



ST. MARY'S  
UNIVERSITY

The Scholar: St. Mary's Law Review on Race  
and Social Justice

---

Volume 23 | Number 2

Article 1

---

10-4-2021

## A Human Rights Crisis Under Our Roof

Aglae Eufracio  
*Eufracio Law, PLLC*

Follow this and additional works at: <https://commons.stmarytx.edu/thescholar>



Part of the [Civil Rights and Discrimination Commons](#), [Human Rights Law Commons](#), [Immigration Law Commons](#), [Indigenous, Indian, and Aboriginal Law Commons](#), [International Humanitarian Law Commons](#), [Law and Politics Commons](#), [Law and Race Commons](#), [Law and Society Commons](#), and the [Legal Remedies Commons](#)

---

### Recommended Citation

Aglae Eufracio, *A Human Rights Crisis Under Our Roof*, 23 THE SCHOLAR 201 (2021).  
Available at: <https://commons.stmarytx.edu/thescholar/vol23/iss2/1>

This Article is brought to you for free and open access by the St. Mary's Law Journals at Digital Commons at St. Mary's University. It has been accepted for inclusion in The Scholar: St. Mary's Law Review on Race and Social Justice by an authorized editor of Digital Commons at St. Mary's University. For more information, please contact [sfowler@stmarytx.edu](mailto:sfowler@stmarytx.edu), [jcrane3@stmarytx.edu](mailto:jcrane3@stmarytx.edu).

## ARTICLES

### A HUMAN RIGHTS CRISIS UNDER OUR ROOF

AGLAE EUFRACIO\*

INTRODUCTION .....	201
I. NICARAGUA: DANIEL ORTEGA SEIZED A COUNTRY.....	205
II. GUINEA: A YOUNG COUNTRY WITHOUT PEACE.....	212
III. UNITED STATES OF AMERICA: A COUNTRY THAT CAN'T BREATHE.....	220
CONCLUSION.....	232

#### INTRODUCTION

As an immigration attorney who represents people fleeing persecution in their country, I am no stranger to studying and analyzing civil and human rights crises around the world.<sup>1</sup> After all, the highest grants of

---

\*1. Aglae Eufracio is an immigration and human rights attorney in Brownsville, Texas. Aglae is a solo-practitioner and the owner and founder of Eufracio Law, PLLC. Before opening her law office in the Rio Grande Valley, she was a Clinical Fellow at St. Mary's University Center for Legal and Social Justice Immigration and Human Rights Clinic. Aglae received her Juris Doctorate from St. Mary's University in 2016 and her Bachelor of Arts in English from The University of Texas at Austin in 2013. The author would like to dedicate her article to her asylee clients—especially the ones who were ordered deported to a country where they face persecution. She would also like to thank Professor Erica Schommer for her mentorship and friendship. As her professor and supervisor, Professor Schommer encouraged her to be a fierce advocate for her clients. The author would also like to thank her friend, Jose Luis Cano Jr., for supporting her through the writing process and encouraging her to put her thoughts on paper.

asylum come from countries that have demonstrated violations of human rights to different extents.<sup>2</sup> The countries with the highest asylum grants are China, Venezuela, El Salvador, Guatemala, Honduras, Egypt, Mexico, India, Russia, Syria, and Pakistan.<sup>3</sup> In China, government authorities attempted to repress people's right to free speech and political participation.<sup>4</sup> In Egypt, government security forces tortured and disappeared political dissidents with impunity.<sup>5</sup> In Syria, the government, armed anti-government groups, and ISIS detained, kidnapped, and tortured thousands of civilians.<sup>6</sup> In Russia, the government rounded up and tortured men who they suspected of being gay.<sup>7</sup>

Personally, I represented people from Guinea, Nicaragua, Guatemala, Cuba, and other countries. When I represented Guineans, I learned about

*See Clinical Program*, ST. MARY'S UNIV. SCH. OF L. CTR. FOR LEGAL & SOC. JUST., (2021), <https://law.stmarytx.edu/academics/special-programs/center-legal-social-justice/clinical-program/#immigration> [<https://perma.cc/YWC3-RF2W>] (outlining the various roles that Student Attorneys can have in order to advocate for individuals in the community).

2. *See generally Asylum in the United States*, AM. IMMIGR. COUNCIL 1 (June 2020), [https://www.americanimmigrationcouncil.org/sites/default/files/research/asylum\\_in\\_the\\_united\\_states.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/asylum_in_the_united_states.pdf) [<https://perma.cc/3NSB-97XT>] (“The United Nations 1951 Convention and 1967 Protocol define a refugee as a person who is unable or unwilling to return to his or her home country, and cannot obtain protection in that country, due to past persecution or a well-founded fear of being persecuted in the future ‘on account of race, religion, nationality, membership, in a particular social group, or political opinion.’”).

3. *See id.* at 7 (“Nationals of China, Venezuela, El Salvador, Guatemala, and Honduras combined accounted for half (52.6 percent) of the 38,687 individuals granted asylum—either affirmatively or defensively—in FY 2018 . . .”).

4. *See China: Events of 2018*, HUM. RTS. WATCH <https://www.hrw.org/world-report/2019/country-chapters/china-and-tibet> [<https://perma.cc/X7E8-CWC9>] (describing the different areas in China where authorities continued to severely restrict religious freedom, speech, movement, and assembly).

5. *Egypt: Events of 2019*, HUM. RTS. WATCH, <https://www.hrw.org/world-report/2020/country-chapters/egypt> [<https://perma.cc/EQG5-ZLRV>] (“The police and National Security Agency routinely carry out systematic enforced disappearances and torture with impunity.”).

6. *Syria: Events of 2019*, HUM. RTS. WATCH, <https://www.hrw.org/world-report/2020/country-chapters/syria#:~:text=In%20May%202019%2C%20Human%20Rights,of%20tens%20of%20thousands%20of> [<https://perma.cc/8B9Y-KL55>] (illustrating the type of abusive conduct in Syria included “targeting civilians, taking hostages, planting car bombs, conducting arbitrary arrests, extortion, torture, and enforcing a rigid dress code for women and girls.”).

7. *See Russia: New Wave of Anti-LGBT Persecution*, HUM. RTS. WATCH (Feb. 15, 2019, 12:00 AM), <https://www.hrw.org/news/2019/02/15/russia-new-wave-anti-lgbt-persecution#> [<https://perma.cc/NR6J-Y6RJ>] (articulating the dangers LGBTQIA+ communities face in countries such as Russia where authorities carry out vicious large-scale anti-gay purges).

political and ethnic violence towards the Peul people.<sup>8</sup> In relation to Nicaragua specifically, I read about President Daniel Ortega's increasingly authoritarian government and violence towards political opponents.<sup>9</sup> While representing a Guatemalan, I learned indigenous women experience increased violence because of their gender and ethnicity.<sup>10</sup> When studying Cuba, I learned the government views Cubans as opposing the revolution if they do not stand with it.<sup>11</sup>

After hearing my clients' stories and learning about their countries, I understood how a country or government can begin to commit and perpetuate crimes against humanity.<sup>12</sup> I never thought, however, that I would find myself comparing the conditions in countries like Nicaragua and Guinea to the conditions in the United States of America and realize the recent events in the United States surrounding the George Floyd protests signal a human rights crisis in our country.<sup>13</sup>

---

8. See, e.g., Aisatou Diallo, *Guinea's Ethnic Conflict*, CONFLUENCE (Oct. 29, 2019), <https://confluence.gallatin.nyu.edu/sections/research/guineas-ethnic-conflict> [perma.cc/5CRA-BHJY] (explaining the ethnic divisions and intentional conflict created between various socioeconomic groups and how "most of the ethnic violence in Guinea is toward the" Peul people).

9. See, e.g., *Crackdown in Nicaragua: Torture, Ill-Treatment, and Prosecutions of Protestors and Opponents*, HUM. RTS. WATCH (June 19, 2019), <https://www.hrw.org/report/2019/06/19/crackdown-nicaragua/torture-ill-treatment-and-prosecutions-protesters-and> [perma.cc/E52M-3FT7] (detailing how the government treated unarmed protesters with electric shocks, severe beatings, fingernail removal, asphyxiation, and rape).

10. Cf. Ellen Wulforst, *Indigenous and Female: Life at the Bottom in Guatemala*, REUTERS (May 2, 2017, 11:31 PM), <https://www.reuters.com/article/us-guatemala-women-indigenous/indigenous-and-female-life-at-the-bottom-in-guatemala-idUSKBN17Z07N> [https://perma.cc/XTH5-55EB] (describing how most women try to hide their heritage in fear of violence, due to femicide where at least two women are violently killed each day).

11. See, e.g., *Cuba: Events of 2019*, HUM. RTS. WATCH, <https://www.hrw.org/world-report/2020/country-chapters/cuba> [https://perma.cc/GU8C-RHTQ] ("The Cuban government continues to employ arbitrary detention to harass and intimidate critics, independent activists, political opponents, and others. The number of arbitrary short-term detentions . . . increased dramatically between 2010 and 2016—from a monthly average of 172 incidents to 827 . . .").

12. See generally *Crimes Against Humanity*, UNITED NATIONS, <https://www.un.org/en/genocideprevention/crimes-against-humanity.shtml> [https://perma.cc/XY84-AEYL] (defining "crimes against humanity" broadly to include a wide array of crimes including murder, rape, slavery torture, and apartheid).

13. See Maria Cramer et al., *What We Know About the Death of George Floyd in Minneapolis*, N.Y. TIMES (Dec. 9, 2020), <https://www.nytimes.com/article/george-floyd.html> [https://perma.cc/W85U-A743] (reporting a wave of national protests, demonstrations, and calls for police reform in the wake of George Floyd's death after footage showed George was handcuffed with his head pinned down to the ground by Minneapolis Police Officer Derek Chauvin's knee).

On May 25, 2020, a Minneapolis police officer murdered George Floyd, a black man, for allegedly using a counterfeit \$20 bill.<sup>14</sup> Protests and civil unrest erupted in at least 140 cities around the country.<sup>15</sup> Police officers used tear gas and fired rubber bullets into the crowds.<sup>16</sup> Police officers also punched, kicked, pepper-sprayed, and drove vehicles at peaceful protesters leaving protesters injured, many with life-threatening injuries.<sup>17</sup> The actions of American government officials and police officers during and in the aftermath of the protests resonate deeply with the actions of government officials in Nicaragua and Guinea, countries that have long been categorized as violators of human rights.<sup>18</sup> In simple

---

14. *Id.* (“Minneapolis police officers responded to a call from a store clerk who claimed Mr. Floyd paid for cigarettes with a counterfeit \$20 bill . . .”).

15. *See, e.g., id.* (“After the release of the initial video, demonstrators poured into Minneapolis streets for several nights to protest.”).

16. *See* Mahita Gajanan, *Minneapolis Police Fire Tear Gas, Rubber Bullets at Crowds Protesting George Floyd Killing*, TIME (May 27, 2020, 11:21 AM), <https://time.com/5843070/george-floyd-minneapolis-protest-police-death/> [<https://perma.cc/NZY7-DJMS>] (“Photos and videos from the demonstrations from local media outlets showed police firing tear gas, and people washing their eyes out with milk as rain fell. A Minneapolis Star Tribune reporter said he was shot in the thigh with what appeared to be a foam bullet.”).

17. Adam Gabbat, *Protests About Police Brutality Are Met with Wave of Police Brutality Across US*, THE GUARDIAN (June 6, 2020), <https://www.theguardian.com/us-news/2020/jun/06/police-violence-protests-us-george-floyd> [<https://perma.cc/3VU6-FT6M>] (condemning the violent actions by law enforcement, the International Crisis Group recommended any law enforcement officer who used excessive force should be prosecuted); *see* Derrick Bryson Taylor, *George Floyd Protests: A Timeline*, N.Y. TIMES (July 10, 2020), <https://www.nytimes.com/article/george-floyd-protests-timeline.html> [<https://perma.cc/X8BR-3U2N>] (“After four nights of chaos in Minneapolis, [Minneapolis Mayor,] Mr. Frey[,] called on people to stay home. ‘We are now confronting white supremacists, members of organized crime, out-of-state instigators, and possibly even foreign actors to destroy and destabilize our city and our region . . .’”).

