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*VIA EMAIL:* URGENT-ACTION@OHCHR.ORG, SR-TORTURE@OHCHR.ORG

June 11, 2021

Dr. Nils Melzer  
Special Rapporteur on Torture  
c/o Office of the High Commissioner for Human Rights United Nations Office at Geneva  
CH-1211 Geneva 10  
Switzerland

RE: Félix Maradiaga/Nicaragua – Imminent Risk of Torture or Cruel, Inhuman, or Degrading Treatment or Punishment

Dear Dr. Melzer,

We are writing to request urgent action on behalf of our client, Félix Maradiaga, a Nicaraguan citizen and leading presidential candidate who was recently beaten, arrested, and disappeared pending an investigation into transparently unfounded and politically motivated charges. Since his arrest in the afternoon of June 8, 2021, Mr. Maradiaga has had no contact with his family, nor (as far as is known) with domestic or international legal counsel or medical professionals. The Nicaraguan Government has not provided proof of life since June 8, when Mr. Maradiaga was last seen beaten, dragged from his vehicle, and placed in police custody while stopped at a police checkpoint in Managua. Given these serious human rights violations, the Nicaraguan Government's long program of persecution of Mr. Maradiaga (described in detail below), his underlying health risks, and those posed by the COVID-19 pandemic, Mr. Maradiaga is at immediate and grave risk of torture or cruel, inhuman, or degrading treatment.

We respectfully request that, in accordance with your working methods, you investigate the situation and immediately reach out to the Government of Nicaragua, urging it to provide proof that Mr. Maradiaga is alive, uphold his physical and mental security, and ensure his right to access to family, counsel, and necessary medication, as guaranteed by the International Covenant on Civil and Political Rights (ICCPR) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles).

## **I. BACKGROUND ON FÉLIX MARADIAGA**

Félix Maradiaga is a Nicaraguan activist, political figure, academic, and outspoken critic of President Daniel Ortega and his regime. Born in Jinotega, Nicaragua, in 1976, Mr. Maradiaga was forced to flee to the United States as a young boy in the late 1980s to escape the violence of

the ongoing Contra War. He crossed the U.S.-Mexico border, spent time in a refugee camp in Texas, and was later taken in by Nicaraguan foster parents in South Florida, where he lived for two years.

He returned to Nicaragua in 1990, “full of enthusiasm for the reconstruction” of his country, and resumed his studies in Matagalpa.<sup>1</sup> During this time, he became active with the youth ministry and studied the principle and discipline of nonviolence. His studies about democracy and citizen engagement motivated him to study political science and international relations at a branch of Keiser University in San Marcos, Carazo, Nicaragua. He later received a Master in Public Administration from Harvard University’s John F. Kennedy School of Government, and went on to study law and political science at Yale as a member of the 2009 Yale World Fellows program. Mr. Maradiaga was also named a Young Global Leader by the World Economic Forum.

Based on the experiences of his childhood, Mr. Maradiaga has dedicated his professional life to public service and civil society work in service of human rights, nonviolence, and disarmament. In the late 1990s he served as Director of the Office for Reintegration of Ex-Combatants, which focused on disarming, demobilizing, and reintegrating 2,300 Nicaraguan guerrillas. He later went on to serve as the Secretary General of the Nicaraguan Ministry of Defense – where he worked to strengthen peace, democracy, and the rule of law in Nicaragua – and was the youngest person to ever hold that position. He later served as a Disarmament Fellow at the United Nations Headquarters in New York.<sup>2</sup> In 2007, he returned to Nicaragua and founded the Civil Society Leadership Institute, a civic education initiative which aims to cultivate leadership skills in grassroots activists and educate them about the fundamentals and importance of non-violent social change. And in 2017, he was appointed Executive Director of the Institute of Strategic Studies and Public Policy, a Managua-based think tank which aims to strengthen debate and knowledge around public policy in Nicaragua and Central America.

Due to his outspoken activism, the Ortega regime accused Maradiaga of “financing terrorism” related to the demonstrations that erupted in April 2018. Following physical attacks and repeated death threats against him, Mr. Maradiaga fled the country in July 2018 and lived in exile in the United States for one year. Subsequently, Maradiaga testified at a United Nations Security Council meeting in September 2018 about the situation in Nicaragua, and came to be a leader in the opposition Blue and White National Unity Movement.<sup>3</sup> He returned to Nicaragua in September 2019. On February 28, 2021, he announced his candidacy for the Presidency of Nicaragua as the candidate of the Blue and White National Unity Movement, to face Daniel Ortega in the general presidential election in November 2021.<sup>4</sup>

Mr. Maradiaga is married with one young daughter.

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<sup>1</sup> *The Situation in Nicaragua*, U.N. SECURITY COUNCIL, Sept. 5, 2018, available at <https://undocs.org/S/PV.8340>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Gabriela Castillo, *Félix Maradiaga Lanza Precandidatura Presidencial Y Dice Que “No Estoy Interesado en la Vicepresidencia de la República”*, ARTÍCULO 66, Feb. 28, 2021, available at <https://www.articulo66.com/2021/02/28/felix-maradiaga-oficializa-precandidatura-a-la-presidencia/> [in Spanish].

## II. HISTORY OF PERSECUTION BY NICARAGUAN AUTHORITIES

Because of Mr. Maradiaga's outspoken criticism of the violence and anti-democratic practices perpetrated by the Ortega regime, the Nicaraguan Government has sought to discredit, intimidate, and silence him. Mr. Maradiaga and his family have also repeatedly been the targets of threatened and real violence.

On July 9, 2018, the Inter-American Commission on Human Rights (IACHR) adopted Resolution No. 50/18, finding that Mr. Maradiaga "faces a situation of grave and urgent risk" after being followed, harassed, and subjected to death threats since early 2018.<sup>5</sup> While participating in a peaceful protest on April 19, 2018, Mr. Maradiaga was beaten and injured by police officers. During the same time, he was also subjected to harassment and smear campaigns across social media platforms – a tactic of the regime noted in the U.S. State Department human rights report on Nicaragua that year.<sup>6</sup> Posts included pictures and videos identifying Mr. Maradiaga and accusing him of receiving funds from the United States, committing acts of terrorism, and working to organize a coup d'état.

