



Nicaragua's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women

Submitted by The Advocates for Human Rights

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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. The Advocates represents clients who have fled human rights abuses in Venezuela to seek asylum in the United States. They have shared their firsthand experiences of human rights abuses with The Advocates and given permission for the information to be used in this report.

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 between 2018 and 2019 also report that government security forces used excessive force against them.
2. Following pressure from grassroots organizers, in 2012, Nicaragua passed Law 779, its 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 Ortega also issued two decrees in 2014 that reduced the scope of femicide and shifted responsibility of 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 their 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.¹

Nicaragua fails to uphold its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

5. As a State Party to CEDAW, Nicaragua is obligated to provide women with legal protection from discrimination, ensure that public authorities do not discriminate against women, and eliminate discrimination against women by any person, institution, or enterprise (Article 2). Nicaragua is also obligated to eliminate prejudices and customary practices that reinforce harmful stereotypes of the roles of men and women, within the family or otherwise (Article 5). Nicaragua must treat women and men equally before the law (Article 15).²

I. Nicaragua fails to eradicate patriarchal attitudes and harmful stereotypes about gender roles and the family.

¹ 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.

² Convention on the Elimination of All Forms of Discrimination Against Women, 1979, Art. 2, Art. 5, Art. 15

6. In its 2020 List of Issues, the Committee on the Elimination of All Forms of Discrimination Against Women (Committee)³⁴
7. In its 2020 State Party Report, the Nicaraguan Government cited several awareness-raising campaigns to “make families stronger and prevent violence against women and girls by promoting values, gender equity, and complementariness.”⁵ The report also outlined a program for parents to promote gender equality and to prevent violence as well the Ministry of Education’s curricular reform to include education to eradicate gender stereotypes.⁶
8. Due to their harmful perceptions about women and the family, police fail to adequately protect women who are victims of domestic violence. Stereotypes prevail and 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.”⁷
9. Members of the justice system also limit women’s access to protection from violence based on similar misperceptions. 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.⁸
10. Such harmful perceptions about domestic and sexual violence discourage women from seeking protection. In more than one case, clients from The Advocates have not been able to convince their families that they experienced abuse and did not receive protection they needed.⁹ 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.¹⁰
11. 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.¹¹ As a result, they chose not to report incidents of violence to the police.

⁴ Convention on the Elimination of All Forms of Discrimination against Women, *List of issues and questions in relation to the combined seventh to tenth periodic reports of Nicaragua*, (11 March 2020), U.N. Doc. CEDAW/C/NIC/Q/7-10, ¶9.

⁵ Committee on the Elimination of All Forms of Discrimination Against Women, *Combined seventh to tenth periodic reports submitted by Nicaragua under article 18 of the Convention, due in 2010*, (8 January 2020), U.N. Doc. CEDAW/C/NIC/7-10, ¶65.

⁶ Committee on the Elimination of All Forms of Discrimination Against Women, *Combined seventh to tenth periodic reports submitted by Nicaragua under article 18 of the Convention, due in 2010*, (8 January 2020), U.N. Doc. CEDAW/C/NIC/7-10, ¶68.

⁷ Interviews conducted by The Advocates (2015-2019).

⁸ Interviews conducted by The Advocates (2015-2019).

⁹ Interviews conducted by The Advocates (2015-2019).

¹⁰ 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.

¹¹ Interviews conducted by The Advocates (2015-2019).

II. The Government of Nicaragua fails to protect women from domestic violence and gender-based violence against women.

12. In 2020 List of Issues, the Committee requested information on the prevalence of gender-based violence against women and killings of women, including information on measures taken to combat and prevent it. The Committee also asked for more information related to domestic violence legislation, including measures to encourage women to report, the implementation of protection orders, and the allocation of services for victims of domestic violence.¹²
13. In its 2020 State Party Report, the Nicaraguan Government cited a number of Acts passed related to combating violence against women.¹³ It also cited a 2017 campaign aimed at families to encourage them to “live together with mutual respect and in harmony, dignity, and safety.”¹⁴
14. **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.¹⁵ In 2017, 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.”¹⁶
15. Harmful stereotypes about gender roles within the family are also prevalent in Nicaraguan society. A study on adolescent girls’ perception and experience of violence in Nicaragua showed that adolescent girls perceive that violence is normal in an intimate partnership. 43% of adolescent girls agreed that it is sometimes acceptable for a man to use violence against his girlfriend or wife.¹⁷
16. 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 legislation offers women protection from

¹² Convention on the Elimination of All Forms of Discrimination against Women, *List of issues and questions in relation to the combined seventh to tenth periodic reports of Nicaragua*, (11 March 2020), U.N. Doc.

CEDAW/C/NIC/Q/7-10, ¶¶10-11.

¹³ Committee on the Elimination of All Forms of Discrimination Against Women, *Combined seventh to tenth periodic reports submitted by Nicaragua under article 18 of the Convention, due in 2010*, (8 January 2020), U.N. Doc. CEDAW/C/NIC/7-10. ¶187.

¹⁴ Committee on the Elimination of All Forms of Discrimination Against Women, *Combined seventh to tenth periodic reports submitted by Nicaragua under article 18 of the Convention, due in 2010*, (8 January 2020), U.N. Doc. CEDAW/C/NIC/7-10. ¶189.