18. *See* Diallo, *supra* note 8 (providing context to Guinea’s ethnic conflict which originated and continues because of differences between the Malinke and Fula tribes. In 1976, an assassination attempt on Guinea’s President, Dadis Camara, led to violent ethnic scapegoating against the Fula tribe across the country); *see also* HUM. RTS. WATCH, *supra* note 9 (expounding on how protests led by Nicaraguan citizens against the oppressive government of President Daniel Ortega led to a violent crackdown when the National Police reportedly killed 300 protesters and left 2,000 injured); *see also* U.S. DEP’T OF STATE, NICARAGUA 2018 HUMAN RIGHTS REPORT 1–2 (2018), <https://www.state.gov/wp-content/uploads/2019/03/NICARAGUA-2018.pdf> [<https://perma.cc/PS6H-WLP5>] (“Issues [in Nicaragua] included reports of unlawful or arbitrary killings committed by the government or its agents; forced disappearance by parapolice forces; torture; physical abuse, including rape, by government officials; and arbitrary arrest and detention.”).

terms, the United States has a human rights crisis.<sup>19</sup>

This article will compare country conditions in the United States with Nicaragua and Guinea to analyze the extent of the human rights crisis in the United States.<sup>20</sup> Part I discusses Nicaragua's oppression and violence toward political opponents.<sup>21</sup> Part II discusses Guinea's continued disregard for human rights in relation to political and ethnic differences.<sup>22</sup> Part III conducts a comparative analysis of the United States with the two countries mentioned above and their respective human rights crisis.

### I. NICARAGUA: DANIEL ORTEGA SEIZED A COUNTRY

Nicaragua is under the control of Daniel Ortega and the *Frente Sandinista de Liberación Nacional* party (Sandinista National Liberation Front) (FSLN).<sup>23</sup> Ortega was first elected president of Nicaragua "because he was seen as someone who wouldn't impose his will on others."<sup>24</sup> However, his government censored the media, stacked the

---

19. Cf. *United States of America 2019*, AMNESTY INT'L, <https://www.amnesty.org/en/countries/americas/united-states-of-america/report-united-states-of-america/> [<https://perma.cc/U4DL-JNSZ>] (detailing the irreparable harm and human rights violations caused by the United States during 2019 and illuminating the adoption of policies that racially targeting individuals, such as the notorious "Muslim Ban" and "Remain in Mexico" policy which were designed to limit asylum seekers).

20. See generally *id.* (providing an extensive summary of various human rights abuses by the United States, including increases in violence against the LGBTQIA+ community, violence against women, the continued use of Guantanamo Bay, and the trial of civilians in military tribunals).

21. See, e.g., U.S. DEP'T OF STATE, *supra* note 18, at 1 ("Beginning in August [2018,] the Ortega government instituted a policy of 'exile, jail, or death' for anyone perceived as opposition, amended terrorism laws to include prodemocracy activities, and used the justice system to characterize civil society actors as terrorists, assassins, and coup-mongers.").

22. Cf. Diallo, *supra* note 8 (summarizing how the brutal and deliberate division of ethnic lines along Africa originated from European colonialists whose arbitrary decisions planted the seeds for division across the continent).

23. See generally Joshua Partlow, *From Rebel to Strongman: How Daniel Ortega Became the Thing He Fought Against*, WASH. POST (Aug. 24, 2018, 5:10 PM), [https://www.washingtonpost.com/world/the\\_americas/from-rebel-to-strongman-how-daniel-ortega-became-the-thing-he-fought-against/2018/08/24/117d000a-97fe-11e8-818b-e9b7348cd87d\\_story.html](https://www.washingtonpost.com/world/the_americas/from-rebel-to-strongman-how-daniel-ortega-became-the-thing-he-fought-against/2018/08/24/117d000a-97fe-11e8-818b-e9b7348cd87d_story.html) [<https://perma.cc/YNN8-3VMY>] ("Throughout his political career, Ortega has spurned democracy time and again, preferring to seize every opportunity for his Sandinista party to secure perpetual rule through fraud at the ballot box, institutions stacked with supporters, and changes to the constitution.").

24. *Id.* ("Once the Sandinistas overthrew the government in 1979, Ortega maneuvered his way into the ruling junta and won the presidency in 1984."); see *Nicaragua Profile—Timeline*, BBC (May 31, 2018), <https://www.bbc.com/news/world-latin-america-19909695> [<https://perma.cc/>].

electoral council, and encouraged loyalty to his party with the use of ration cards.<sup>25</sup>

Ortega came in and out of power in Nicaragua multiple times, but he never lost influence in the country.<sup>26</sup> Even though the liberal party gained control of Nicaragua in 1990, the Sandinista party maintained key positions in the legislature, judiciary, and military.<sup>27</sup> Ortega was able to regain control of the country after he formed a pact with the liberal party to lower the threshold for presidential elections, manipulated the judiciary to remove the eligibility of key political rivals, and made a pact with the Catholic Church to ensure its silence in society.<sup>28</sup>

Dr. Aaron Schneider, an expert witness I interviewed for a couple of my Nicaraguan asylum cases, described Ortega as a Machiavellian leader.<sup>29</sup> After regaining power in Nicaragua in 2006, Ortega consolidated his power in the judiciary and the National Assembly.<sup>30</sup> In 2009, Ortega overcame a constitutional barrier prohibiting him from a second consecutive presidential term.<sup>31</sup> In 2011, Ortega won re-election, and the Sandinista party won a super majority in the National

---

cc/JD5L-7DKF] (indicating the timeline of events and changes made in the Sandinista Revolution (1979–1988) during which time Ortega was elected president).

25. Partlow, *supra* note 23 (illustrating the difference between how Ortega was originally elected and the resulting undemocratic changes his Sandinista party made to control the narrative and build party loyalty).

26. *See id.* (noting Ortega was able to regain the presidency with a slight change in messaging despite two decades worth of election defeats).

27. *See Sandinista*, BRITANNICA (Nov. 08, 2016), <https://www.britannica.com/topic/Sandinista> [<https://perma.cc/4YCJ-84D3>] (describing how the Sandinistas held on to power and had a presence in parliament, national elections, and the country's army).

28. *See* Salvador Martí I Puig & Claire Wright, *The Adaptation of the FSLN: Daniel Ortega's Leadership and Democracy in Nicaragua*, 52 *LAT. AM. POLITICS & SOC'Y* 79, 91–92 (2010) (illustrating Ortega's change in tactic to form a coalition for two-party rule in the country and aligning with the Catholic Church on moral issues).

29. E-mail of Redacted Interview Notes (Dec. 16, 2020) (on file with *The Scholar: St. Mary's Law Review on Race and Social Justice*) (referring to Ortega as strategic and Machiavellian when questioned about Ortega's presidency from 2006 to April 18, 2018).

30. *See* Partlow, *supra* note 23 (“[Ortega] was tightening his control on the National Assembly, he was tightening his control on the judicial power, and right at the very top the Supreme Court. He had completely taken control of the electoral power at that point.”).

31. *See* Ivan Castro, *Nicaragua Court Opens Way for Daniel Ortega Re-election*, REUTERS (Oct. 20, 2009), <https://www.reuters.com/article/oukwd-uk-nicaragua-ortega-idAFTRE59J11820091020> [<https://perma.cc/V7V2-8E4C>] (“Nicaragua's Supreme Court lifted a constitutional barrier [that set restrictions on a president seeking reelection] on Monday . . . [which] opened the way [for President Ortega to run] for another term in the 2011 election.”).

Assembly.<sup>32</sup> With the National Assembly at Ortega's disposal, the Sandinista party used its power to remove presidential term limits and expand presidential power, granting Ortega the ability to rule by presidential decree.<sup>33</sup> In 2016, after systematically removing opposition party rivals, Ortega was re-elected president, along with his wife as vice president.<sup>34</sup> Ortega, his family, and a small group of loyalists ruled Nicaragua.<sup>35</sup> Moreover, Nicaragua's "Sandinista party, which began as a guerrilla group in the 1960s, [became] a stand-in for the state: At a border crossing into Costa Rica, black-and-red Sandinista banners fly, but not the blue-and-white flag of Nicaragua."<sup>36</sup> The Ortega regime became

---

32. See Samantha Lugo & Fernando del Rincon, *Opponents Dispute Nicaraguan Election Results*, CNN (Nov. 17, 2011, 7:02 AM), <https://www.cnn.com/2011/11/16/world/americas/nicaragua-elections/index.html> [<https://perma.cc/VMQ8-YWC8>] ("A report from the Organization of American States indicated 'irregularities in the elections,' but supported official results saying that Ortega won re-election after garnering more than 62% of votes.")

33. See Alonso Soto, *How Ortega Has Stayed in Power in Nicaragua*, REUTERS (June 24, 2018, 4:14 PM), <https://www.reuters.com/article/us-nicaragua-protest-factbox/how-ortega-has-stayed-in-power-in-nicaragua-idUSKBN1JK12I> [<https://perma.cc/9CQR-7S6E>] ("His opponents accused him of electoral fraud in the 2011 election that he won with 72.5 percent of the vote. The United States questioned the results of the general election that gave his Sandinista party an absolute majority in Congress."); see also Christine Wade, *Revolutionary Drift: Power and Pragmatism in Ortega's Nicaragua*, WORLD POL. REV. (Aug. 13, 2015), <https://www.worldpoliticsreview.com/articles/16456/revolutionary-drift-power-and-pragmatism-in-ortega-s-nicaragua> [<https://perma.cc/4WLF-N9YE>] ("After being voted out of power following the 1990 presidential election, Ortega lost subsequent presidential contests in 1996 and 2001, making him the FSLN's sole presidential candidate throughout the party's history. The conditions for his return to power in 2007 were created by a pact he struck in 1999 with then-President Arnoldo Aleman of the Constitutionalist Liberal Party (PLC). The deal ultimately enabled the FSLN and the PLC to pass legislation that both increased the vote threshold required for political parties to participate in the legislature and lowered the percentage required to win the presidential vote to 35 percent.")

34. Jonathan Watts, *Nicaragua President Re-elected in Landslide Amid Claims of Rigged Vote*, THE GUARDIAN (Nov. 7, 2016, 11:52 AM), <https://www.theguardian.com/world/2016/nov/07/nicaragua-president-daniel-ortega-reelected-landslide-vote-rigging> [<https://perma.cc/FVT4-MFDW>] ("Roberto Rivas, the chief of the Supreme Electoral Council, said about 66% of Nicaragua's 3.8 million registered voters had participated. But the main opposition movement, the Broad Front for Democracy, estimated more than 70% of voters had abstained.")

35. *Id.* (explaining the first couple, now president and vice president, join many members of their family including children in controlling large swaths of the government and the business sector); see Partlow, *supra* note 23 ("Ortega's former Sandinista allies talk about splits within upper levels of his government and about aides who remain loyal only out of fear" because of the government's commitment to stomp out any opposition to Ortega's rule. "For a majority of people, he is an assassin, he is a criminal, he is a torturer . . .").

36. Partlow, *supra* note 23.

more authoritarian over time, increasingly eliminating opposition and violating civil liberties.<sup>37</sup>

Oppression and violence in Nicaragua escalated to a new level on April 18, 2018.<sup>38</sup> On that day, the Ortega administration announced changes to the country's pension system, resulting in peaceful protests throughout the country.<sup>39</sup> Ortega and his wife ordered the Nicaraguan National Police (NNP) and parapolice (voluntary police whose legal structure does not allow for arrests, killing, or forced disappearance) to end the protests.<sup>40</sup> Police and parapolice confronted peaceful protesters with tear gas, rubber bullets, live ammunition, and snipers.<sup>41</sup> An engineering student reported from his hospital bed that he was peacefully protesting in front of the university in Managua before being confronted by police who shot a rubber bullet to his face.<sup>42</sup> The student lost his left eye.<sup>43</sup> Protests intensified when dozens of protesters began to die due to state violence.<sup>44</sup> Reports indicated that after a week of protests,

---

37. *See, e.g., id.* (“Those who oppose Ortega are viewed as enemies of the state. If you are against the government, ‘they either want you out of the country, jailed or dead,’ said a senior U.S. official.”).

38. *See id.* (publicizing the actions taken by police and pro-government groups after protests broke out dissenting the Supreme Court's decision to not allow another candidate to participate in the election).

39. *Nicaragua: Protests Leave Deadly Toll*, HUM. RTS. WATCH (Apr. 27, 2018, 10:59 AM), <https://www.hrw.org/news/2018/04/27/nicaragua-protests-leave-deadly-toll> [<https://perma.cc/P49K-8VMZ>].