Mr. Maradiaga and his family have also been physically and violently threatened on numerous occasions. On April 2, 2018, after Mr. Maradiaga dropped off his daughter at school, a motorcyclist pulled alongside his car and displayed a gun to Mr. Maradiaga's window. On May 27, 2018, two Toyota Hilux cars without license plates aggressively harassed the car that Mr. Maradiaga was in as he traveled to the city of Matagalpa to deliver humanitarian aid. The following day, two motorcyclists pulled alongside the car Mr. Maradiaga was in while he was stopped in traffic. A masked motorcyclist then pointed a gun to his car window and fired two shots into the car, but Mr. Maradiaga escaped uninjured. During a press conference on June 5, 2018, the National Police then accused Mr. Maradiaga of involvement in a criminal organization responsible for drug trafficking, arms trafficking, and hiring assassins. Throughout all of this, Mr. Maradiaga and his family continued to receive death threats.

Given this grave history of past persecution, the IACHR requested the Nicaraguan Government in Resolution No. 50/18 to take any measures necessary to preserve the lives and personal integrity of Mr. Maradiaga and his family. The Nicaraguan Government did not comply. After being violently assaulted while in the city of León on July 10, 2018, and facing unfounded accusations of financing terrorism, Mr. Maradiaga fled Nicaragua on July 14, 2018.<sup>7</sup> He lived in exile in the United States for one year, where he continued his work as an activist and academic.

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<sup>5</sup> *Félix Alejandro Maradiaga Blandon Respecto de Nicaragua*, IACHR Res. 50/18, Doc. 671-18, adopted 2018.

<sup>6</sup> Nicaragua, in 2018 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES, U.S. DEP'T OF STATE, March 13, 2019, available at <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/nicaragua/>.

<sup>7</sup> Mario Medrano, *Félix Maradiaga Denuncia Haber Sido Acosado Por Motorizados en Managua, Nicaragua*, CNN EN ESPAÑOL, Sept. 18, 2019, available at <https://cnnespanol.cnn.com/2019/09/18/alerta-nicaragua-felix-maradiaga-denuncia-haber-sido-acosado-por-motorizados-en-managua/>.

When Mr. Maradiaga returned to Nicaragua in September 2019, he was again subjected to police surveillance and continued death threats.<sup>8</sup> Immediately upon his arrival in Nicaragua, his passport was confiscated. Days later, his car was surrounded by armed motorcyclists in an act of intimidation. In September 2020, his house was robbed, and his computers, personal documents, and other effects were all taken. The harassment and persecution of Mr. Maradiaga continued through December 2020. In one instance, police blocked Mr. Maradiaga from leaving his home, and fractured three of his fingers in an altercation that later ensued. Mr. Maradiaga later told *La Prensa* that the police presence around his home is “so extreme that they have blocked the entire block and have physically prevented any vehicle from entering or leaving the perimeter where I am.”<sup>9</sup> The IACHR has submitted detailed accounts of the abuses to the Nicaraguan Government, which has failed to respond.

Indeed, since September 2020, the Nicaraguan Police have greatly restricted Mr. Maradiaga’s movement and have had a constant presence around his home, usually between 16 and 22 police officers at a time. The 24/7 surveillance by the police began by limiting Mr. Maradiaga’s travel outside of Managua, but then escalated so that Mr. Maradiaga was unable to leave his home for three months, between December 2020 and February 2021, which journalists have identified as a situation of *de facto* house arrest.<sup>10</sup> However, even after the *de facto* house arrest was lifted, Mr. Maradiaga’s movement remained monitored and restricted. In one particular instance, on May 20, 2021, Mr. Maradiaga was prevented from attending a rally in support of Cristiana Chamorro, with police assaulting him and forcing him back into his home.<sup>11</sup> On May 28, 2021, the Office of the UN High Commissioner for Human Rights expressed deep concern that the National Police had “intensified its actions to restrict the movements” of opposition leaders.<sup>12</sup>

The events of June 8, 2021 are thus part of a broader – and well-documented – pattern of repression by the Ortega regime to silence Mr. Maradiaga. But they are also indicative of the

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<sup>8</sup> *Información Adicional Urgente: Félix Maradiaga* (brief to Tania Reneaum Panszi, Executive Secretary, Inter-American Commission on Human Rights), CENTER FOR JUSTICE AND INTERNATIONAL LAW, June 8, 2021 [in Spanish] (on file with author).

<sup>9</sup> Leonor Álvarez, *Policías Golpean a Félix Maradiaga Cuando Quiso Atender a Periodistas*, LA PRENSA, Dec. 17, 2020, available at <https://www.laprensa.com.ni/2020/12/17/politica/2761403-policia-orteguista-impide-a-felix-maradiaga-viajar-a-la-costa-caribe-de-nicaragua> [in Spanish]; see also Noel Pérez Miranda, *Policía, a Punta de Empujones, Impide a Félix Maradiaga Comparecer en Medios de Comunicación*, ARTÍCULO 66, Dec. 17, 2020, available at <https://www.articulo66.com/2020/12/17/policia-nicaragua-violencia-felix-maradiaga-opositor-unav/> [in Spanish]; see also Tweet by Miguel Mendoza (@Mmendoza1970), TWITTER, Dec. 17, 2020, available at <https://twitter.com/Mmendoza1970/status/1339621658991190016?s=20>.

<sup>10</sup> Gabriela Castillo, *Régimen Exhibe Estado Policial en el Tercer Día de ‘Casa por Cárcel’ a Precandidatos Presidenciales*, ARTÍCULO 66, May 22, 2021, available at <https://www.articulo66.com/2021/05/22/regimen-receta-casa-por-carcel-precandidatos-felix-maradiaga/> [in Spanish]; see also Yubelka Mendoza and Anatoly Kurmanaev, *Nicaragua’s Democracy Hangs by Thread as Crackdown Deepens*, NEW YORK TIMES, June 6, 2021, available at <https://www.nytimes.com/2021/06/06/world/americas/nicaragua-daniel-ortega-crackdown.html>.