¹⁵ 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>.

¹⁶ 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>.

¹⁷ Plan International, *Counting the Invisible: Girls’ Rights and Realities*, by Jean Casey and Linda Campbell (2017), 62, file:///C:/Users/elacy/Downloads/countingtheinvisible_nicaragua.pdf.

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.¹⁸

17. **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.”¹⁹ 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 2013.²⁰ Mediation, however, runs contrary to international best practice standards that discourage its use in domestic violence for reasons as described below.
18. **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 the 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.²¹
19. Police continue to recommend mediation for serious cases of domestic violence. Mediation, no matter how serious the offense, is a harmful practice for victims because it leads to re-victimization and re-traumatization.²² 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.” This is not the case in instances of domestic violence, however, where the abuser holds

¹⁸ D’Amico, Mara, *Law 779: Addressing Violence Against Women in Nicaragua*, The Arkansas Journal of Social Change and Public Service, 2014.

¹⁹ 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.

²⁰ 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.

²¹ 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.

²² Press release, UN Watch, Defend the Rights of victims in Nicaragua (19 Sept., 2014), <https://unwatch.org/defend-the-rights-of-victims-in-nicaragua/>.

tremendous power over the victim.²³ 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; instead of responding directly to the violence, they told her to seek mediation.²⁴ 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.

20. The Nicaraguan Government does not allocate adequate funding to resources for victims of domestic violence. By 2015, Nicaragua had 162 police units specially designed to deal with cases of gender-based violence, called *comisarias*. Between 2006 and 2012, however, the *comisarias* had only enough resources to process 187 of 403,740 total cases they received.²⁵ The Government ultimately shut down the *comisarias* altogether in 2016 due to budget cuts.²⁶
21. 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.²⁷

III. Women human rights defenders and activists experience violent retaliation from the Government of Nicaragua.

22. In its 2020 List of Issues, the Committee requested more information on the government's measures to protect women human rights defenders, including to prevent targeted reprisals and criminal investigations against them and to provide activists with adequate space to carry out their work.²⁸
23. Since President Daniel Ortega came into power, the Nicaraguan Government has cracked down on civil disobedience. Women activists have played a key role in recent opposition to the Government and have experienced violent retaliation from the Government.

²³ The Advocates for Human Rights, Stop Violence Against Women, "Mediation," accessed February 3rd, 2020, <http://www.stopvaw.org/mediation/>.

²⁴ 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>.

²⁵ 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.

²⁶ 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>.

²⁷ Interviews conducted by The Advocates (2015-2019).

²⁸ Convention on the Elimination of All Forms of Discrimination against Women, *List of issues and questions in relation to the combined seventh to tenth periodic reports of Nicaragua*, (11 March 2020), U.N. Doc. CEDAW/C/NIC/Q/7-10, ¶14.

24. The Nicaraguan Constitution gives citizens the right to criticize the Government (Article 52) and the right to peaceful assembly (Article 53 and 54).²⁹
25. 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 protestors. Due to the support of the Government, 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.³⁰
26. The government abused, detained, and executed many protestors, including women. According to Madelaine Caracas, a prominent political activist, women played an important role in the protests. Members of the Government frequently sent her death threats and threats of rape. She fled to Costa Rica after the government ordered her arrest.³¹ Armed forces shot at one client of the Advocates with the intent to kill. She knew their objective was to deter her from participating in political protests because she recognized them as members of President Ortega's political party.³²
27. Many women who participated in the protests received threats from the Government. Several female clients of The Advocates fled the country due to threats by the government or supporters of the government.³³ One client said the police frequently visited and threatened her after she posted about the protest on social media.³⁴

IV. Suggested recommendations

- Conduct awareness-raising campaigns about the severity and dynamics of domestic violence for Government officials, especially justice systems actors.
- Take steps to ensure that law enforcement and other members of the justice system appropriately respond to and process cases of domestic violence.
- Hold accountable law enforcement and other state actors who do not respond appropriately to cases of domestic violence.
- Provide training to members of law enforcement and the judiciary about domestic violence. Conduct these trainings in consultation with NGOs that serve victims of domestic violence and best understand their needs.
- Provide training to law enforcement and other governmental bodies about the harms of mediation and its effect on victims of domestic violence.

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

³⁰ 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>.

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

³² Interviews conducted by The Advocates (2015-2019).

³³ Interviews conducted by The Advocates (2015-2019).

³⁴ Interviews conducted by The Advocates (2015-2019).

- Amend current awareness-raising campaigns to prioritize the prevention of violence and providing women with safety and autonomy rather than maintaining harmony within the family.
- Take concrete steps to prohibit the use of mediation in all cases of domestic violence and ensure adequate screening takes place to identify domestic violence.
- Allocate adequate funding to the Ministry of the Family to facilitate the implementation of Law 779?
- Allocate adequate funding to police units designed to handle cases of domestic violence.
- Take measures to stop and investigate threats against women political activists?
- Hold government officials or police officers known to have threatened a woman political activist accountable for their actions.
- Take steps to ensure the women political activists are able to carry out their work without fear of harassment, violence, criminal investigations, and other reprisals.