40. *See* U.S. DEP'T OF STATE, *supra* note 18, at 1 (“Parapolice are nonuniformed, masked, and armed groups with tactical training and organization, acting in coordination with government security forces, under the direct control of the government, and reporting directly to the Nicaraguan National Police (NNP).”).

41. *Id.* (“The government's excessive response included the use of live ammunition and snipers.”); *see, e.g.,* Oswaldo Rivas, *Nicaraguans Take to Streets in Protest over Social Security Changes*, REUTERS (Apr. 19, 2018, 7:46 PM), <https://www.reuters.com/article/us-nicaragua-protests/nicaraguans-take-to-streets-in-protest-over-social-security-changes-idUSKBN1HR02A> [<https://perma.cc/XS9Y-3JPK>] (reporting retaliatory actions made towards students participating in protests in the capital, Managua).

42. *Nicaragua: Protests Leave Deadly Toll*, *supra* note 39 (“Roberto Rizo Valdivia, an engineering student, told Human Rights Watch from his hospital bed that on April 19, a riot police officer shot him in the face with a rubber bullet, causing him to lose his left eye.”).

43. *See id.*

44. *See* Frances Robles, *In Just a Week, 'Nicaragua Changed' as Protesters Cracked a Leader's Grip*, N.Y. TIMES (Apr. 26, 2018), <https://www.nytimes.com/2018/04/26/world/americas/nicaragua-uprising-protesters.html> [<https://perma.cc/AK56-PAGW>] (“The protests

sixty-three people died.<sup>45</sup>

In justifying the violence towards protesters, Ortega characterized them as delinquents and gang members.<sup>46</sup> Ortega's wife, and vice president, claimed the response by police was justified as a defense against small groups.<sup>47</sup> Also, protesters clashed with pro-government supporters who attacked marchers with sticks, punches, and kicks, leaving some injured.<sup>48</sup> Journalists covering the protests were also attacked.<sup>49</sup> Law enforcement officers, who refused to follow orders to suppress protesters, were also killed.<sup>50</sup> As the government refused to investigate the deaths of protesters and justified the violence towards them, the protests grew in intensity.<sup>51</sup>

In June 2018, Nicaraguan authorities started a “clean-up operation” where NNP, pro-government armed groups, and mobs violently dismantled roadblocks and barricades set up by demonstrators.<sup>52</sup> The “clean-up operation” was followed by arbitrary arrests and detentions.<sup>53</sup>

---

started with a relatively narrow issue—changes to the social security system—but they quickly rose to a national boil when students began to die.”).

45. *Nicaragua: Protests Leave Deadly Toll*, *supra* note 39.

46. *See* Robles, *supra* note 44 (criticizing President Ortega for disregarding the deaths of protesters after rescinding the social security measures that were the focus of the protest).

47. Rivas, *supra* note 41.

48. *Nicaragua: Protests Leave Deadly Toll*, *supra* note 39 (“[P]ro-government groups violently dispersed peaceful protests by punching and kicking them and using blunt instruments to beat demonstrators and journalists covering the protests.”); *see, e.g.*, Rivas, *supra* note 41 (detailing how in the city of Masaya, an Ortega stronghold, government supporters attacked hundreds of protesters to the point of injuring them).

49. *See, e.g.*, *Nicaragua: Protests Leave Deadly Toll*, *supra* note 39 (relaying the story of Alfredo Zuniga, a photographer for the Associated Press, who was bashed in the face with a motorcycle helmet and hit in the head with a steel pipe by men wearing pro-government T-shirts).

50. *See* U.S. DEP’T OF STATE, *supra* note 18, at 3 (noting there were credible reports that the government killed police officers or members of the ruling party who refused to follow orders to suppress the protests. “Approximately 40 of the protest deaths were police officers or members of the ruling party . . .”).

51. Robles, *supra* note 44 (“[When President] Ortega and [his wife, Vice President] Murillo[,] dismissed the protesters . . . [m]ore and more people joined the protests. And while the opposition movement is huge, it does not have any clear, national leaders, making it even more difficult for Mr. Ortega to tamp down.”).

52. UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, HUMAN RIGHTS VIOLATIONS AND ABUSES IN THE CONTEXT OF PROTESTS IN NICARAGUA 16 (Aug. 2018), [https://www.ohchr.org/Documents/Countries/NI/HumanRightsViolationsNicaraguaApr\\_Aug2018\\_EN.pdf](https://www.ohchr.org/Documents/Countries/NI/HumanRightsViolationsNicaraguaApr_Aug2018_EN.pdf) [<https://perma.cc/VJZ4-FXZ4>] (“[Consequently,] this led to violent clashes with protesters, escalating the level of violence on both sides.”).

53. *Id.* at 17.

The NNP and parapolice used informants to conduct house raids and illegal arrests of people who participated in protests, blockades, barricades, or who provided medical assistance, food, and shelter to protesters.<sup>54</sup> The NNP transported parapolice to conduct illegal raids.<sup>55</sup> The Nicaraguan Pro-Human Rights Association (ANPDH) reported that from April 19, 2018 to July 26, 2018, more than 500 people disappeared.<sup>56</sup>

In August of that year, Ortega amended terrorism laws to classify prodemocracy activities as terrorist activities.<sup>57</sup> More specifically, “anyone who damage[d] public or private buildings, wishe[d] to alter the constitutional order, or wishe[d] to force the government to take a certain action or refrain from taking a certain action” was a terrorist under the law and looking at fifteen to twenty years in prison.<sup>58</sup> Over 100 people were charged under the amended terrorism laws.<sup>59</sup>

Since April 18, 2018, the world saw the human rights crisis in Nicaragua unfold.<sup>60</sup> Ortega persecuted people for their political expressions.<sup>61</sup>

---

54. *Cf. Id.* (“[T]he whereabouts of these persons remained unknown for several days before their relatives would eventually learn they were being detained at a police station or at . . . prisons.”).

55. U.S. DEP’T OF STATE, *supra* note 18, at 7.

56. *See id.* at 4 (“The detentions generally lasted between two weeks and one month. NNP officers and prison authorities often denied detainees were in custody. Other detainees were eventually found dead in the morgue or in city streets. Human right organizations claimed the NNP and prison system’s inability to locate prisoners was not due to poor recordkeeping, but was instead a deliberate part of a misinformation campaign. The government made no efforts to prevent, investigate, or punish such acts.”).

57. *Id.* at 1 (forcing anyone perceived in opposition or as participants of prodemocracy activities to be charged as terrorists and punished by exile, jail, or death).

58. *Id.* at 12.

59. *Id.* (detailing how 600 protesters were detained, and that 100 were arrested “under charges of terrorism, organized crime, and financing terrorism.”).

60. *See* HUM. RTS. WATCH, *supra* note 9 (indicating the consistent pattern of systemic abuse that has continuously occurred throughout Nicaragua); *see also* UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, *supra* note 52, at 7 (“The serious human rights crisis in Nicaragua since the social protests began on April 2018 has been characterized as by multiple forms of repression and other forms of violence that resulted in thousands of victims, including approximately 300 deaths and 2,000 persons injured. . . . [T]he repression and the violence “are products of the systematic erosion of human rights over the years . . .”).

61. *See generally* UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, *supra* note 52, at 7 (listing the stages of the Nicaraguan crisis which included not only persecution, but also criminalization of government opponents).

He designated them as terrorists.<sup>62</sup> He illegally detained and arrested them.<sup>63</sup> He ordered his national police to work with armed civilian groups to suppress Nicaraguans.<sup>64</sup> He encouraged violence, and censored Nicaraguans.<sup>65</sup> Ortega refused to admit responsibility for any wrongdoing.<sup>66</sup> He continued to blame human rights activists, media outlets, opposition groups, and social leaders for the violence in Nicaragua.<sup>67</sup>

Ortega seized Nicaragua and held Nicaraguans hostage.<sup>68</sup> My Nicaraguan clients fled Nicaragua because they were persecuted or feared persecution on account of their political opinion.<sup>69</sup> My clients either unequivocally identified as members of the

---

62. *Id.* at 20 (noting both Ortega and Vice President Murillo stigmatized the media and protesters not only as terrorists, but as “coup-mongers” or “plagues”).

63. U.S. DEP’T OF STATE, *supra* note 18, at 7; *see* UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, *supra* note 52, at 27–28 (“1,900 protestors had been detained from the start of the crisis to July 25th”; however, “[t]o date, the number of people who have been arrested and/or detained in relation to the protests is unclear as no official public registries exist and the information provided by the relevant authorities has been very scarce.”).

64. *See generally* UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, *supra* note 52, at 7 (outlining the phases of Nicaraguan’s human right crisis and noting the current phase involves using armed government instrumentalities to suppress and persecute protesters).

65. *See, e.g.*, HUM. RTS. WATCH, *supra* note 9 (“[T]he Inter-American Commission of Human Rights (IACHR) found that the Nicaraguan government had “adopted measures of direct and indirect censorship restricting the widest range of public information about what is happening in the country.”); *see also, e.g.*, U.S. DEP’T OF STATE, *supra* note 18, at 14 (“Although the law provides that the right to information may not be subjected to censorship, the government and actors under its control retaliated against radio and television stations through raids, arson, blocking transmission, and violence against journalists.”). *See generally* UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, *supra* note 52, at 35 (documenting and analyzing a myriad of human right violations occurring in Nicaragua).

66. *See* Partlow, *supra* note 23 (stating Ortega has blamed the unrest in Nicaragua on the United States rather than himself); *cf.* UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, *supra* note 52, at 8 (“The State’s lack of will to carry out prompt, impartial, thorough and independent investigations on alleged human rights violations and abuses seriously jeopardizes victims’ rights to justice, truth and an effective remedy. The lack of independence of the judiciary and reported irregularities of the Office of the Attorney-General and the Legal Medical Institute pose serious concerns in terms of accountability.”).

67. UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, *supra* note 52, at 8.

68. *See generally* Partlow, *supra* note 23 (opining on Ortega’s rise as a leader who wouldn’t impose his will on others in the 1980s to the now ruthless dictator waging merciless and bloody attacks against protesters seeking his resignation).

69. *See* E-mail of Redacted Interview Notes, *supra* note 29 (explaining the consequences of persecution and torture if a client is deported). *See generally* UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, *supra* note 52, at 8 (“The level of persecution is such that many of those

*Partido Liberal Constitucionalista* (Constitutionalist Liberal Party) (PLC) or as staunch opponents to Ortega and his regime.<sup>70</sup> They actively promoted their party or bravely protested harmful policies in their country.<sup>71</sup> Because of their political expressions, Sandinistas, pro-government groups, and the Nicaraguan government beat, hunted, and left my clients to die on the streets of Nicaragua.<sup>72</sup>

## II. GUINEA: A YOUNG COUNTRY WITHOUT PEACE

For the first time since gaining independence from France, Guinea was scheduled for presidential elections for June 27, 2010, where twenty-four candidates ran for president.<sup>73</sup> The election results did not leave a clear winner since no candidate was able to obtain more than fifty percent of the vote.<sup>74</sup> The two candidates with the most votes were Prime Minister Cellou Dalein Diallo, with forty-four percent of the vote, and Alpha Conde, with eighteen percent of the vote.<sup>75</sup> The Supreme Court ordered a runoff election between candidates Diallo and Conde.<sup>76</sup>

---

who have participated in the protests, defended the rights of the protestors, or simply expressed dissenting opinion, have been forced to hide, have left Nicaragua or are trying to do so. According to the U.N. [High Commissioner for Human Rights], 23,000 Nicaraguans have applied for refugee status in Costa Rica” from April 2018 to July 2018).

70. Cf. UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, *supra* note 52, at 19 (“Opposition leaders, particularly of parties such as the Sandinista Renovation Movement (MRS) and the Constitutionalist Liberal Party (PLC) have been targeted.”).

71. See generally *id.* at 13–15 (expounding on the massive eruption of protests occurring in Nicaragua against Ortega’s regime).

72. See *e.g.*, *id.* at 12 (“[E]pisodes of social and political discontent . . . were often repressed by the authorities and resulted in deaths, injuries, arrest and detention.”).

73. *Guinea: Ban Urges All Sides to Ensure Presidential Polls Are Peaceful and Credible*, UN NEWS (June 25, 2010), <https://news.un.org/en/story/2010/06/343092> [<https://perma.cc/WW45-G3LW>].