<sup>11</sup> *Régimen Exhibe Estado Policial en el Tercer Día de ‘Casa por Cárcel’ a Precandidatos Presidenciales*, *supra* note 10.

<sup>12</sup> *Press Briefing Notes on Nicaragua*, U.N. HIGH COMM’R FOR HUMAN RIGHTS, May 28, 2021, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27124&LangID=E>.

regime's increasingly brazen tactics in recent weeks to eliminate any potential opposition to his stranglehold over Nicaragua's institutions, "accelerating a slide toward one-party rule."<sup>13</sup>

### **III. CURRENT CAMPAIGN OF ELECTION REPRESSION BY NICARAGUAN AUTHORITIES**

Nicaraguan authorities have engaged in an escalating campaign of repression against both Mr. Maradiaga personally and other members of the political opposition since fall 2020. Legislatively, Nicaragua's National Assembly passed a series of broad laws and amendments that many observers perceived as tools created to allow for greater government persecution of dissenting voices, including the Law for the Regulation of Foreign Agents, the Special Law on Cyber-crimes, and the Law for the Defense of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace.<sup>14</sup> This last law in particular was strongly condemned by the international community for giving "the government of President Daniel Ortega the power to unilaterally declare citizens 'terrorists' or coup-mongers, classify them as 'traitors to the homeland' and ban them from running as candidates."<sup>15</sup> On December 21, 2020, the General Secretariat of the Organization of American States stated that the law granted the Nicaraguan Government the authority to transform the "2021 elections into an imposition rather than an election" and demanded Nicaraguan authorities repeal it.<sup>16</sup>

Outside of policy, Nicaraguan authorities regularly employed repressive tactics against opposition leaders and activists, both directly and in coordination with paramilitary groups and party loyalists. These actions included illegal raids of private residences, surveillance, cyberattacks on opposition websites, disruption of private meetings and gatherings, coercive distribution of resources like food and medical supplies, torture, and arbitrary arrests and detention,<sup>17</sup> resulting in the accumulation of over 120 political prisoners.<sup>18</sup> Further, "[p]olice regularly stationed police vehicles outside the homes of opposition members, harassing visitors and occasionally prohibiting opposition members from leaving their houses."<sup>19</sup>

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<sup>13</sup> Yubelka Mendoza and Anatoly Kurmanaev, *In Nicaragua, Repression Deepens as More Opposition Leaders Are Detained*, NEW YORK TIMES, June 9, 2021, available at <https://www.nytimes.com/2021/06/09/world/americas/nicaragua-ortega-opposition-leaders.html>.

<sup>14</sup> REPORT 2020/21: THE STATE OF THE WORLD'S HUMAN RIGHTS, AMNESTY INT'L, 2021, at 265–66, available at <https://www.amnesty.org/download/Documents/POL1032022021ENGLISH.PDF>; see also SILENCE AT ANY COST: STATE TACTICS TO DEEPEN THE REPRESSION IN NICARAGUA, AMNESTY INT'L, Feb. 2021, available at <https://www.amnesty.org/download/Documents/AMR4333982021ENGLISH.PDF>.

<sup>15</sup> *Nicaragua Essentially Bans Opposition from 2021 Election*, ASSOCIATED PRESS, Dec. 21, 2020, available at [https://apnews.com/article/elections-blockades-central-america-daniel-ortega-nicaragua-14d04033e443f6da9bf3d11aec0dae47?utm\\_source=dailybrief&utm\\_medium=email&utm\\_campaign=DailyBrief2020Dec22&utm\\_term=DailyNewsBrief](https://apnews.com/article/elections-blockades-central-america-daniel-ortega-nicaragua-14d04033e443f6da9bf3d11aec0dae47?utm_source=dailybrief&utm_medium=email&utm_campaign=DailyBrief2020Dec22&utm_term=DailyNewsBrief); see also *Nicaragua*, in 2020 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES, U.S. DEP'T OF STATE, Mar. 30, 2021, available at <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/nicaragua/>.

<sup>16</sup> Press Release, *Statement From the OAS General Secretariat on Nicaragua*, OFFICE OF THE OAS GENERAL SECRETARIAT, Dec. 21, 2020, available at [https://www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=E-127/20](https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-127/20).

<sup>17</sup> 2020 Country Reports on Human Rights Practices: Nicaragua, *supra* note 15.

<sup>18</sup> *Reportan 125 Prisioneros Políticos en Nicaragua*, DW, Mar. 6, 2021, available at <https://www.dw.com/es/reportan-125-prisioneros-pol%C3%ADticos-en-nicaragua/a-56790948> [in Spanish].

<sup>19</sup> 2020 Country Reports on Human Rights Practices: Nicaragua, *supra* note 15.

Building off of the 2020 legislation, the Nicaraguan Government implemented additional electoral reforms in April and May 2021 that further jeopardized the impartiality of the upcoming elections and restricted space for opposition participation.<sup>20</sup> In the following weeks, Nicaraguan authorities used the reform as the basis to dissolve two opposition parties; intensified their efforts to restrict the movement of opposition figures; and raided the offices of and opened a criminal investigation into leading opposition presidential candidate Cristiana Chamorro.<sup>21</sup> The same day as the raid – May 20 – both Mr. Maradiaga and another presidential candidate, Juan Sebastián Chamorro, were physically prevented from leaving their homes.<sup>22</sup> In response to these events, on May 28, the Office of the UN High Commissioner for Human Rights expressed that it was “deeply concerned that Nicaragua’s chances of holding free and genuine elections on 7 November are diminishing as a result of measures taken by authorities against political parties, candidates and independent journalists.”<sup>23</sup>

