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Carceral citizenship in Latin America and the Caribbean

Carceral citizenship in post-protest Nicaragua:
Political imprisonment and civil death

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Abstract

This paper demonstrates how the extension and intensification of penal power across Nicaragua following the 2018 protests has produced particular experiences of carceral citizenship. In order to fully understand these experiences, it is necessary to take into account that states can enforce carceral citizenship (and its restrictions, benefits, and duties) not only legally, but also extralegally. As such, I examine the tenets of carceral citizenship in relation to the country's hybrid carceral system, conceptualizing how such citizenship may be produced and policed. Following from this, I elicit how political prisoners are acted upon by (para)state actors and excluded from prison's co-governance arrangements, which pushes some of them to engage in (dis)organizing practices of their own. Following them into their post-release lives, I examine the tight 'transcarceral grip' they are subjected to. This produces a state of de facto civil disenfranchisement, understood by *excarcelados* as "civil death." In spite of their predicament, however, released political prisoners continue to organize in the face of the *Sistema* and the violations it has committed (and continues to commit). *Keywords*: Political imprisonment, citizenship, prison, extralegality, civil death, Nicaragua.

Resumen: Ciudadanía carcelaria en la Nicaragua post-protesta: Encarcelamiento político y muerte civil

Este artículo demuestra cómo la extensión e intensificación del poder penal en Nicaragua tras las protestas de 2018 ha producido experiencias particulares de ciudadanía carcelaria. A fin de comprender plenamente estas experiencias, es necesario tener en cuenta que los estados pueden hacer cumplir la ciudadanía carcelaria (y sus restricciones, beneficios y deberes) no sólo legal, sino también extralegalmente. Por ello, examino los principios de la ciudadanía carcelaria en relación con el sistema carcelario híbrido del país, conceptualizando cómo se puede producir y vigilar dicha ciudadanía. A partir de ahí, explico cómo los actores (para)estatales actúan sobre los presos políticos y los excluyen de los acuerdos de cogobierno de las prisiones, lo que empuja a algunos de ellos a participar en sus propias prácticas de (des)organización. Siguiéndoles en su vida posterior a la puesta en libertad, examino el estrecho

“control transcarcelario” al que están sometidos. Esto produce un estado de privación de derechos civiles de facto, entendido por los excarcelados como “muerte civil”. Sin embargo, a pesar de su difícil situación, los presos políticos excarcelados siguen organizándose frente al Sistema y las violaciones que ha cometido (y sigue cometiendo). *Palabras clave*: Encarcelamiento político, ciudadanía, cárcel, extralegalidad, muerte civil, Nicaragua.

Introduction

In October 2018, half a year after the start of massive anti-government protests in Nicaragua, Danny¹ was taken from his home. Heavily armed police broke into the apartment he was renting, searched it for evidence of protest participation and – unable to find anything – forcibly escorted him out to a patrol truck. A video of his arrest, shot by a worried neighbour on his camera phone, quickly began circulating on social media. It was the last his family would see of him until he was formally presented to the government press in blue prison uniform eight days later. At the time, the government was resorting to the mass detention, imprisonment and judicialization of protesters demobilized after the brutal ‘Clean-Up Operation’ that had cleared the streets of barricades, roadblocks and university occupations – a joint state and para-state operation in which over 300 people were killed (GHREN, 2023). Like many others, Danny was transferred from the precinct in his hometown to the infamous, old Managua police jail known as El Chipote. Making use of the recently implemented judicial framework aimed at criminalizing protesters, he was accused of a host of trumped up charges, including terrorism and organized crime. For the next 57 days he would suffer repeated interrogations, acts of humiliation and torture. With history on repeat in a wryly distorted loop, yesteryear’s liberators effected the same violent practices against today’s protesters, at the very same site that former dictator Somoza’s National Guard once did against them. Eventually, during a closed-door trial, Danny would be sentenced and transferred to La Modelo penitentiary – the capital city’s largest penal complex.