74. *Guinea Profile—Timeline*, BBC (May 14, 2018), <https://www.bbc.com/news/world-africa-13443183> [<https://perma.cc/NNS8-94KK>]; see Abdourahmane Diallo & Adam Nossiter, *Guinea Votes in Its First Democratic Presidential Election*, N.Y. TIMES (Nov. 7, 2010), <https://www.nytimes.com/2010/11/08/world/africa/08guinea.html> [<https://perma.cc/8W6D-UBDE>] (“As the [runoff] vote was repeatedly delayed, ethnic tensions increased, amid confusion over who was in charge of the election.”).

75. James Butty, *Guinea’s Supreme Court Uphold June 27 Election Results*, VOA (July 20, 2010, 8:00 PM), <https://www.voanews.com/africa/guineas-supreme-court-upholds-june-27-election-results> [<https://perma.cc/VQ48-6QTZ>].

76. *Id.*

Diallo, who was the leader of the *Union des forces démocratiques de Guinée* (Union of Democratic Forces of Guinea) (UFDG), was heavily supported by the Peul community.<sup>77</sup> Whereas, Conde, the leader of the *Rassemblement du Peuple Guinéen* (Rally of the Guinean People) (RPG), was supported by the Malinke people.<sup>78</sup> The majority of Peul people supported the UFDG, and the majority of Malinke people supported the RPG.<sup>79</sup> Political parties in Guinea have been mostly drawn along ethnic lines.<sup>80</sup> With ethnic divisions being a persistent issue, ethnicity in Guinea is easily determined with simple identifying factors like name, language, accents, and physical features, such as skin tone.<sup>81</sup> After the elections on June 27, 2010, tensions between the Peul and Malinke people grew because both groups accused the other of manipulating the elections.<sup>82</sup>

---

77. *Guinea: Ethnic Composition of Police and Military Forces; Treatment of Peul by Auth., Including Police and Military, and in Cases Where a Peul Individual Requires State Prot.; Info. on Camp Makambo, Including Location and Purpose (2009-MAY 2014)*, REFWORLD (May 7, 2014), <https://www.refworld.org/docid/537db96b4.html> [<https://perma.cc/U2BS-9T2Z>]; Saliou Samb, *Insight: Guinea Ethnic Divide Defies “West Africa’s Mandela,”* REUTERS (Oct. 23, 2012, 11:06 AM), <https://www.reuters.com/article/us-guinea-conflict-ethnic/insight-guinea-ethnic-divide-defies-west-africas-mandela-idUSBRE89M0Z820121023> [<https://perma.cc/ZPU9-Z8GS>] (“Diallo is mostly backed by Peul, descendants of migrant Muslim herders who are Guinea’s largest ethnic group at about 40 percent.”).

78. REFWORLD, *supra* note 77.

79. *Guinea: Avoiding Ethnically-Driven Elections*, REFWORLD (Dec. 6, 2011), <https://www.refworld.org/docid/4ee1e22d2.html> [<https://perma.cc/4QHU-XU8J>].

80. *Id.* (“Ethnic tensions have long simmered in the country, but with so many Guineans having seen first-hand the impact of such violence in West African neighbours Sierra Leone and Liberia, the appetite for violence is low. Thousands of refugees from these countries fled to Guinea during their civil wars. ‘Ethnic problems are not fundamental here [Guinea], they’re power-related . . . .’”); see David Smith, *Violence Breaks out After Guinea’s First Democratic Election in 50 Years*, THE GUARDIAN (Nov. 16, 2010, 9:41 AM), <https://www.theguardian.com/world/2010/nov/16/guinea-violence-election-alpha-conde> [<https://perma.cc/TSX2-8C8T>] (emphasizing the significant tensions between the two ethnic groups, the Malinke and the Peul. .

81. *Guinea: Avoiding Ethnically-Driven Elections*, *supra* note 79 (admonishing the hostility arising from the division among ethnic groups).

82. *Ethnic Tensions Mar Historic Guinean Presidential Election*, FRANCE 24 (Oct. 11, 2010, 15:07), <https://www.france24.com/en/20101107-ethnic-tensions-mar-historic-guinean-presidential-election-conakry-ethnic-tension-vote> [<https://perma.cc/6CM2-GCSG>].

On November 7, 2010, Guinea held a runoff presidential election.<sup>83</sup> The elections were peaceful.<sup>84</sup> However, party supporters and members of the Peul and Malinke ethnic groups clashed when the results of the election declared Conde the winner with 52.5 percent of the vote.<sup>85</sup> Peul and UFDG supporters rose in protest, and Guinea's security forces responded with violence.<sup>86</sup> Security forces shot live ammunition into the crowd of protesters and used tear gas on protesters.<sup>87</sup> The Office of the U.N. High Commissioner for Human Rights reported at least four protesters were killed and 300 were injured.<sup>88</sup> Security forces also illegally entered civilian homes in Peul neighborhoods and shot innocent people.<sup>89</sup> Additionally, the UFDG party confirmed that Guinea security forces violently repressed its supporters.<sup>90</sup> Oury Bah, vice president of the UFDG, reported that "[t]here have been cases of [security forces] raping women, shooting at unarmed persons and inciting [ethnic] hatred . . . ."<sup>91</sup> The Guinean government denied the allegations and insisted that UFDG supporters were responsible for the violence.<sup>92</sup>

---

83. See generally Diallo & Nossiter, *supra* note 74 (discussing the significance of this election since it was the first time Guinea participated in selecting its president through a democratic election).

84. *Id.*

85. See Smith, *supra* note 80 (recounting witness reports of violence following party clashes on the night of the election; witnesses claimed at least one person was killed and thirty others were injured following the final election results).

86. Lisa Schlein, *Security Forces in Guinea Accused of Excessive Force*, VOA (Nov. 18, 2010, 7:00 PM), <https://www.voanews.com/africa/security-forces-guinea-accused-excessive-force> [<https://perma.cc/NV63-T6SZ>] ("The announcement of the provisional election results by the Electoral commission triggered three days of widespread violence in the Guinean capital, Conakry.")

87. *Id.*; Smith, *supra* note 80.

88. Schlein, *supra* note 86 (providing witness testimony and explaining the Office of the U.N. High Commissioner for Human Rights was "deeply concerned" by the actions of the security forces against protesters).

89. See Joe Penney, *Guinea Political Parties File Complaints Alleging Fraud*, CNN (Nov. 28, 2010, 11:32 AM), <https://www.cnn.com/2010/WORLD/africa/11/27/guinea.elections.aftermath/index.html> [<https://perma.cc/9C7D-GQX5>] (describing accounts of the illegal entry and shootings by security forces which occurred before and after the emergency curfew hours).

90. See *id.* ("[T]he [Guinea] government backed a bloody repression by security forces against its supporters, who are largely from the Peul ethnic group. . . . Oury Bah, vice president of UFDG, explained the party would be launching an official complaint to the International Criminal Court.")

91. *Id.*

92. *Id.*

With Conde as president, ethnic tensions increased.<sup>93</sup> Although Conde promised to unite his country, he failed to keep his promise.<sup>94</sup> His administration fomented ethnic tensions instead of reducing them.<sup>95</sup> Government officials made inflammatory statements directed towards the Peul community.<sup>96</sup> Security forces perceived Peul as anti-government.<sup>97</sup> Peul encountered violence, ethnic slurs, and the pillaging of homes and shops at the hands of security forces.<sup>98</sup> Insults referred to their ethnicity.<sup>99</sup> Security forces threatened to kill political opponents based on their ethnic group.<sup>100</sup> A Peul woman was raped and told that she was being raped for marching, for refusing to stay out of trouble, and because Diallo, UFDG leader and Peul, was her father.<sup>101</sup>

Although the Peul people were the majority in Guinea, the Malinke people made up the majority in the military and security forces.<sup>102</sup> The Human Rights Watch found that under Conde's administration,

---

93. See, e.g., *Guinea: Avoiding Ethnically-Driven Elections*, *supra* note 79 (stressing ethnic divisions persisted and escalated in the political atmosphere well after a year past the election; in essence, the conflict has boiled down to one of identification, and Mouctar Diallo, leader of the New Democratic Forces party, told IRIN that "he has never seen Guinea as divided as it is now. 'You say your name and you know your ethnicity—and that is how people are defining themselves.'").

94. Samb, *supra* note 77 ("Some even say [Conde] has inflamed ethnic hatred as much as the opposition, an accusation which the government denies.").

95. See *Guinea: Avoiding Ethnically-Driven Elections*, *supra* note 79 ("Everything is playing the ethnic card horrible statements are being made from all sides. . . . President [Conde] has shown clear favouritism in appointing Malinke to civil service and ministerial posts, and has used the judicial system . . . to discriminate against Peul[] political groups.").

96. See, e.g., *id.* (noting rumors that an impending civil war and "genocide" are being planned against the Peul people).

97. REF WORLD, *supra* note 77.

98. *Id.*

99. *Guinea: Security Forces Excesses, Crimes*, HUM. RTS. WATCH (July 30, 2015, 12:55 AM), <https://www.hrw.org/news/2015/07/30/guinea-security-force-excesses-crimes> [<https://perma.cc/R2ZU-WUS9>] ("Most assaults, they said, were accompanied by ethnic slurs or insults about the victims' membership in an opposition party, and many by theft.").

100. See, e.g., *id.* ("A woman from Koloma said, 'They burst in, threatened us with knives . . . we ran to hide.['] . . . I heard them saying, 'We'll kill you, you bastards, you'll not eat today, nor will you ever have power.'").

101. *Id.*

102. REF WORLD, *supra* note 77; REF WORLD, *supra* note 79 ("Currently, Peul[]s hold just six ministerial positions, including the Youth and Tourism portfolios, while the military is Malinke dominated.").

recruitment of gendarmes favored Malinkes over Peuls.<sup>103</sup> Security forces threaten Peul protesters with genocide toward their people as they arrest them.<sup>104</sup>

In 2012, security forces threw tear gas into the homes of an opposition leader.<sup>105</sup> Conde accused the opposition of violent outbreaks that blocked progress in the country.<sup>106</sup> In 2013, the majority of people killed during protests were Peul.<sup>107</sup> Security forces arbitrarily arrested, detained, mistreated, and abused opposition supporters.<sup>108</sup> Contrastingly, security forces allowed pro-government groups to pillage and loot Peul neighborhoods.<sup>109</sup> In certain instances, security forces collaborated with pro-government mobs in looting and attacking Peul.<sup>110</sup> The Peul community was less likely to receive the protection of security forces.<sup>111</sup> When members of the community attempted to stop the looting, police officers teargassed those members but not the looters.<sup>112</sup>

On days when demonstrations were held, security forces entered Peul neighborhoods and threw teargas to keep oppositionists from leaving their homes or their party's headquarters.<sup>113</sup> Security forces entered homes in predominantly Peul neighborhoods and threatened residents,

---

103. REFWORLD, *supra* note 77 (“The Senior Researcher for Human Rights Watch indicated that the recruitment of 2,000 gendarmes under Alpha Conde ‘favours’ the Malinké . . .”); see *Guinea: Avoiding Ethnically-Driven Elections*, *supra* note 79 (discussing how President Conde has evoked more tension by concentrating power in the favor of Malinkes).

104. *Guinea: Avoiding Ethnically-Driven Elections*, *supra* note 79.

105. Samb, *supra* note 77.

106. *Id.*

107. REFWORLD, *supra* note 77.

108. See *id.* (identifying acts of criminality against Peuls and favoritism displayed towards Malinke individuals by security forces when breaking up street battles between opposition forces and government supporters).

109. *Id.*

110. See generally *id.*

111. See, e.g., *id.* (“During demonstrations, police and gendarmes will crackdown on Peul and opposition neighbourhoods, but will stand by while ruling party supporters engage in criminal activity at protests such as looting, or they may engage in criminal activity such as looting alongside party supporters. There is clear evidence of a partisan response to protests on the part of security forces, who did not provide protection equally, or responded inconsistently.”).

112. See, e.g., *Guinea: Security Forces Excesses, Crimes*, *supra* note 99 (describing how security forces stood by and did nothing while party supporters looted a store owned by an opposition leader. “‘To my surprise they teargassed the community members who’d mobilized to stop the pillage, not the ones doing the pillage,’ one woman commented.”).