In the past week, this campaign of suppressing dissent and opposition came to a head. On June 2, 2021, Nicaraguan security forces raided the home of Ms. Chamorro and placed her under house arrest, days after authorities leveled money laundering charges against her and requested that she be disqualified from the presidential race.<sup>24</sup> A court granted the request and Ms. Chamorro remains detained *incommunicado* in her home.<sup>25</sup> Ms. Chamorro’s arrest was followed by the arrest of another prominent opposition candidate, Arturo Cruz Sequeira, as he returned to Managua from a trip to Washington, DC. According to Nicaraguan police, Mr. Cruz was detained under the December 2020 treason law.<sup>26</sup> Nicaraguan authorities have ordered that he be imprisoned for three months as they investigate.<sup>27</sup> In the hours following Mr. Maradiaga’s arrest on June 8, which will be discussed in more detail below, Nicaraguan authorities arrested Juan Chamorro at his home in Managua, and announced they had planned to summon him for questioning, and two other opposition activists. Mr. Chamorro now also faces an investigation for charges under the controversial December 2020 treason law.<sup>28</sup>

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<sup>20</sup> Carrie Kahn, *Ortega Targets Opposition Figures as Nicaraguan Elections Approach*, NPR, May 20, 2021, available at <https://www.npr.org/2021/05/20/998795586/ortega-targets-opposition-figures-as-nicaraguan-elections-approach>; *Press Briefing Notes on Nicaragua*, *supra* note 12; and *Three Years On, Human Rights Abuses Continue in Nicaragua*, CIVICUS, June 5, 2021, available at <https://monitor.civicus.org/updates/2021/05/06/three-years-human-rights-abuses-continue-nicaragua/>.

<sup>21</sup> *Press Briefing Notes on Nicaragua*, *supra* note 12.

<sup>22</sup> *Policía Agrede a Félix Maradiaga tras Llamado de “Salir a las Calles”*, RADIO CORPORACION, May 20, 2021, available at <https://radio-corporacion.com/blog/archivos/94667/policia-agrede-a-felix-maradiaga-tras-llamado-de-salir-a-las-calles/> [in Spanish].

<sup>23</sup> *Press Briefing Notes on Nicaragua*, *supra* note 12.

<sup>24</sup> Jaelyn Diaz, *Police in Nicaragua Detain Opposition Figure at Her Home Following a Raid*, NPR, June 3, 2021, available at <https://www.npr.org/2021/06/03/1002744590/police-in-nicaragua-detain-opposition-figure-at-her-home-following-raid>.

<sup>25</sup> *US Calls on Nicaragua to Free Opposition Figure Chamorro*, ASSOCIATED PRESS, June 4, 2021, available at <https://apnews.com/article/caribbean-nicaragua-election-2020-5da0f1f8be9ebc3d53f96a2af592dae3>.

<sup>26</sup> *Nicaragua Detains Yet Another Opposition Politician*, ASSOCIATED PRESS, June 5, 2021, available at <https://apnews.com/article/caribbean-nicaragua-election-2020-003d84a2c2f24efc74abb51a7212d5e1>.

<sup>27</sup> Ismael López Ocampo and Mary Beth Sheridan, *Nicaraguan Government Launches Mass Arrests of Presidential Candidates*, WASHINGTON POST, June 8, 2021, available at <https://www.washingtonpost.com/world/2021/06/08/ortega-arrest-felix-maradiaga-nicaragua-presidential-candidate/>.

<sup>28</sup> *Id.* and *Nicaragua Government Detains Possible Challengers to Ortega*, BBC, June 9, 2021, available at <https://www.bbc.com/news/world-latin-america-57408371>.

#### IV. CIRCUMSTANCES OF HIS ARREST AND DISAPPEARANCE

On June 5, 2021, Mr. Maradiaga received a summons from the Public Ministry notifying him that he was to appear before the central offices of the Public Ministry in Managua on June 8, 2021 at 8:30 am for an “interview.” The summons did not include any other information, such as the reason for the citation, a mention of a criminal case against Mr. Maradiaga, or any alleged crimes that would merit such a summons.<sup>29</sup>

In compliance with the summons, Mr. Maradiaga appeared before the Public Ministry on the morning of June 8, where he was escorted to the offices of the Public Ministry by a vehicle of the National Police with at least four agents and two additional agents on motorcycles. Mr. Maradiaga remained at the Public Ministry for nearly 4 hours, where he gave a statement and was then subjected to exhaustive questioning. Mr. Maradiaga was interrogated about his international activities, especially with the Organization of American States and United Nations Security Council, his travel in the last 10 years, and the sources of funding for civil society organizations.<sup>30</sup> Throughout this process, Mr. Maradiaga was not charged with a specific crime, but was informed he would remain “under investigation.”<sup>31</sup> Throughout this ordeal, the Public Ministry was surrounded by more than 50 agents of the National Police.<sup>32</sup>

At 12:20 pm, Mr. Maradiaga exited the Public Ministry, where he told those present that the Public Ministry was opening an investigation “in two directions.” First, they would reopen the case brought against him in 2018, regarding “the financing of an alleged coup, intellectual authorship, and the activities of [Mr. Maradiaga’s now dissolved think tank] IEEPP.” Second, they would open an investigation into violations of Law No. 1055, or the Law for the Defense of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace.<sup>33</sup>

Upon his exit from the Public Ministry, Mr. Maradiaga left in his own vehicle, but was followed by numerous police officers in a National Police pickup truck and police officers on two motorcycles. Just 20 minutes after leaving the Public Ministry – having traveled only about 500 meters – police arrested Mr. Maradiaga at the Park of the Bible. According to Mr. Maradiaga’s lawyer, Roger Reyes, the arrest must have been planned, as it took place at a police checkpoint and away from the media that had gathered outside the Public Ministry.<sup>34</sup>

Despite not resisting arrest, the police hit Mr. Maradiaga forcefully in the face twice, pulled him from his vehicle, and placed him in the police vehicle, which then drove off. The arresting agents of the National Police did not present any court order authorizing the arrest.<sup>35</sup>

A press release by the National Police later announced that Mr. Maradiaga:

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<sup>29</sup> *Información Adicional Urgente: Félix Maradiaga*, supra note 8.

