

## NICARAGUA<sup>1</sup>

Nicaragua acceded to the 1951 UN Refugee Convention and the 1967 Protocol in 1980, and is a state party to the International Covenant on Civil and Political Rights and its First Optional Protocol as well. The Immigration Detention Center in Managua has a maximum capacity of 28 people, but is almost always over-full. According to UNHCR Statistic Fact Sheets 1998 and 1999, the UNHCR processed 12 cases refugee cases in 1998 and 22 in 1999. Overall, the UNHCR estimates that there were 470 refugees in each of these years.<sup>2</sup>

All migrants who are stopped at the Nicaraguan border without documentation are detained. Generally, the goal of detention is eventual deportation, unless the asylum seeker shows that they have a fear of persecution in their country, in which case a formal petition for refugee status can be lodged at the Immigration Detention Center in Managua. In cases where asylum seekers make it to Managua without being caught at the border, they can go to the UNHCR office in Managua and make an asylum claim directly and the UNHCR makes the determination without detaining the claimants. National Police and Immigration Officials have the power to detain, but in practice this power is exercised by the police.

*Is there independent review of the detention decision?* No.

When arrested outside of Managua, migrants are detained for about 10 days in jails closest to their point of entry into Nicaragua. Within 72 hours of the arrest, the police must present the case to a judge. Article 32 of the *Law For the Control of Trafficking of Illegal Migrants* states that the National Police, through a chief investigator, must present a judge with evidence relating to illegal trafficking, in order to make the appropriate criminal charge. The judge then has 10 days to give her interlocutory sentence. Following this sentence, the detained is transferred to the Immigration Detention Center in Managua where they await deportation or make their refugee claim. At this point, the case is picked up by a judge at the Detention Center. Detainees without documentation or otherwise illegally in the country can be detained for up to three months. There is no access to bail. In cases where the appropriate arrangements are made, the detainee can be deported to their home country prior to the end of the three month period.

*Are there limits on the period of detention?* Yes; 3 months.

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<sup>1</sup> All information in this section is drawn from a conversation held on July 31, 2002 between a legal advisor at Pastoral Movilidad Humana/Caritas, a Managua based organization that works with detainees, and Tasha Lackman, Lawyers Committee for Human Rights.

<sup>2</sup> Available at <http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=STATISTICS&id=3ae6bc7f80&page=statistics> and at <http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=STATISTICS&id=3ae6bc852c&page=statistics> (last accessed Aug. 29, 2002).

The maximum time of detention is three months, at which point detainees are either deported or are given refugee status, if applicable.

*Is there periodic review of detention?* No.

*Is there access to government-funded legal aid?* No.

Detainees are allowed to retain a lawyer, but legal representation is not funded by the government. As a general rule, they should be told about their rights and their legal status during their detention. Information given includes lists of lawyers and contacts with NGOs and other relevant organizations.

In Nicaragua, as a requirement of being able to practice law, all lawyers must be available to defend people who do not have lawyers. One NGO explained that while in theory this is an excellent system, in practice people are given lawyers who are not trained in the legal area, and who are not interested in the area or the case, and thus only do the minimum work required to fulfill their obligation.

*Alternatives to detention:*

In some cases, custody of refugee claimants can be given to community and religious organizations who agree to shelter and feed the refugee claimants during their asylum process.

*Vulnerable groups:* Minors are also held in detention, although there are few cases of minors being detained. When minors are alone they are put under the custody of the Department of Family Services. Alternately, when they are with family members, they stay in the Detention Center, and the cell door is left open so that they can move around a little more.