113. *Id.*

destroyed their property, and stole their money.<sup>114</sup> One report indicated police officers entered the home of a sixty-two-year-old widow and yelled at her for not educating her children to stay off the streets, inferring her Peul children were protesting.<sup>115</sup> In 2015, protesters and security forces clashed, but witnesses claimed that none of those killed were armed or involved in violence.<sup>116</sup> A twenty-four-year-old student, who was walking into his brother's house, was shot in the head.<sup>117</sup>

On June 2, 2015, a law was passed regulating how and when security forces can and cannot police protests.<sup>118</sup> However, the law was criticized for encouraging government officials to repress peaceful protests.<sup>119</sup> By July 2018, the Guinean government severely restricted the right to assemble, citing public security.<sup>120</sup> Although protest planners informed government officials about their planned protests as required by law, government officials nevertheless prohibited each protest.<sup>121</sup> People

---

114. *See, e.g., id.* (“Witnesses and victims said members of the security forces stole cell phones and cash, carted off merchandise from small businesses, smashed windshields, cut community water spigots, and threw food, trash, and belongings into wells.”).

115. *Id.*

116. *See generally Guinea: Unarmed People Shot in Back and Beaten to Death by Security Forces in Conakry*, AMNESTY INT’L (Oct. 22, 2015, 10:13 AM), <https://www.amnesty.org/en/latest/news/2015/10/guineauarmedpeopleshotinbackandbeatentodeathbysecurityforcesinconakry/> [<https://perma.cc/92PB-BBBA>] (overviewing the killing of at least three unarmed civilians during election-related violence in Guinea’s capital, Conakry, by Guinea security forces).

117. *Cf. id.* (describing the other two civilian deaths as “a 20-year-old student who was clubbed to death with truncheons by six policemen and a 20-year-old carpenter whose body was left on a rubbish dump after being shot in the back in an alley by a gendarme.”).

118. *Cf. id.* (“In September, Amnesty International issued a report issued highlighting the deaths of six people in election-related violence in April and May 2015, and calling for action to protect freedom of expression and assembly, end excessive use of force and firearms, and ensure accountability for human rights violations.”).

119. *See id.* (“The law does not allow spontaneous public assembly, while security forces will have the power to disperse groups of otherwise peaceful protestors if at least one person is believed to have a weapon. Moreover, such clauses could be used as grounds for banning or repressing peaceful protests.”).

120. Corinne Dufka, *Guinea’s Efforts to Ban Protests Undermines Rights*, HUM. RTS. WATCH (April 26, 2019, 11:00 AM), <https://www.hrw.org/news/2019/04/26/guineas-efforts-ban-protests-undermines-rights> [<https://perma.cc/L4HR-QGPQ>].

121. *Guinea: End Crackdown on Opponents to New Constitution*, HUM. RTS. WATCH (Oct. 18, 2019, 12:01 AM), <https://www.hrw.org/news/2019/10/18/guinea-end-crackdown-opponents-new-constitution> [<https://perma.cc/FN7Z-GGAX>].

found in violation of the new requirements faced two to four years in jail.<sup>122</sup>

On October 14, 2019, protests in Guinea began again when Conde's supporters encouraged him to amend the constitution to allow him to run for a third term.<sup>123</sup> At least nine people died, but the government denied claims its security forces carried weapons into the protests.<sup>124</sup> Violence between protesters and government forces grew before the proposed constitution was up for a vote.<sup>125</sup> Witnesses reported security forces, along with individuals dressed in plain clothes with knives and machetes, attacked and killed protesters.<sup>126</sup> Protesters were forced to disappear for over a month on a military base without the ability to contact family or lawyers.<sup>127</sup> The government refused to acknowledge their whereabouts.<sup>128</sup> On March 27, 2020, the proposed new constitution passed with over ninety percent of the vote.<sup>129</sup> The new constitution paved the way for Conde to run for a third term.<sup>130</sup> Ethnic and political

---

122. *But cf. Guinea's Prosecutor Asks for Five Year Jail Term for Protest Leaders*, AFRICA NEWS (Oct. 19, 2020), <https://www.africanews.com/2019/10/19/guinea-s-prosecutor-asks-for-five-year-jail-term-for-protest-leaders/> [<https://perma.cc/5R89-XB6H>] (examining a Guinea Prosecutor's attempt to request the court grant a maximum penalty of five years in prison for protest leaders against President Conde).

123. *See Guinea: End Crackdown on Opponents to New Constitution*, *supra* note 121 (identifying the various groups and renewed protests against Conde in several towns across Guinea that ultimately culminated in violence).

124. *Id.*

125. *See Guinea: Violence During Referendum*, HUM. RTS. WATCH (Apr. 10, 2020, 12:01 AM), <https://www.hrw.org/news/2020/04/10/guinea-violence-during-referendum> [<https://perma.cc/KZT5-PGCU>] (reporting on Guinea's security forces conduct in the months leading up to the nation's constitutional referendum).

126. *Id.*

127. *See, e.g., id.* ("On February 11 and 12, security forces arbitrarily arrested 40 people, including at least two children and three men with intellectual disabilities, during raids in Conakry and took them to a military base about 700 kilometers away in Soronkoni, in eastern Guinea. They were held without any contact with the outside world and without the authorities acknowledging their detention until March 28, when the authorities released 36 and transferred 4 others to Conakry central prison where they remain.").

128. *See id.* ("Human Rights Watch spoke to 10 men who were forcibly disappeared for over 40 days following their arbitrary arrest by security forces in Conakry on February 11 and 12. They said that they were held without any contact with the outside world along with 30 other people, including at least two children and three men with intellectual disabilities, in a military base . . .").

129. *Id.*

130. *Id.*

violence are expected to continue in Guinea, as Conde seeks a third term.<sup>131</sup>

Although Guineans were hopeful that years of repression and violence would end with the beginning of democratic elections, ethnic and political division in this young country are deeper than ever.<sup>132</sup> The Guinean government persecuted my clients on account of their political opinion and ethnicity.<sup>133</sup> My clients were members of the Peul community.<sup>134</sup> They primarily spoke Peul as a first language and French, with a Peul accent, as a second language.<sup>135</sup> They were active supporters of the UFDG.<sup>136</sup> They were stopped on the street, walking home after a protest.<sup>137</sup> My clients were ethnically

131. *Id.*

132. See *Guinea's Alpha Conde to Seek Third Term as President Despite Mass Protests*, FRANCE 24 (Jan. 9, 2020, 7:32), <https://www.france24.com/en/20200901-guinea-s-alpha-conde-to-see-third-term-as-president-despite-mass-protests> [<https://perma.cc/V5HD-VFCT>] (“Hopes of a new political dawn flowered when Conde became Guinea’s first democratically elected president in 2010, but critics say he has become increasingly authoritarian.”).

133. See, e.g., Angelic Merino Monge & Logan Seymour, *A Guinean Political Activist Was Granted Asylum in the U.S. After Fleeing Political Persecution*, HLS CLINICAL AND PRO BONO PROGRAMS (Aug. 8, 2019), <https://clinics.law.harvard.edu/blog/2019/08/a-guinean-political-activist-was-granted-asylum-in-the-u-s-after-fleeing-political-persecution/> [<https://perma.cc/BN6U-6RC5>] (“Imani fled Guinea out of fear of political persecution because of her participation in an opposition party. Imani’s political opinions and her activism for the equality of women, the right to education, and the need for fundamental political and social change in Guinea made her a target.”); see also *Tense Presidential Election Results*, AGENZIA FIDES (Oct. 19, 2020), [http://www.fides.org/en/news/68858-AFRICA\\_GUINEA\\_Tense\\_presidential\\_election\\_results](http://www.fides.org/en/news/68858-AFRICA_GUINEA_Tense_presidential_election_results) [<https://perma.cc/7NN8-GVDG>] (reporting claims that fifty-two killings were targeted because the individuals were members of the Peul community and strongly opposed President Conde).

134. See generally Aisatou Diallo, *Guinea's Ethnic Conflict*, CONFLUENCE (Oct. 29, 2019), <https://confluence.gallatin.nyu.edu/sections/research/guineas-ethnic-conflict> [[perma.cc/5CRA-BHJY](https://perma.cc/5CRA-BHJY)] (providing context for the Peul community).

135. See Oishimaya Sen Nag, *What Languages Are Spoken in Guinea?*, WORLD ATLAS (Aug. 1, 2017), <https://www.worldatlas.com/articles/what-languages-are-spoken-in-the-republic-of-guinea.html> [<https://perma.cc/4FKE-9Y6H>] (“A legacy of the French rule in Guinea, French is now the official language of Guinea. A number of indigenous languages enjoy the status of national languages in the country. These include the Malinké, Kissi, Toma, [Peul], and Kpelle.”).

136. See *Guinea: Deaths, Criminality in Post-Election Violence*, HUM. RTS. WATCH (July 24, 2018, 12:01 AM), <https://www.hrw.org/news/2018/07/24/guinea-deaths-criminality-post-election-violence#> [<https://perma.cc/HXZ5-G72V>] (“Supporters of the largest opposition party, the Union of Democratic Forces of Guinea (*Union des Forces Démocratiques de Guinée*, or UFDG) are largely drawn from the Peul[] ethnic group.”).

137. See, e.g., *Guinea Elections: Alpha Condé Wins Third Term Amid Violent Protests*, BBC NEWS (Oct. 24, 2020), <https://www.bbc.com/news/world-africa-54657359> [<https://perma.cc/A3J3-MWYN>] (“Although they are Guinea’s largest ethnic group, the country has never had a Peul

profiled.<sup>138</sup> Police officers asked for their identification and upon seeing a Peul last name, they beat, arrested, and detained my clients.<sup>139</sup> My clients were held without charges for months in jail in inhumane conditions where they faced further abuse, threats, and interrogations.<sup>140</sup>

### III. UNITED STATES OF AMERICA: A COUNTRY THAT CAN'T BREATHE

Since its founding, the government of the United States of America has continuously violated human rights.<sup>141</sup> It enslaved Africans, forcibly displaced Native Americans, detained Asians in concentration camps, segregated, discriminated, and murdered African and Mexican Americans, separated immigrants families, and caged immigrant

---

president and many ethnic Peuls say they have faced discrimination, dating back to the days of President Sékou Touré, when thousands fled the country.”). *See generally* *Guinea: Several Killed in Protests Against New Constitution*, DW (Dec. 15, 2019), <https://www.dw.com/en/guinea-several-killed-in-protests-against-new-constitution/a-50845481> [<https://perma.cc/3ZG5-7VHN>] (providing a history of intense police interactions with protestors in Guinea. Some of these interactions consisted of police shooting tear gas and live bullets at protestors, leaving some dead).

138. *See* REFWORLD, *supra* note 77 (“Peuls are perceived . . . to be . . . treated more harshly by members of the security forces, who feel they are allowed to behave this way . . .”).

139. *See, e.g.,* *Guinea: Violence During Referendum*, *supra* note 125 (“The men interviewed said they were never provided with any explanation for their arrest and detention, but that both the security forces who arrested them and the military who held them in Soronkoni accused them of supporting the opposition.”).

140. *Id.* (“We were 40 in a cell with only one door, which was closed most of the time, and two small holes in the wall,” a 23-year-old detainee said. “There was not enough air; it was very hot. Many felt sick because of the heat, some collapsed.” Another detainee said that they were not given enough water, slept on the floor with no mattresses, and often were not allowed to go to the toilet outside and had to urinate in bottles.”). *See generally* *Dakar, Unacceptable Conditions in Guinean Prisons*, THE NEW HUMANITARIAN (Feb. 26, 2009), <https://www.thenewhumanitarian.org/report/83169/brief-unacceptable-conditions-guinean-prisons> [<https://perma.cc/DL4S-F425>] (discussing how Guinean prisons fail to provide basic food, water, health, and hygiene to their inmates. One prison saw dehydration in forty-two percent of their inmates and infections due to poor sanitation conditions); *see generally* *Guinea: Events of 2018*, HUM. RTS. WATCH, <https://www.hrw.org/world-report/2019/country-chapters/guinea> [<https://perma.cc/2MZZ-EPTN>] (expanding on the commonality of Guinean prisons to be inadequate—where overcrowding, operating below international standards, and failing to sit regularly for court is a common phenomenon in the country).