<sup>30</sup> *Id.*

<sup>31</sup> *Información Adicional Urgente: Félix Maradiaga*, supra note 8.

<sup>32</sup> *Id.*

<sup>33</sup> Javier González, *Dictadura Se Lleva a la Cárcel al Precandidato Presidencial Félix Maradiaga Después que Salió de la Fiscalía*, ARTÍCULO 66, Jun. 8, 2021, available at <https://www.articulo66.com/2021/06/08/precandidato-presidencial-felix-maradiaga-presno-sanciones-soberania-regimen-orteguista/> [in Spanish].

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

is being investigated for committing acts that undermine independence, sovereignty, and self-determination; incite foreign interference in internal affairs; solicit military interventions; organize with funding by external entities in order to execute acts of terrorism and destabilization; propose commercial and economic blockades and financial operations against the state and its institutions; demand, praise, and applaud the imposition of sanctions against the state of Nicaragua and its citizens; and damage the supreme interests of the nation in conformity with Article 1 of the Law 1055 ‘Law of the Defense of the Rights of the People to Independence, the Sovereignty, and Self-Determination for Peace.’<sup>36</sup>

At the time of this submission, the exact whereabouts and health status of Mr. Maradiaga are unknown. Mr. Maradiaga has been held *incommunicado* since his arrest, and (as far as is known) has had no contact with his family, domestic or international legal counsel, or medical care.

Since his arrest, Nicaraguan National Police have repeatedly denied access to Mr. Maradiaga. Around 3:30 pm on June 8, officials of the Blue and White National Unity approached the Auxiliary Judicial Office to inquire about the whereabouts and wellbeing of Mr. Maradiaga, but police agents denied their passage inside and did not provide any type of information regarding his whereabouts or status.

Later in the afternoon of June 8, a relative of Mr. Maradiaga went to El Chipote prison with the objective of visiting Mr. Maradiaga, if he was there, and providing him with food and medical supplies. The prison guards did not allow him to deliver food or medical supplies, and they indicated it would take 48 hours to confirm that he was in fact a relative of Mr. Maradiaga. They also informed him that the prison medic would be responsible for assessing Mr. Maradiaga’s health and prescribing medication for him, if necessary.

In the morning of June 9, the same relative went to El Chipote prison and was met with the same response from the prison guards. Around midday on June 9, the relative arrived at El Chipote prison to deliver a package of food, water, hygiene supplies, and medication to the prison. The package was thoroughly searched and ultimately allowed inside. The prison guards also informed the relative that he could return later in the afternoon to deliver Mr. Maradiaga’s clothes and a bedsheet. Still, however, neither the prison guards nor the Nicaraguan authorities have affirmatively confirmed that Mr. Maradiaga is being held at El Chipote prison, the relative has no idea if these provisions were given to him, and nothing is known about his health or wellbeing.

Additionally, while Mr. Maradiaga was taken away in a patrol car, officers of the National Police entered Mr. Maradiaga’s housing complex, forcefully entered the home, and conducted a raid, presumably without a court order.

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<sup>36</sup> *Nota De Prensa No. 139 - 2021*, POLICÍA NACIONAL RELACIONES PÚBLICAS, June 8, 2021, *available at* <https://www.lavozdelsandinismo.com/nicaragua/2021-06-08/policia-nacional-nota-de-prensa-139-2021-informa-sobre-detencion-de-felix-maradiaga/> [in Spanish],



On June 10, Mr. Maradiaga's domestic legal counsel went to the Public Ministry, where they would purportedly be able to see Mr. Maradiaga since 48 hours had passed since his arrest. However, they were turned away, and told Mr. Maradiaga was not there and that there had not been a hearing yesterday. They presented a petition requesting to see Mr. Maradiaga, which will be reviewed by a judge, who will emit a resolution in 24 hours determining if Mr. Maradiaga's detention was illegal or not. At the time of the interaction, they were not able to confirm if Mr. Maradiaga had been brought before a judge.

In the afternoon of June 10, the Public Ministry published a press release announcing that it had filed a request on June 9 for a special hearing on constitutional guarantees in Mr. Maradiaga's case "to extend the period of complementary investigation and judicial detention against Félix Alejandro Maradiaga Blandón, for being investigated for carrying out illegal activities through the Fundación Libertad or para la Libertad and for having strong indications that it has attacked Nicaraguan society and the rights of the people in accordance with Law No. 1055."<sup>37</sup> Judge Henry Morales of the Sixth Criminal District of Managua, well known for facilitating the illegal detentions of many political prisoners, held a secret hearing where he summarily ordered that Mr. Maradiaga be subjected to a judicial detention for 90 days. Mr. Maradiaga's counsel was not informed of the hearing. It is not even known if Mr. Maradiaga was present. Later it was learned this is Case # 012276-ORM4-2021PN.

## **V. INTERNATIONAL LEGAL ANALYSIS**

Although only three days have passed since Mr. Maradiaga was disappeared, the Government of Nicaragua has committed numerous flagrant violations of his rights under international law. These include: (A) subjecting him to an enforced disappearance, (B) detaining him without legal basis, (C) detaining him *incommunicado*, without access to counsel or family, (D) violating his right to the presumption of innocence, and (E) subjecting him to torture or other cruel, inhuman, or degrading treatment.

