

**House Foreign Affairs Committee
Tom Lantos Human Rights Commission**

**Hearing
on
The Ortega Government and the Human Cost of Repression in Nicaragua: Political
Prisoners**

**July 21, 2021, 2:00pm
Virtual via Cisco WebEx**

**Statement of Boanerge Fornos
Head Legal Council
Acción Penal**

Good afternoon Co-Chair Smith, Co-Chair McGovern. Thank you for holding this hearing and for inviting me to testify. My name is Boanerge Fornos, I am a Nicaraguan lawyer, here today representing Accion Penal (Penal Action), a civil society initiative created by former public prosecutors, to defend political prisoners and provide legal assistance to victims of state and paramilitary repression in Nicaragua.

Since April 18, 2018, Nicaragua has experienced one of the most serious crises in the history of the republic.

Since he returned to the presidency in 2007, Daniel Ortega has dismantled institutional independence, evidenced in its maximum expression as of April 2018. The Nicaraguans who protested against the government were politically targeted and criminalized through criminal proceedings, ordered by Ortega, aimed at shutting down the mass expressions of discontent that were weakening the legitimacy of the government and putting at risk his intention to permanently remain in power.

The Ortega government instrumentalized the criminal justice system to become a repressive arm of the executive branch, acting in coordination with paramilitary forces. The police selectively and systematically carry out actions to arbitrarily detain people who participated in civic protests. The prosecutor's office charges activists and opposition leaders with unfounded accusations while the public defender's office has neglected to defend many of the accused. Judges and magistrates fail to fulfill their responsibilities as constitutional guarantors, leaving unquestioned the legality of the actions taken by the police and the prosecutor's office.

This system represents the inexistence of due process and the rule of law in Nicaragua. For example, political prisoners are not allowed ongoing and private communication with their defense attorneys. In the courts, the judges exclude evidence that favors the accused and disproves the false accusations made by the prosecutors.

The penitentiary system does not guarantee respect for the health and physical integrity of political prisoners, demonstrated clearly with the assassination of US citizen and Navy veteran **Eddy Montes (RIP)**, carried out by penal guards inside the prison facility that they are responsible for. This crime has still gone unpunished.

During the pandemic, political prisoners have not been given necessary items to protect themselves from COVID-19, which is especially grave considering the overcrowding and unsanitary conditions that make prisoners more vulnerable. We have heard from family members that there have been cases of political prisoners testing positive for COVID-19 as well as other illnesses that require urgent medical attention which the authorities have denied.

In its work, Acción Penal, has seen that the human cost of repression extends not only to political prisoners but to their families as well. At the beginning of the crisis, most of the political prisoners came from families with limited economic resources but who wanted to change the course of the government's decisions. There were mothers who didn't have money to travel to court or went without eating that day so they could bring food for their detained relative. There was solidarity on the part of other people and the lawyers, who, seeing that these mothers had no resources, supported them to have food and transportation. These are the realities of Nicaragua over the past three years and are what drive us to continue our work.

As the crisis has worsened, the lawyers who defend political prisoners are also facing risks and threats. The government tries to suspend our ability to practice law and criminalize us, using the argument that we are foreign agents and traitors to the homeland, because our work allows us to document the serious human rights violations happening in Nicaragua and which is used to denounce these crimes in settings like hearing. If they go after us criminally, current political prisoners are left without legal defense and the lawyers have no guarantee of due process. For this reason, many lawyers who defend political prisoners have been forced to go into exile.

Ahead of this year's elections, this latest stage of repression is clearly designed to de facto inhibit potential electoral candidates, not just the presidency but other electoral positions. This is a strategy that starts with the approval of punitive laws by the National Assembly, and is then executed by the police, prosecutors, judges, and public defenders, politically subordinate to the Ortega regime, seriously violating Nicaraguans' rights to elect and be elected. The arrests that have occurred over the past month are intentional so as to ensure that electoral candidates are unable to participate and to discourage the Nicaraguan population from voting in the elections, thus leaving only the ruling party and their political allies.

I would like to end my testimony today with the following recommendation to the United States government:

The archaic notion of absolutist sovereignty preached by the Ortega government in response to the alleged foreign interference in the internal affairs of Nicaragua, must be ignored. With the evidence of the existence of serious human rights violations, it is important to make use of the existing mechanisms in international law, particularly international humanitarian law, to ensure that the fundamental rights of Nicaraguans are respected, beginning with the release of political prisoners and safe return of those of us who are in exile.

Thank you.