141. *See* A’Lelia Bundles, *Know Your History: Understanding Racism in the US*, ALJAZEERA (Aug. 15, 2015), <https://www.aljazeera.com/features/2015/8/15/know-your-history-understanding-racism-in-the-us> [<https://perma.cc/PD5J-XVUK>] (articulating how the violation of human rights began long before the country was established with numerous individuals forced into “indentured servitude.” “Slavery was not the benign, paternalistic system described in the history textbooks of my youth. Instead, it was a brutal, often sadistic, form of domination over the bodies and minds of people who were kidnapped, whipped, beaten and raped.”).

children.<sup>142</sup> I cannot, with certainty, define the exact moment the United States began violating human rights, but racial and political tensions in the United States escalated to a new level on May 25, 2020.<sup>143</sup> On that day, George Floyd uttered Eric Garner’s last words, “I can’t breathe,” as a Minneapolis police officer pinned him to the ground and knelt on his neck.<sup>144</sup> I, along with the rest of the world, saw when he cried out for his mother in his last breath.<sup>145</sup> The events following George Floyd’s murder reminded me of the political and ethnic persecution my Nicaraguan and Guinean clients faced.<sup>146</sup>

---

142. See, e.g., *id.* (“The history of people of African descent in America—which is to say the history of America—is a pendulum of progress and setbacks, of resilience and retaliation, of protest and backlash”); see also, e.g., Maria Arana, *A History of Anti-Hispanic Bigotry in the United States*, WASH. POST, (Aug. 9, 2019, 11:34 AM), [https://www.washingtonpost.com/outlook/a-history-of-anti-hispanic-bigotry-in-the-united-states/2019/08/09/5ceaacba-b9f2-11e9-b3b4-2bb69e8c4e39\\_story.html](https://www.washingtonpost.com/outlook/a-history-of-anti-hispanic-bigotry-in-the-united-states/2019/08/09/5ceaacba-b9f2-11e9-b3b4-2bb69e8c4e39_story.html) [<https://perma.cc/7ET9-SVKA>] (finding Latinos make up eighteen percent of the population in the United States, yet resistance towards Hispanic presence has grown and has continued for centuries due to “ignorance, racism, and stubborn unwillingness to understand a population”); see also, e.g., Adrian De Leon, *The Long History of Racism Against Asian Americans in the U.S.*, PBS NEWS HOURS (Apr. 9, 2020, 11:36 AM), <https://www.pbs.org/newshour/nation/the-long-history-of-racism-against-asian-americans-in-the-u-s> [<https://perma.cc/78L9-LQBW>] (reporting there are about 100 cases a day of anti-racist Asian actions); see also, e.g., Michael Garcia Bochenek, *US: Family Separation Harming Children, Families*, HUM. RTS. WATCH (July 11, 2010, 3:00 AM), <https://www.hrw.org/news/2019/07/11/us-family-separation-harming-children-families> [<https://perma.cc/C4FV-MRPE>] (describing a child’s story of being separated from his father by immigration agents and commenting on how the Trump administration only ceased forcible family separation policy after photos were leaked of children in cages with border agents mocking the crying children).

143. Derrick Bryson Taylor, *George Floyd Protests: A Timeline*, N.Y. TIMES (July 10, 2020), <https://www.nytimes.com/article/george-floyd-protests-timeline.html> [<https://perma.cc/229E-APS8>] (reviewing the day caught on video in the city of Minneapolis where George Floyd, a 46-year-old Black man, was handcuffed and fatally pinned to the ground by the knee of a White officer, despite repeatedly exclaiming to officers he could not breathe).

144. See *A Decade of Watching Black People Die*, NPR (May 31, 2020, 11:15 AM), <https://www.npr.org/2020/05/29/865261916/a-decade-of-watching-black-people-die> [<https://perma.cc/E9TH-58EW>] (“[America is] at the point where the very words people use to plead for their lives can be repurposed as shorthand for completely separate tragedies.”).

145. See Lonnae O’Neal, *George Floyd’s Mother Was Not There, but He Used Her as a Sacred Invocation*, NAT’L GEO. (May 30, 2020), <https://www.nationalgeographic.com/history/2020/05/george-floyds-mother-not-there-he-used-her-as-sacred-invocation/> [<https://perma.cc/R56A-6VWE>] (recognizing Floyd calling out to his mother—who died two years prior to his death—as a sacred invocation as he died in the custody of the Minneapolis police).

146. See, e.g., *Crackdown in Nicaragua: Torture, Ill-Treatment, and Prosecutions of Protestors and Opponents*, HUM. RTS. WATCH (June 19, 2019), <https://www.hrw.org/report/2019/06/19/crackdown-nicaragua/torture-ill-treatment-and-prosecutions-protesters-and> [[perma.cc/E5](https://perma.cc/E5)]

My clients in Guinea were visibly Peul, and police officers stopped them when they were walking home.<sup>147</sup> In comparison, the United States does not fall behind these other countries when our law enforcement officials systematically murder Black and Brown Americans with impunity.<sup>148</sup> Ezell Ford was murdered for walking in his neighborhood.<sup>149</sup> Tamir Rice was playing at a park.<sup>150</sup> Philando Castile was murdered during an ordinary traffic stop on his way home from dinner.<sup>151</sup> Breonna Taylor was killed while asleep in her bed.<sup>152</sup> George Floyd was killed outside of a grocery store.<sup>153</sup> From January 1, 2015, to May 31, 2020, police officers shot and killed 1,252 black people.<sup>154</sup>

After George Floyd's murder made national news, protests erupted in Minneapolis, other cities in the country, and all around the world.<sup>155</sup> Protests in the United States continued months after Floyd's killing.<sup>156</sup>

---

2M-3FT7] (describing the ethnic and political violence towards the Peul community during Ortega's presidency).

147. See Diallo, *supra* note 134 (perpetuating the notion that "even today, [Guinea] still has not put to rest their ethnic conflicts.").

148. See Justin Worland, *America's Long Overdue Awakening to Systemic Racism*, TIME (June 11, 2020, 6:41 AM), <https://time.com/5851855/systemic-racism-america/> [<https://perma.cc/ZQC4-ERLN>] (detailing the origins of systemic racism in the United States and how it has permeated throughout institutions across America; systemic discrimination through police violence has led to the death of an alarming number of African Americans every year); see also, e.g., Elliott C. McLaughlin, *How George Floyd's Death Ignited a Racial Reckoning that Shows No Signs of Slowing Down*, CNN (Aug. 29, 2020, 11:31 AM), <https://www.cnn.com/2020/08/09/us/george-floyd-protests-different-why/index.html> [<https://perma.cc/3SFU-4EZQ>] (highlighting the systemic racism behind the death that resulted from a potentially fake twenty dollar bill).

149. *A Decade of Watching Black People Die*, *supra* note 144.

150. *Id.*

151. Jay Croft, *Philando Castile Shooting: Dashcam Video Shows Rapid Event*, CNN (June 21, 2017, 10:14 AM), <https://www.cnn.com/2017/06/20/us/philando-castile-shooting-dashcam/index.html> [<https://perma.cc/5J9Y-P2X3>] ("Castile's girlfriend who was in the passenger seat, said Castile was reaching for his driver's license and registration, not the gun. Her Facebook livestream captured Yanez yelling, 'I told him not to reach for it!' and a bleeding Castile saying, 'I wasn't reaching.'"); *A Decade of Watching Black People Die*, *supra* note 144.

152. *A Decade of Watching Black People Die*, *supra* note 144.

153. *Id.*

154. *Id.*

155. Taylor, *supra* note 143.

156. See McLaughlin, *supra* note 148 ("Before Floyd's killing, the highest estimate for any American protest—the 2017 Women's March—was 4.6 million. Polls indicate that, as of mid-June, as many as 21 million adults had attended a Black Lives Matter or police brutality protest.").

From May to August 2020, there were 7,750 Black Lives Matter (BLM) protests in over 2,000 locations across the United States.<sup>157</sup> These protests were largely peacefully.<sup>158</sup> In fact, ninety-three percent of the protests against police brutality did not result in harm to people or property.<sup>159</sup> Despite the peaceful nature of an overwhelming majority of the protests, “[g]overnment authorities were more likely to intervene in Black Lives Matter protests than in other demonstrations, and more likely to intervene with forces, like using teargas, rubber bullets and pepper spray or beating demonstrators with batons.”<sup>160</sup>

Like in Nicaragua and Guinea, law enforcement officers in the United States responded with violence.<sup>161</sup> Law enforcement response to peaceful protests could arguably be due to the fact that law enforcement officers perceived BLM protesters to be anti-police and anti-government like the Guinean security forces perceived Peul protesters to be anti-government.<sup>162</sup> Government intervention aggravated the protests causing civil unrest.<sup>163</sup> In Minneapolis, Minnesota, police officers teargassed protesters and fired rubber bullets into crowds in an effort to

---

157. Lois Beckett, *Nearly All Black Lives Matter Protests Are Peaceful Despite Trump Narrative, Report Finds*, THE GUARDIAN (Sept. 5, 2020, 6:00), <https://www.theguardian.com/world/2020/sep/05/nearly-all-black-lives-matter-protests-are-peaceful-despite-trump-narrative-report-finds> [<https://perma.cc/6RXA-CVQX>].

158. *See id.*

159. *Id.* (“But the [U.S.] government has taken a ‘heavy-handed approach’ to the demonstrations, with authorities using force ‘more often than not . . . .’”).

160. *Id.*; see Nicole Galluci, *Photos Show Stark Contrast in Police Response to Capitol Riot vs. Black Lives Matter Protests*, MASHABLE (Jan. 6, 2021), <https://mashable.com/article/capitol-police-trump-riot-black-lives-matter-protest/> [<https://perma.cc/WAS9-ARL6>] (illustrating the difference in police response when Trump supporters stormed over barricades, pushed past cordons of officers, and broke windows).

161. Compare Oswaldo Rivas, *Nicaraguans Take to Streets in Protest over Social Security Changes*, REUTERS (Apr. 19, 2018, 7:46 PM), <https://www.reuters.com/article/us-nicaragua-protests/nicaraguans-take-to-streets-in-protest-over-social-security-changes-idUSKBN1HR02A> [<https://perma.cc/V2DS-ZYCM>] (reporting law enforcement using tear gas and rubber bullets against students in Nicaragua), and Schlein, *supra* note 86 (“Human Rights Officers witnessed heavily armed red beret soldiers and . . . police and gendarmes brutally beating, arresting and shooting at unarmed civilians in various locations [in Guinea] . . . .”), with Beckett, *supra* note 157 (“Journalists covering Black Lives Matter protests were also met with violence from government forces in at least 100 separate incidents across dozens of states this summer.”).

162. *See* REFWORLD, *supra* note 77 (distinguishing Peul community members as subject of extreme forms of assault because of their ethnicity).

163. *See id.* (detailing the circumstances of the protest and how law enforcement involvement altered the initial peaceful nature of protests).

break up the protests.<sup>164</sup> In Louisville, Kentucky, police officers shot and killed a restaurant owner when the police and the National Guard shot towards protesters.<sup>165</sup> In Austin, Texas, police officers shot a protester in the head.<sup>166</sup> A person was also killed in Indianapolis, Indiana, when shots were fired at protesters.<sup>167</sup> Police officers in Buffalo, New York, shoved a seventy-five-year-old protester, who fell down and injured his head.<sup>168</sup> Videos and reports showed the man on the ground, bleeding as police officers walked by him and did not assist him.<sup>169</sup>

Despite the peaceful protesting, Americans, like Nicaraguans and Guineans, were arrested for their political expressions.<sup>170</sup> Elected officials who participated in protests were also charged.<sup>171</sup> The Vice Mayor of Portsmouth, Virginia, was charged when she demanded the city police chief resign from his post.<sup>172</sup> In Virginia, a state senator, a local school board member, local National Association for the Advancement of Color (NAACP) leaders, and public defenders were charged for destruction of confederate statues.<sup>173</sup>

Like Ortega in Nicaragua, Trump labeled the BLM *movement* and Antifa *ideology* as terrorist organizations.<sup>174</sup> Government officials, feeling encouraged by his statements, began prosecuting

164. Taylor, *supra* note 143.

165. *Id.*

166. *Id.*

167. *Id.*

168. *Id.*

169. *Id.* (“An officer yelled “push him back” three times. One officer pushed his arm into Mr. Gugino’s chest. Another extended his baton toward him with both hands. Mr. Gugino then fell backward. The video showed him motionless on the ground and bleeding.”).

170. *Id.*

171. Akela Lacy, *Protesters in Multiple States Are Facing Felony Charges, Including Terrorism*, THE INTERCEPT (Aug. 27, 2020, 4:33 PM), <https://theintercept.com/2020/08/27/black-lives-matter-protesters-terrorism-felony-charges/> [<https://perma.cc/4BBK-XV3V>].