### ***A. Mr. Maradiaga Is Being Subjected to an Enforced Disappearance***

An enforced disappearance occurs when a person is subjected to:

arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.<sup>38</sup>

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<sup>37</sup> *Comunicado 011-2021*, MINISTERIO PÚBLICO, REPÚBLICA DE NICARAGUA, Jun. 10, 2021

<sup>38</sup> International Convention for the Protection of All Persons from Enforced Disappearance, 2716 U.N.T.S. 3, entered into force Dec. 23, 2010, at Art. 2, available at <https://www.ohchr.org/en/hrbodies/ced/pages/conventionced.aspx>; see also Declaration on the Protection of all

As the UN Human Rights Committee has explained, “[e]nforced disappearances violate numerous substantive and procedural provisions of the [ICCPR],”<sup>39</sup> including the rights to personal liberty, personal security, and protection of life,<sup>40</sup> and they “constitute a particularly aggravated form of arbitrary detention.”<sup>41</sup> Moreover, enforced disappearance is not only a risk factor for torture,<sup>42</sup> but also itself constitutes a form of torture, at least in some cases.<sup>43</sup> In fact, the Human Rights Committee has found that the “anguish and stress” experienced by a disappeared person’s family members can also constitute ill treatment prohibited by Article 7 of the ICCPR.<sup>44</sup>

Mr. Maradiaga was arrested by National Police at approximately 12:40 pm on June 8, 2021. As of the submission of this Urgent Appeal, the government has not explicitly confirmed his whereabouts or provided any proof that he is still alive. He has therefore been subjected to an enforced disappearance.

### ***B. There Is No Legitimate Legal Basis for Mr. Maradiaga’s Detention***

Article 9(1) of the ICCPR prohibits arbitrary arrest or detention and provides that “[n]o one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”<sup>45</sup>

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Persons from Enforced Disappearance, G.A. Res. 47/133, U.N. Doc. A/47/49, *adopted* Dec. 18, 1992, at pmb1., available at <http://hrlibrary.umn.edu/instree/h4dpaped.htm> (defining “enforced disappearance”).

<sup>39</sup> *General Comment No. 35 on Article 9: Liberty and Security of Person*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/35, Dec. 16, 2014, at ¶ 17, available at <https://undocs.org/CCPR/C/GC/35>.

<sup>40</sup> *Id.*, at ¶ 55.

<sup>41</sup> *Id.*, at ¶ 17.

<sup>42</sup> REPORT OF THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES, U.N. COMMISSION ON HUMAN RIGHTS, 62nd Sess., U.N. Doc. E/CN.4/2006/56, Dec. 27, 2005, at ¶ 22, available at <https://undocs.org/E/CN.4/2006/56> (“As is well documented, disappearance is often a precursor to torture . . .”) and *Enforced Disappearances*, AMNESTY INT’L, accessed Sept. 5, 2020, available at <https://www.amnesty.org/en/what-we-do/disappearances/#:~:text=A%20disappeared%20person%20is%20also,the%20protection%20of%20the%20law.&text=Victims%20of%20enforced%20disappearance%20are%20also%20at%20heightened%20risk%20of,sexual%20violence%20or%20even%20murder> (“A disappeared person is . . . at a high risk of torture since they are placed completely outside the protection of the law.”).

<sup>43</sup> See Declaration on the Protection of all Persons from Enforced Disappearance, *supra* note 38, at Art. 1(2) (“Any act of enforced disappearance . . . constitutes a violation of the rules of international law guaranteeing, inter alia . . . the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment.”); *Francisco Dionel Guerrero Larez v. Venezuela*, Communication No. 456/2011, U.N. Doc. CAT/C/54/D/456/2011, U.N. COMMITTEE AGAINST TORTURE, *adopted* May 15, 2015, at ¶ 6.6, available at <https://undocs.org/CAT/C/54/D/456/2011> (“[T]he Committee concludes that . . . in the specific circumstances of this case, his enforced disappearance constitutes an act of torture within the meaning of article 1 of the Convention.”); and *S. Jegatheeswara Sarma v. Sri Lanka*, Communication No. 950/2000, U.N. Doc. CCPR/C/78/D/950/2000, U.N. HUMAN RIGHTS COMMITTEE, July 16, 2003, at ¶ 9.3, available at <https://juris.ohchr.org/Search/Details/1051> (“Any act of such disappearance [as defined under the Rome Statute] constitutes a violation of many of the rights enshrined in the Covenant, including . . . the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (article 7) . . .”).

<sup>44</sup> *Jegatheeswara Sarma v. Sri Lanka*, *supra* note 43, at ¶ 9.5 (“[N]oting the anguish and stress caused to the author’s family by the disappearance of his son and by the continuing uncertainty concerning his fate and whereabouts, the Committee considers that the author and his wife are also victims of violation of article 7 of the Covenant.”).

<sup>45</sup> International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, at Art. 9(1) [hereinafter ICCPR].

The press release from the Public Ministry on June 10, 2021 appears to confirm that Nicaraguan authorities are justifying Mr. Maradiaga's detention under Law No. 1060, enacted in February 2021, which amended the Code of Criminal Procedure to allow the judicial authority, at the request of the government attorney, to detain suspects for up to 90 days to allow for more time to gather evidence for potential criminal charges.<sup>46</sup> Just days previous, Law No. 1060 was invoked, for example, during a preliminary hearing on June 7 as a basis to detain Arturo Cruz Sequeira, also a potential opposition presidential candidate, for 90 days.<sup>47</sup> However, Law No. 1060 is plainly incompatible with international law.

The Human Rights Committee has explained that, under ICCPR Article 9(3), pretrial detention on a criminal charge “shall be the exception rather than the rule” and “must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime.”<sup>48</sup> While Article 9(3) applies only to “persons awaiting trial on criminal charges, that is, after the defendant has been charged . . . a similar requirement prior to charging results from the prohibition of arbitrary detention in [ICCPR Article 9(1)].”<sup>49</sup>

Law No. 1060, however, does not require any finding that detention is reasonable and necessary because, e.g., the person is a flight risk or is likely to interfere with evidence or commit additional crimes. Rather, it merely requires the court, in ordering investigative detention, to consider factors unrelated to the necessity or reasonableness of detention, such as the seriousness of the facts; the complexity of the investigation; the number of those affected, accused, or alleged actions; whether the alleged crimes relate to organized crime; whether the investigation concerns crimes of social relevance and national significance; and any other information or evidence that helps to substantiate the origin of the request.<sup>50</sup> This falls far short of the individualized determination for investigative detention required under the ICCPR.

