that lasted 20 to 30 minutes.

Most family members only learned they would be allowed to see their loved ones on the day of the visit or a few days in advance. Guards used cameras to photograph and videotape anything they were carrying, [relatives said](#) in a public statement, as well as the visit itself.

Family members relayed the detainees [complaints](#) of abusive conditions and painted a bleak picture of the detainees lives. Common concerns included insufficient food, isolation, lack of time outside, cold cells, lack of blankets and mattresses, and lack of access to bathrooms.

Although detainees receive food, generally rice and beans, relatives reported that it is insufficient. The authorities have refused to give them more food, they said, and several detainees have lost significant weight.

Since being arrested, some detainees have been interrogated daily, in some cases twice a day, without their lawyers present. Authorities ask about coup planning, trips to the United States, and whom they met with and who financed them. In some cases, authorities have told detainees that they will never see their families again or that they have been forgotten by their families, or threatened to arrest loved ones if detainees refuse to cooperate. In a context in which they have no contact with the outside world, many told their families and lawyers that they thought they had been abandoned. Two said they had suicidal thoughts or that they would not last much more in these conditions.

Detainees say they cannot talk to each other. At least nine detainees are only allowed to go outside once a week for a few minutes; some are not even allowed that. Authorities have held some detainees in prolonged solitary confinement in cells from which they cannot look outside.

Some detainees are having trouble sleeping. [Family members say](#) that some are forced to sleep with the lights on. Many are held in cells without mattresses or blankets and are forced to sleep on a concrete floor. Nights are particularly cold, but family members say prison guards have repeatedly refused to accept blankets from them.

There are no bathrooms in some cells and detainees held in them relieve themselves in holes.

## **Due Process**

Detentions and investigations of government critics in Nicaragua have been marred by serious due process violations. In most cases investigated, authorities denied the detainees right to meet with their lawyers of choice for months. Lawyers filed petitions asking judicial authorities to allow them to meet with their clients. In some cases, the authorities failed to respond.

In the majority of cases, the lawyers chosen by the detainees were barred from hearings, including the special hearing for the protection of constitutional guarantees, in which the court decided to extend detainees pre-trial detention to 90 days, and the preliminary hearing, in which detainees learned the charges against them. For both types of hearings, a public defender was appointed in the majority cases. The hearings have been closed, in contravention of Nicaraguan law, which establishes that hearings should generally be public.

Between early June and September, the Attorney Generals Office announced each day which special hearings had taken place that day or the day before, but in four cases it did not communicate whether they had occurred. At least three detainees said they had not participated in their hearings.

For months, defense lawyers had no access to documents on proceedings in their cases that would normally have been posted on the judicial authoritys website or to the physical files including records of the hearings that should have been registered online. When Human Rights Watch searched online for the files in several cases against government critics or opponents, no records were available. In some other cases that did not involve government critics or opponents, court documents, including public hearing proceedings and the prosecutors charging documents, were accessible.

In several cases, lawyers have filed one or more briefs asking courts to allow them to meet with their clients and access the case files. As far as Human Rights Watch has been able to determine, the authorities consistently failed to reply, at least until very recently. As pre-trial hearings began on September 2, some court documents were uploaded to the website, which allowed lawyers to access some court files.

In most cases, lawyers filed several writs of habeas corpus. In some, the court indicated that the writ had become inadmissible once a special hearing for the protection of constitutional guarantees had been held. Others were rejected because they were filed within the 48 hours allowed by law for police to investigate the cases.

After the conclusion of the 90-day pre-trial detention period that Nicaraguan law now allows during an investigation, the Attorney Generals Office began [filing criminal charges](#) against at least 35 of the 36 jailed critics. Most have been charged with conspiracy to undermine national integrity, defined as acts that undermine or divide Nicaraguas integrity or that [render] Nicaragua to foreign control. Possible sentences range from 15 to 25 years in prison and include disqualification from holding public office or running for election.

By September 15, pre-trial hearings aimed at establishing whether the evidence warranted proceeding to trial had been held at El Chipote prison for at least 26 detainees, handcuffed and surrounded by police. Lawyers were not allowed to meet privately with clients before the hearings, affecting the quality of the defense and violating the detainees right, under the Code of Criminal Procedure, to communicate freely and confidentially with counsel. In most cases, families were not allowed to attend the hearings.

In some cases, the lawyers received court documents from the Attorney Generals Office detailing alleged evidence against their clients hours or a day before the pre-trial hearing. In at least one case, the lawyer representing one of the detainees entered the hearing having had no prior access to the prosecutors charging document or any document related to the case. In another case, a lawyer was notified that

hearings for two of the detainees he represented had been scheduled for the same time in different rooms. The authorities refused to accept the lawyers request to change the time or date of one of the hearings.

In all 26 hearings, courts extended pre-trial detention. The prosecutor asked that all cases be admitted as complex prosecutions, which allows the Attorney Generals Office to ask for pre-trial detention of up to a year, instead of the three months allowed for ordinary trials. Judges approved the requests in all 26 cases.

Defense lawyers have experienced [escalating harassment and prosecutions](#), and some have been forced to flee Nicaragua. Others remain, facing threats. [Two were](#) arrested and prosecuted for conspiracy to undermine national integrity.

## **Applicable International Standards**

### ***Detention Conditions***

The [United Nations Standard Minimum Rules for the Treatment of Prisoners](#), known as the Mandela Rules, establish that all accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation. In particular, the Mandela Rules stipulate that the sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

Food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served must be provided. Prisoners must be allowed at least one hour of suitable exercise in the open air daily if the weather permits.

Contact with the outside world is an essential right of prisoners. International standards dictate that [prisoners be allowed](#) to communicate with their family and friends at regular intervals, both by correspondence and by receiving visits [and that](#) communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.

### ***Due Process Rights***

The American Convention on Human Rights, which Nicaragua has ratified, provides in article 8, on the right to a fair trial, that every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent independent, and impartial tribunal prior notification in detail to the accused of the charges against him; adequate time and means for the preparation of his defense; the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel.

The International Covenant on Civil and Political Rights, to which Nicaragua is also a party, recognizes and protects, in article 14, the right of every citizen to minimum guarantees of due process, including to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him; to have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing; to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing.

On June 24, the Inter-American Court of Human Rights adopted provisional measures in favor of the Nicaraguan detainees Juan Sebastian Chamorro, Jos Adn Aguerri, Flix Maradiaga, Violeta Granera, and their families, whose rights the court considered at risk of irreparable harm. The court ordered their immediate release, concluding that they are being subjected to arbitrary detention to stifle dissent. On July 19, the courts president extended provisional measures to Tamara Dvila and her family.

The government did not comply with the courts rulings. On August 27, the [court held a hearing](#) with family members and the Inter-American Commission on Human Rights to supervise the implementation of these provisional measures. Critics relatives accused the Nicaraguan government of enforced disappearance given that at the time they had no official confirmation about the whereabouts of their loved ones.

[On September 9](#), the court further extended these provisional measures to include Lester Lenin Alemn Alfaro and Freddy Alberto Navas Lpez, and demanded the immediate release of all beneficiaries of this protective order. The court ordered Nicaragua to notify unequivocally the detainees whereabouts to their families and lawyers, facilitate a meeting with relatives and lawyers, and guarantee access to health services and medicines. It also ordered authorities to guarantee access to detainees chosen lawyers to court documents, including the files on the judiciarys website.

El Salvadors Need for Legal Gender Recognition

Cubas Systematic Repression of July 2021 Demonstrators

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