172. *Id.* (explaining how even high-ranking municipal officers were arrested for voicing their political expressions against police brutality).

173. *Id.*

174. *See id.* (emphasizing how prosecutors took Trump’s comments as instructions to aggressively prosecute those whose ideological beliefs were not the same as his); *see also* Eric Trucker & Ben Fox, *FBI Director Says Antifa Is an Ideology, Not an Organization*, AP NEWS (Sept. 17, 2020), <https://apnews.com/article/donald-trump-race-and-ethnicity-archive-bdd3b6078e9efadcfcd0be4b65f2362e> [<https://perma.cc/6KDS-QU3K>] (emphasizing how Trump erroneously characterized Antifa as a terrorist organization, while displaying that he had no actual or constructive knowledge about Antifa).

protesters.<sup>175</sup> Government officials imposed regulations that attempted to suppress ordinary, concerned citizens' freedom to peacefully assemble and their freedom of speech.<sup>176</sup> Similar to what was witnessed in Nicaragua, government officials in the United States increased the severity of criminal penalties for BLM protesters and prosecuted protesters more aggressively.<sup>177</sup> For example, in Texas, even though demonstrations protesting police brutality were largely peaceful, Governor Greg Abbott proposed legislation that raised penalties and created new crimes for offenses committed at protests.<sup>178</sup> The proposed legislation, aimed to protect police officers, created felony-level offenses for destroying property during a protest and seeks a mandatory six months in jail for individuals who threw water bottles at police officers.<sup>179</sup> In Tennessee, Governor Bill Lee re-categorized types of protests and camping overnight on state property as felonies when the offenses were previously misdemeanors.<sup>180</sup> Individuals charged with felonies lost their right to vote in the state.<sup>181</sup> Thus, Tennessee effectively repressed BLM protesters of their right to peacefully assembly and vote.<sup>182</sup>

Officials in the United States, like officials in Nicaragua, used terrorism laws to further suppress protesters.<sup>183</sup> In Nicaragua, the

---

175. *See generally* Lacy, *supra* note 171 (noting how specific language used by President Trump implicitly permitting prosecutors to bully and charge peaceful protestors with terrorism because they personally do not agree with BLM).

176. *See id.* (providing additional actions taken by law enforcement agencies to curtail citizens' First Amendment rights).

177. *See id.* (“[E]ven more frighteningly, I think [President Trump’s statements send] a message to people like the militia members we saw in Kenosha, and gives them the state and the latitude to commit even more violence than what we see on a daily basis in this country against black and brown folks.”).

178. Jolie McCullough & Dan Rosenzweig-Ziff, *Gov. Greg Abbott Wants to Raise the Stakes for Protesters During a Divisive Tex. Election*, TEX. TRIB. (Sept. 24, 2020, 4:00 PM), [https://www.texastribune.org/2020/09/24/greg-abbott-protests-brutality-police-budget-cuts/?utm\\_campaign=trib](https://www.texastribune.org/2020/09/24/greg-abbott-protests-brutality-police-budget-cuts/?utm_campaign=trib) [<https://perma.cc/6DMH-SQ8B>] (acknowledging how Abbott’s proposal would make it a felony with “mandatory jail time” for destroying property or being involved in a protest).

179. *Id.*

180. Lacy, *supra* note 171.

181. *Id.* (illustrating how changing previous misdemeanors into felonies disenfranchised an entirely new class of previously eligible voters in the state, weakening the political power of the party not in office).

182. *Id.*

183. *Cf. id.* (indicating prosecutors and lawmakers from fourteen states increased the severity of criminal punishment as a response to mass protests since 2016).

government used terrorism laws to justify my client's arrest when all he did was protest Ortega's government.<sup>184</sup> In Iowa and Oklahoma, the district attorneys charged people with terrorism for property damage.<sup>185</sup> The Federal Bureau of Investigation (FBI) defined terrorism as "violent, criminal acts committed by individuals and/or groups to further ideological goals stemming from domestic influences, such as those of a political, religious, social, racial, or environmental nature."<sup>186</sup> Terrorism, according to the U.S. government, is a crime against people, not property.<sup>187</sup> Yet, in Iowa and Oklahoma, people were labeled and charged as terrorists for property damage.<sup>188</sup> "The terrorism charges reveal a 'false equivalency between people who kill, and people who commit acts of property damage.'"<sup>189</sup> During the George Floyd protests, young people were charged with terrorism for simply protesting police brutality.<sup>190</sup> Terrorism law charges in the United States, like in Nicaragua, were used to silence political opinions.<sup>191</sup>

The federal government was also involved in the arrest and investigation against protesters.<sup>192</sup> In Portland, Oregon, unidentified federal agents roamed the streets in unmarked vehicles and arbitrarily

---

184. Cf. Sarah Kinoshian & Carlos Perez Osorio, *How Nicaragua Uses Anti-Terror Laws Against Protesters to Suppress Dissent*, THE INTERCEPT (Nov. 11, 2018, 7:00 AM), <https://theintercept.com/2018/11/11/nicaragua-protests-terrorism-daniel-ortega/> [<https://perma.cc/839P-6EBC>] (analyzing how the Ortega controlled government passed law expanding terrorism to a broad range of crimes including property damage, which lead to charges of terrorism for many arrested individuals).

185. See Lacy, *supra* note 171 (reporting Iowa police charged two men with terrorism for allegedly "attempting" to drive their vehicle into a city building; moreover, Oklahoma's district attorney's office persecuted five young protestors with terrorism for damage to police property).

186. *Terrorism*, FBI, <https://www.fbi.gov/investigate/terrorism> [<https://perma.cc/MS24-JB3P>].

187. *But see* Lacy, *supra* note 171 (indicating the distinction between people who commit murder versus people who damage property is a frightening "parallel to the post-9/11 era, when many people who had never committed an act of violence were prosecuted for terrorism.").

188. *Id.*

189. *Id.*

190. See *generally id.* (determining both state and federal authorities have arrested protesters and charged them with terrorism in the recent months since last May).

191. Cf. *id.* (suggesting the wake of nationwide support for Black Lives Matter has increased the severity of criminal penalties along political lines. American Civil Liberties Union member claims the penalties are unconstitutional because their only purpose is to silence protestors "standing up for black lives," which violates an individual's First Amendment right to free speech).

192. See *id.* (noting FBI authorities have opened 300 domestic terrorism investigations since last May).

detained and arrested peaceful protesters like security forces arrested and detained protesters in Guinea.<sup>193</sup> Trump's administration denied the allegations and insisted federal agents were operating within the law and targeting violent criminals.<sup>194</sup> Since July 4, 2020, federal agents arrested forty-three protesters.<sup>195</sup> Reports revealed that the crimes for which these protesters were being accused of were not violent crimes, but were misdemeanors.<sup>196</sup> Some of the protesters were arrested for being in front of the federal courthouse or on the sidewalk and failing to disperse or not dispersing quickly enough when ordered to do so.<sup>197</sup> The nature of the arrests suggests federal agents acted to repress political expression and activity.<sup>198</sup> Federal agents also detained and interrogated protesters arbitrarily and without probable cause.<sup>199</sup> In a video, federal agents were seen detaining a protester and pulling him into an unmarked vehicle.<sup>200</sup> Acting Secretary of Department of Homeland Security, Chad Wolf, asserted that federal agents were not violating any laws in conducting that detention.<sup>201</sup> Additionally, federal agents held protesters without charges.<sup>202</sup> Although Trump and the Attorney General attempted to

---

193. See, e.g., Richard Read & Justin Yau, *Federal Agents Are Arresting Protesters in Portland. Officials Say It's Legal*, L.A. TIMES (July 21, 2020, 9:04 PM), <https://www.latimes.com/world-nation/story/2020-07-21/portland-protest-federal-agents> [<https://perma.cc/L8P6-R7VS>] (reporting an incident where a U.S. Navy veteran was attacked, pulled into a vehicle, and arrested by federal agents without provocation).

194. *Id.*

195. *Id.*

196. See Ryan Lucas, *Review of Federal Charges in Portland Unrest Shows Most Are Misdemeanors*, NPR (Sept. 5, 2020, 7:00 AM), <https://www.npr.org/2020/09/05/909245646/review-of-federal-charges-in-portland-unrest-show-most-are-misdemeanors> [<https://perma.cc/7PJP-4SE8>] (highlighting that more than seventy percent of the charges in Oregon were for citations and misdemeanors).

197. *Id.*

198. *Id.* (“Steve Kanter, a law professor and former dean at Lewis and Clark Law School in Portland, said the federal government’s decision to arrest and charge people for offenses like failing to comply with a lawful order suggests that law enforcement officer were acting in a selective manner ‘to control and chill expression and activity.’”).

199. See Read & Yau, *supra* note 193 (mentioning a “state’s congressional delegation tried blocking deployment of unidentified federal agents to cities” because “Trump’s ‘secret police’ . . . take people away, they hold them, they interrogate them without justification and ultimately without charges . . .”).

200. *Id.* (demonstrating numerous instances where authorities used unnecessary force towards protesters).

201. *Id.*

202. *Id.*

blame BLM and Antifa for the violence, no federal court records support their assertions.<sup>203</sup> The presence of federal agents in Portland was an abuse of power and a violation of human rights.<sup>204</sup>

Government officials claimed the protests were no longer about the killing of Floyd but rather about “attacking civil society, instilling fear and disrupting our great cities.”<sup>205</sup> Trump gave protesters in Minneapolis an ultimatum and indicated he would use the armed forces to suppress riots.<sup>206</sup> He proceeded to call protesters “thugs” and said, “[w]hen the looting starts, the shooting starts.”<sup>207</sup> Trump’s comments towards protesters sound eerily similar to when Ortega and his wife called Nicaraguan protesters delinquents and gang members.<sup>208</sup> Trump’s threats of violence only raised racial and political tensions in the United States.<sup>209</sup>

Like in Nicaragua and Guinea, pro-government groups in the United States clashed with peaceful protesters.<sup>210</sup> The Minneapolis Mayor found peaceful protests turned violent when protesters were confronted by White supremacists, out-of-state instigators, and even foreign actors

---

203. Lucas, *supra* note 196 (“None of the court documents from federal cases in Portland reference antifa or any sort of broader anti-fascist movement or conspiracy.”).

204. Read & Yau, *supra* note 193 (“[T]he presence of federal agents in Portland has become a flashpoint in a deepening national debate over civil liberties and what demonstrators and local officials view as an abuse of power by the Trump administration.”).

205. Taylor, *supra* note 143.

206. *Id.* (analyzing how Trump’s messages raised tensions between protesters and officials).

207. *Id.* (“‘I can’t stand back & watch this happen to a great American city,’ Mr. Trump said. ‘A total lack of leadership. Either the very weak Radical Left Mayor, Jacob Frey, get his act together and bring the city under control, or I will send in the National Guard & get the job done right.’”).

208. Frances Robles, *In Just a Week, ‘Nicaragua Changed’ as Protesters Cracked a Leader’s Grip*, N.Y. TIMES (Apr. 26, 2018), <https://www.nytimes.com/2018/04/26/world/americas/nicaragua-uprising-protesters.html> [<https://perma.cc/AK56-PAGW>].

209. See Taylor, *supra* note 143 (recognizing the rise in violence and tension occurred synchronously with Trump’s messages to protesters).

210. See U.S. DEP’T OF STATE, NICARAGUA 2018 HUMAN RIGHTS REPORT 1 (2018) <https://www.state.gov/wp-content/uploads/2019/03/NICARAGUA-2018.pdf> [<https://perma.cc/TV5H-32BS>] (illustrating the destructive, violent, and harsh actions police officers in Nicaragua used against protesters); see also, e.g., Lacy, *supra* note 171 (revealing how eighty-seven protesters in Louisville, Kentucky, were arrested for a peaceful sit-in on its state attorney general’s front lawn).

mobilized to destroy the city of Minneapolis.<sup>211</sup> On August 24, 2020, in Kenosha, Wisconsin, armed White militia members supposedly set out to counter-protest and supposedly protect local property against BLM protesters.<sup>212</sup> Police officers and militia members were seen interacting with each other, and police officers were seen thanking the militia members for their support.<sup>213</sup> Later that night, a militia member, seventeen-year-old Kyle Rittenhouse, killed two protesters and left another in critical condition.<sup>214</sup> Videos show the police drove by Rittenhouse without arresting him, after he murdered two people.<sup>215</sup> Despite murdering protesters, the federal government ordered officials to make sympathetic comments about Rittenhouse.<sup>216</sup>

On September 7, 2020, Proud Boys, a far-right and neo-fascist organization, rushed, attacked, and fired paint-gun pellets at BLM supporters in Salem, Oregon.<sup>217</sup> Police did not arrest members of the Proud Boys for attacking BLM protesters.<sup>218</sup> When a country like

211. Taylor, *supra* note 143 (“That night, hundreds of protesters flooded into the Minneapolis streets. . . . Officers used tear gas and fired rubber bullets into crowds. Some businesses, including restaurants and an auto-parts store, were set on fire.”).