### ***C. Mr. Maradiaga Is Being Held Incommunicado, Without Access to Counsel or Family***

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<sup>46</sup> *Comunicado 011-2021*, *supra* note 37; see also Norma Gutierrez, *Nicaragua: Amendment to Code of Criminal Procedure Extends Pretrial Preventive Detention Period*, LIBRARY OF CONGRESS, Mar. 11, 2021, available at <https://www.loc.gov/law/foreign-news/article/nicaragua-amendment-to-code-of-criminal-procedure-extends-pretrial-preventive-detention-period/>; see also Ley de Reforma y Adición a la Ley No. 406, Código Procesal Penal de la República de Nicaragua, No. 1060, Feb. 5, 2021, at Art. 2, available at [<sup>47</sup> \*Nicaragua Judge Orders Opposition Figure Jailed for 90 Days\*, WASHINGTON POST, June 7, 2021, available at \[https://www.washingtonpost.com/world/nicaragua-judge-orders-opposition-figure-jailed-for-90-days/2021/06/07/3dd15ce4-c7cd-11eb-8708-64991f2acf28\\\_story.html\]\(https://www.washingtonpost.com/world/nicaragua-judge-orders-opposition-figure-jailed-for-90-days/2021/06/07/3dd15ce4-c7cd-11eb-8708-64991f2acf28\_story.html\) and \*IACHR and UN Human Rights Categorically Condemn the Criminal Prosecution of Presidential Pre-Candidates and Urge the State of Nicaragua to Immediately Release Them\*, OHCHR REGIONAL OFFICE FOR CENTRAL AMERICA, June 9, 2021, available at <http://www.oacnudh.org/iachr-and-un-human-rights-categorically-condemn-the-criminal-prosecution-of-presidential-pre-candidates-and-urge-the-state-of-nicaragua-to-immediately-release-them/>.](http://legislacion.asamblea.gob.ni/Normaweb.nsf/164aa15ba012e567062568a2005b564b/49c912ed7dde58ce062586760053c890?OpenDocument&Highlight=2, Penal [hereinafter Law No. 1060] (adding Article 253 bis to the Code of Criminal Procedure).</a></p></div><div data-bbox=)

<sup>48</sup> *General Comment No. 35*, *supra* note 39, at ¶ 38.

<sup>49</sup> *Id.*

<sup>50</sup> Law No. 1060, *supra* note 46, at Art. 2.

Under Article 14(3)(b) of the ICCPR, everyone has the right, “[i]n the determination of any criminal charge against him,” to “communicate with counsel of his own choosing.”<sup>51</sup> The Human Rights Committee has explained that counsel must be provided to detainees in criminal cases “from the outset of their detention.”<sup>52</sup> The UN Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court similarly states that detainees “have the right to legal assistance by counsel of their choice . . . immediately after the moment of apprehension.”<sup>53</sup>

Detainees also have the right to have access to their family. The UN Body of Principles for the Protection of Persons Under Any Form of Detention or Imprisonment states that “communication of the detained or imprisoned person with the outside world, and in particular his family . . . shall not be denied for more than a matter of days.”<sup>54</sup> It further provides that a “detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world.”<sup>55</sup> The UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) similarly asserts: “Prisoners shall be allowed . . . to communicate with their family and friends at regular intervals,” including “[b]y receiving visits.”<sup>56</sup>

Additionally, according to the press release of the Public Ministry on June 10, 2021, Mr. Maradiaga appeared in special hearing on constitutional guarantees, which extended his judicial detention to 90 days. Mr. Maradiaga’s lawyers were not informed of this hearing and were therefore unable to attend.<sup>57</sup>

It is widely recognized that prolonged *incommunicado* detention both facilitates the perpetration of torture and cruel, inhuman or degrading treatment, and also may itself constitute such treatment.<sup>58</sup>

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<sup>51</sup> ICCPR, *supra* note 45, at Art. 14(3)(b).

<sup>52</sup> *General Comment No. 35*, *supra* note 39, at ¶ 35.

<sup>53</sup> REPORT OF THE WORKING GROUP ON ARBITRARY DETENTION, U.N. GENERAL ASSEMBLY, 30th Sess., U.N. Doc. A/HRC/30/37, July 6, 2015, at ¶ 12, *available at* <https://undocs.org/A/HRC/30/37> (emphasis added).

<sup>54</sup> Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment, G.A. Res. 47/173, U.N. Doc. A/43/49, *adopted* 1988, at Principle 15, *available at* <https://www.globaldetentionproject.org/wp-content/uploads/2016/06/The-Body-of-Principles-for-the-Protection-of-All-Persons-under-Any-Form-of-Detention-or-Imprisonment.pdf>.

<sup>55</sup> *Id.*, at Principle 19.

<sup>56</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), G.A. Res. 70/175, U.N. Doc. A/RES/70/175, *adopted* Dec. 17, 2015, at Rule 58(1), *available at* <https://undocs.org/A/RES/70/175>.

<sup>57</sup> *Comunicado 011-2021*, *supra* note 37.

<sup>58</sup> REPORT OF THE WORKING GROUP ON ARBITRARY DETENTION, HUMAN RIGHTS COUNCIL, 16th Sess., U.N. Doc. A/HRC/16/47, Jan. 19, 2011, at ¶ 54, *available at* <https://undocs.org/A/HRC/16/47> (“Prolonged incommunicado detention may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment, and may in itself constitute such treatment.”) and Torture and Other Cruel, Inhuman or Degrading Treatment, H.R.C. Res. 8/8, U.N. Doc. A/HRC/RES/8/8, June 18, 2008, at ¶ 7(c), *available at* [https://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_8\\_8.pdf](https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_8_8.pdf) (“Prolonged incommunicado detention . . . may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment . . .”).

As of the filing of this Urgent Appeal, Mr. Maradiaga has had no contact whatsoever with his family. While a relative of Mr. Maradiaga tried to visit him at least three times in El Chipote prison, where the family believes he is being held, the relative was denied access each time. On the third attempt, he was able to deliver a package of food and some medical supplies, but was not able to access or contact Mr. Maradiaga. Nor, as far as the family is aware, has Mr. Maradiaga had any access to counsel.