212. Lacy, *supra* note 171 (exhibiting how militia members went as far as shooting and murdering BLM protesters).

213. *Id.* (showcasing militia members partnership with the police officers in opposition of the protestors as officers passed out water to militia members as a token of gratitude).

214. *Id.*

215. See Haley Willis et al., *Tracking the Suspect in the Fatal Kenosha Shootings*, N.Y. TIMES (Aug. 27, 2020), <https://www.nytimes.com/2020/08/27/us/kyle-rittenhouse-kenosha-shooting-video.html> [<https://perma.cc/GG7F-D54T>] (emphasizing how Rittenhouse shot multiple people, yet not a single police officer showed interest in arresting him despite an awareness of his whereabouts).

216. Julia Ainsley, *Internal Document Shows Trump Officials Were Told to Make Comments Sympathetic to Kyle Rittenhouse*, NBC NEWS (Oct. 1, 2020, 4:00 AM), <https://www.nbcnews.com/politics/national-security/internal-document-shows-trump-officials-were-told-make-comments-sympathetic-n1241581> [<https://perma.cc/8F37-WCKE>] (explaining how police officers and the Trump administration sided with militia members who targeted protestors, refused to condemn white supremacy, and directed federal law enforcement official to make sympathetic comments about Rittenhouse).

217. See generally Khaleda Rahman, *Proud Boys Repeatedly Rush, Attack Black Lives Matter Supporters in Salem*, NEWSWEEK (Sept. 8, 2020, 5:05 AM), <https://www.newsweek.com/proud-boys-rushed-attacked-black-lives-matter-supporters-1530187> [<https://perma.cc/WS37-KE DA>] (showing numerous instances where the Proud Boys deliberately attacked BLM protestors in Salem).

218. See *id.* (drawing from police officers’ reported actions to suggest they would rather support the precarious conduct of the militia and far-right members than arrest them or protect BLM protestors).

Nicaragua, Guinea, or the United States has police officers who are unable and unwilling to arrest far-right militia groups and protect protesters from political and racial violence, the country has a human rights crisis.<sup>219</sup> The government's unwillingness to protect its citizens is evidenced by the words and actions of federal officials, such as President Trump and Attorney General William Barr, who repeatedly blamed BLM protesters and Antifa activists for the violence at protests.<sup>220</sup> Trump's statements encouraged militiamen, like Rittenhouse, to act violently towards peaceful protesters.<sup>221</sup> Records showed the only extreme group enacting violence at protests were far-right groups like the Boogaloo movement, a violent extremist group that includes militia and Second Amendment enthusiasts.<sup>222</sup> Records demonstrated that Boogaloo members chose BLM protests to kill police officers.<sup>223</sup> Despite violence committed by far-right groups, Trump and his administration failed to condemn these hate groups.<sup>224</sup> On September 29, 2020, during his first presidential debate against then former Vice President Joe Biden, Trump was asked to condemn White supremacists' groups like the Proud Boys.<sup>225</sup> However, Trump asked the Proud Boys to "stand down and stand by."<sup>226</sup> He did not denounce the group or other groups; rather, he

---

219. Cf. Read & Yau, *supra* note 193 (recognizing the division in the United States is attributed to President Trump's rhetoric and disinterest in public safety).

220. See Tommy Beer, *Accused Killer of California Cops Was Associated with Right-Wing 'Boogaloo Movement'*, FORBES (June 16, 2020, 3:22 PM), <https://www.forbes.com/sites/tommybeer/2020/06/16/accused-killer-of-california-cops-was-associated-with-right-wing-boogaloo-movement/#1018152359bd> [<https://perma.cc/4DUU-PU7J>] (perpetuating the notion that federal officials are repeatedly and erroneously blaming BLM protestors for the killings and violence around cities in America rather than focusing on correcting the self-destructive false narratives from the Trump Administrations).

221. Lacy, *supra* note 171.

222. Beer, *supra* note 220 (analyzing how the Boogaloo have evolved from militia and "Second Amendment advocates, into a full-fledged violent extremist group").

223. See *id.* (detailing how two individuals associated with Boogaloo movement used the BLM protests to camouflage and take advantage of a community grieving over the death of George Floyd).

224. See Ben Collins & Brady Zadrozny, *Proud Boys Celebrate After Trump's Debate Callout*, NBC NEWS (Sept. 30, 2020, 7:34 AM), <https://www.nbcnews.com/tech/tech-news/proud-boys-celebrate-after-trump-s-debate-call-out-n1241512> [<https://perma.cc/L2TZ-DNV4>] (demonstrating Trump's reluctance and failure to denounce right-right groups when asked—during a 2020 presidential debate—whether he would disavow White supremacy).

225. *Id.*

226. *Id.*

tried to refocus the blame towards Antifa.<sup>227</sup> Trump said, “somebody’s got to do something about Antifa and the left, because this is not a right-wing problem.”<sup>228</sup> Trump’s comments were celebrated by the Proud Boys who took his comments as orders to fight Antifa in Trump’s defense.<sup>229</sup> Members of the group posted on social media that they were standing by, ready for Trump’s command.<sup>230</sup>

Police officers also targeted journalists covering protests.<sup>231</sup> Within the first days of protests, police officers wrongfully arrested and assaulted over 300 journalists.<sup>232</sup> Journalists were teargassed and injured with rubber bullets.<sup>233</sup> In fact, a Dallas police officer arrested a photojournalist and taunted him by saying, “[y]eah, yeah. Press, press. You are going to jail.”<sup>234</sup> A journalist covering the George Floyd protests is now blind after being struck with a rubber bullet on his eye.<sup>235</sup> Just like in Nicaragua and Guinea, where freedom of the press was restricted, our constitutional freedom of the press was violated.<sup>236</sup>

---

227. *Id.* (acknowledging the unforgettable and harmful consequences of Trump’s diction during a nationally televised presidential debate).

228. *Id.*

229. *See id.* (“‘To say Proud Boys are energized by this is an understatement,’ Squire said. ‘They were pro-Trump before this shoutout, and they are absolutely over the moon now. Their fantasy is to fight antifa in his defense, and he apparently just asked them to do just that.’”).

230. *See id.* (“‘Proud Boys organizer Joe Biggs also posted after the debate that he was ‘standing by,’ . . . President Trump told the proud boys to stand by because someone needs to deal with ANTIFA. . . well sir! we’re ready!’”).

231. Sergei Klebnikov, *Journalists Targeted While Covering Protests: 328 Press Freedom Violations and Counting*, FORBES (June 6, 2020, 1:32 PM), <https://www.forbes.com/sites/sergei-klebnikov/2020/06/04/journalists-targeted-while-covering-protests-279-press-freedom-violations-and-counting/#77159bb5184f> [<https://perma.cc/VQ56-HFZU>].

232. *Id.*

233. *Id.* (“[Journalist have] been injured by rubber bullets or tear gas, arrested by police and assaulted—in a few cases, even by protestors. . . . More than 54 journalists have been arrested; there have also been a total of 208 assaults on reporters so far, 173 of which were by police . . .”).

234. *Id.*

235. Beckett, *supra* note 157.

236. *Compare* U.S. DEP’T OF STATE, *supra* note 210, at 14–18 (explaining the history of freedom of press violations in Nicaragua and how these violations were used to maximize the interest of the government), *with* Nahal Toosi, *Human Rights Groups Turn Their Sights on Trump’s America*, POLITICO (July 1, 2020, 4:30 AM), <https://www.politico.com/news/2020/07/01/human-rights-trump-us-346423> [<https://perma.cc/ZU9T-MG9M>] (describing similar human right violations and destruction happening within U.S. borders among essential institutions, such as the freedom of the press).

## CONCLUSION

Although racial violence existed before Trump took office, his leadership and administration exacerbated racial and political tensions in the United States creating an unprecedented human rights crisis in the country.<sup>237</sup> He repeatedly and intentionally failed to condemn state violence on the basis of race.<sup>238</sup> Instead of holding his federal agents accountable for illegal arrests and violence, Trump justified their actions as legal.<sup>239</sup> Trump's presidential campaign is running on law and order instead of peace and unity.<sup>240</sup> Prior to the George Floyd protests, Trump called White supremacists "very fine people."<sup>241</sup> He did not and has not condemned White supremacists' groups.<sup>242</sup> Everything Trump has fueled in recent times is what my clients fled from in Nicaragua and Guinea.<sup>243</sup> It terrifies me that I see parallels between the United States

---

237. See Toosi, *supra* note 236 (promulgating America's credibility and reputation is in question under Trump's presidency, leading some baffled as to whether it can even be considered a democracy).

238. E.g., Collins & Zadrozny, *supra* note 224 (showing Trump's refusal to denounce White supremacists); cf. Toosi, *supra* note 236 (explicating Trump has shown more disrespect to the American democracy than any other president and has tarnished core traditions, such as delivery of justice and the fight against corruption, while also going at "great lengths to protect abusive U.S. partners"); cf. Vice News, *Charlottesville: Race and Terror—VICE News Tonight on HBO*, YOUTUBE (Aug. 14, 2017) <https://www.youtube.com/watch?v=RIrcB1sAN8I> [<https://perma.cc/VR6R-4PJ2>] (reporting the political and racial tensions at the "Unite the Right" rally in Charlottesville, Virginia, which was attended by self-described White nationalist, alt-righters, and neo-Nazis).

239. Read & Yau, *supra* note 193.

240. Elaina Plott, *Trump's 'Law and Order': One More Deceptive Tactic is Exposed*, N.Y. TIMES (Jan. 16, 2021) <https://www.nytimes.com/2021/01/16/us/politics/trump-law-order.html> [<https://perma.cc/7H8H-3MVP>] ("If Mr. Trump spent much of his presidency casting the G.O.P. as the party of law and order, he is concluding it by clarifying just who, in his view—and in his base's view—the law was designed to order. It's the Black Lives Matter protesters who are confronted and arrested by the police in Mr. Trump's law-and-order America; the white mob, on the other hand, can expect officers who pause for selfies."); cf. Toosi, *supra* note 236 (elucidating how even though Trump's presidency has been more about law and order, domestic strife is on the rise).

241. Jordyn Phelps, *Trump Defends 2017 'Very Fine People' Comments, Calls Robert E. Lee 'a Great General'*, ABC NEWS (Apr. 26, 2019, 2:47 PM), <https://abcnews.go.com/Politics/trump-defends-2017-fine-people-comments-calls-robert/story?id=62653478> [<https://perma.cc/4G-F9-RLBJ>].

242. See *id.* (criticizing how President Trump refused to condemn white supremacy, and instead compared similarities between protesters and counter protesters).

243. Compare U.S. DEP'T OF STATE, *supra* note 210, at 1 (explaining the history of human rights violations and conditions in Nicaragua—such as the reoccurring violence towards specific

and other countries around the world that so willfully persecute people on the basis of race, nationality, political opinion, religion, and membership in a particular social group.<sup>244</sup> Violence towards protesters, elected officials, and journalists in the United States is an unnerving reminder that our country, democracy, and humanity are in crisis.<sup>245</sup>

---

social groups that has led many to attempts to emigrate from the country), *with Toosi, supra* note 236 (“Trump was clear from the outset that he would not prioritize human rights.”).

244. *See generally* Sahil Singhvi, *Disturbing Parallels in Crackdowns on Protesters in the U.S. and Hong Kong*, BRENNAN CTR. FOR JUST. (Oct. 29, 2020), <https://www.brennancenter.org/our-work/analysis-opinion/disturbing-parallels-crackdowns-protesters-us-and-hong-kong> [<https://perma.cc/PW2Y-PU5L>] (describing the parallel crackdowns happening in U.S. and other authoritarian regimes).

245. *Cf. id.* (recognizing although Americans have constitutional rights, those rights did not stop the United States from normalizing an authoritarian suppression of dissent under the Trump administration).