***D. Nicaragua Has Violated Mr. Maradiaga's Right to the Presumption of Innocence***

Article 14(2) of the ICCPR guarantee the right to the presumption of innocence.<sup>59</sup> This right imposes on the prosecution the burden to prove the charge, and requires that the accused has the benefit of doubt.<sup>60</sup> The Human Rights Committee has explained that media coverage that affirms the accused's guilt, or portrays the accused in a way that undermines the presumption of innocence, must be avoided.<sup>61</sup> The UN Working Group on Arbitrary Detention has also reaffirmed this interpretation, finding a violation of the presumption of innocence in *Aguilar v. Bolivia*, where the Government used the detainee's arrest to further official propaganda.<sup>62</sup>

On June 8, Vice President and first lady Rosario Murillo referred to the individuals being investigated – all opposition leaders and/or potential opposition presidential candidates – as “terrorists” and “criminals,” adding that: “They believe they’ll be forever unpunished, [but] justice arrives, late but it arrives in this Nicaragua that had been prospering and in reconciliation. How much we would have done with what this mountain of thieves stole, not just thieves but also terrorists, criminals.”<sup>63</sup> By affirming Mr. Maradiaga's guilt in such a blatant and public manner, this statement violated his right to presumption of innocence.

***E. Mr. Maradiaga Has Been Subjected to and Remains at Risk of Torture and Other Cruel, Inhuman or Degrading Treatment***

Article 7 of the ICCPR prohibits torture and cruel, inhuman or degrading treatment or punishment.<sup>64</sup> During his arrest, Mr. Maradiaga was struck twice in his face, despite the fact that he did not resist the arrest in any way. Moreover, prison authorities have not allowed his family members to provide his blood pressure medication, and denying a detainee adequate medical care violates ICCPR Article 7.<sup>65</sup> Given the fact that Mr. Maradiaga has underlying health

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<sup>59</sup> ICCPR, *supra* note 45, at Art. 14(2).

<sup>60</sup> *General Comment 32 on Article 14: Right to Equality Before Courts and Tribunals and to a Fair Trial*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/32, Aug. 23, 2007, at ¶ 30, available at <https://undocs.org/en/CCPR/C/GC/32>.

<sup>61</sup> *Id.*

<sup>62</sup> *Aguilar v. Bolivia*, Opinion No. 12/2005, U.N. Doc. E/CN.4/2006/7/Add.1, U.N. WORKING GROUP ON ARBITRARY DETENTION, adopted May 26, 2005, at ¶¶ 9–10.

<sup>63</sup> *Nicaragua Arrests Potential Challengers to President Daniel Ortega*, NBC NEWS, June 9, 2021, available at <https://www.nbcnews.com/news/latino/nicaragua-arrests-potential-challengers-president-daniel-ortega-rcna1154>.

<sup>64</sup> ICCPR, *supra* note 45, at Art. 7.

<sup>65</sup> See *Raul Sendic Antonaccio v. Uruguay*, Communication No. R.14/63, U.N. Doc. A/37/40 (Supp.), U.N. HUMAN RIGHTS COMMITTEE, adopted Oct. 28, 1981, at ¶ 20, available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=A%2F37%2F40\(SUPP\)&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=A%2F37%2F40(SUPP)&Lang=en) (finding a violation of Article 7 where a detainee was “denied the medical treatment his condition requires”).

conditions and has not been vaccinated for COVID-19, the ongoing pandemic and threat of the virus have turned Nicaragua's already "desperate" prisons into a potentially "catastrophic"<sup>66</sup> situation. Furthermore, Mr. Maradiaga is severely at risk of being tortured or otherwise the victim of mistreatment due to the horrendous human rights record of Nicaragua's prisons, where "cruel, inhuman or degrading treatment is regularly reported in the context of detentions."<sup>67</sup>

## VI. CONCLUSION

Given the long-standing persecution Mr. Maradiaga has faced from the Nicaraguan Government, the egregious human rights violations perpetrated during his beating, arrest, and disappearance on June 8, 2021, his ongoing *incommunicado* detention, and the health risks posed by his underlying conditions and the COVID-19 pandemic, it is clear that Mr. Maradiaga faces an immediate risk of torture and/or cruel, inhuman, or degrading treatment.

We respectfully reiterate our request that, in accordance with your working methods, you investigate the situation and immediately reach out to the Government of Nicaragua, urging it to provide proof that Mr. Maradiaga is still alive, uphold the physical and mental integrity of Mr. Maradiaga, and ensure his right to access to family, counsel, and required medicines.

Sincerely,

Jared Genser  
International Counsel to Félix Maradiaga

Brian Tronic  
International Counsel to Félix Maradiaga

Roger Reyes  
Nicaraguan Counsel to Félix Maradiaga

Arnulfo López  
Nicaraguan Counsel to Félix Maradiaga

Alberto Arguello  
Nicaraguan Counsel to Félix Maradiaga

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<sup>66</sup> Astrid Valencia, Josefina Salomon, *Nicaragua's Jailed Activists Face a Coronavirus Death Sentence*, AL JAZEERA, Aug. 4, 2020, available at <https://www.aljazeera.com/opinions/2020/8/4/nicaraguas-jailed-activists-face-a-coronavirus-death-sentence>.

<sup>67</sup> HUMAN RIGHTS VIOLATIONS AND ABUSES IN THE CONTEXT OF PROTESTS IN NICARAGUA: 18 APRIL – 18 AUGUST 2018, OFFICE OF THE U.N. HIGH COMM'R FOR HUMAN RIGHTS, June 12, 2019, available at [https://ohchr.org/Documents/Countries/NI/HumanRightsViolationsNicaraguaApr\\_Aug2018\\_EN.pdf](https://ohchr.org/Documents/Countries/NI/HumanRightsViolationsNicaraguaApr_Aug2018_EN.pdf).