“Not even the worst criminals are treated the way political prisoners are,” Danny commented as we spoke nearly three years later. He could say this because, unlike the majority of the politically imprisoned, he had done time in prison as a *preso común* (‘regular’ prisoner) too. Following Danny and several other political prisoners as they entered and left prison, this paper explores the ways in which they experience carceral citizenship (Miller & Stuart, 2017). Contrasting my research on political imprisonment since the repression of the 2018 protests with my research on ‘regular’ imprisonment – conducted through an extensive, multi-sited ethnography in and around Nicaragua’s prison system between 2009-2016 (Weegels, 2018) – I explore how the transcarceral extension and intensification of penal power across Nicaragua following the 2018 protests has produced particularly differentiated experiences of carceral citizenship. I use the terms ‘regular’ and ‘political prisoner’ following the emic terms incarcerated people use to describe themselves and distinguish between one another (Kenney,

2017). In Nicaragua, where regular prisoners are understood as people imprisoned on criminal charges without connection to the 2018 protests, political prisoners are generally understood to be people who have been incarcerated for opposing the Ortega-Murillo government (whether on regular or explicitly political charges). They range from journalists to peasant leaders, feminist activists to catholic clergy, politicians and students to numerous *autoconvocados* (self-convened protesters) – like Danny. In the direct aftermath of the protests, more than 1.600 people were arbitrarily detained (IACHR, 2018), and a small yet significant portion of them consisted of previously incarcerated people. These were not only aware of the additional violence many political detainees suffered, but also of the hybrid and extralegal ways in which Nicaragua’s prison system works.

To be able to understand the ways in which carceral citizenship manifests in Nicaragua, I first outline my research methodology and embed the emergence of political imprisonment in Nicaragua’s hybrid carceral system. After all, citizenship – understood as a “matter of belonging, which requires recognition” (Nakano Glenn, 2011, p. 3) – is constructed in relation to that hybridity rather than the letter of the law (Weegels, 2018). In order to fully understand the differentiated production of carceral citizenship, I argue, we must take into account how states produce this type of citizenship regime (and its restrictions, benefits, and duties) not only *legally*, but also *extralegally*. Consequently, Nicaragua’s political prisoners are not only excluded from political participation in the outside community, but also from any form of political participation in the largely extralegal co-governance arrangements in place within the prison system. Following from this, I elicit how political prisoners are acted upon by (para)state actors, which pushes some of them to engage in (dis)organizing practices of their own. Finally, following them into their post-release lives, I examine the heavy surveillance, or tight transcarceral grip, they are subjected to. This produces a state of de facto civil disenfranchisement, understood by *excarcelados* (released political prisoners)² as “civil death.” In spite of their predicament, however, released political prisoners continue to organize in the face of the violations they are subjected to. What is more, contrary to regular prisoners, they have significant symbolic resources to do so.

Researching political imprisonment: A note on methods

It is not uncommon for research on political imprisonment to rely mainly on the (auto)biographic, at-distance or posterior collection of testimonial, visual, documentary and other kinds of research materials, as the political regimes in place often prohibit direct investigation (A. & Gaborit, 2021; Kenney, 2017). This is no different in Nicaragua. While the Inter-American Commission on Human Rights’ special mechanism for Nicaragua was able to investigate enough to conclude that crimes against humanity were committed in the repression of the protests, by the end of 2018 they were expelled from the country around the public presentation of this conclusion (GIEI Nicaragua, 2018).³ Expulsion would

follow for a myriad of other international bodies and national human rights organizations, particularly following the 2021 implementation of a package of muzzle laws restricting the scope, funding and accountability mechanisms of NGO's and CSO's, stripping hundreds of them of their legal personae and in some cases even confiscating their offices (Amnesty International, 2021). The very institutions now permanently barred from the prying eyes of press, researchers and human rights investigators⁴ – prisons and police jails – had been the object of my previous ethnographic research. Carried out between 2009-2016, as the state and its institutions were increasingly politicized and Nicaragua took an 'authoritarian turn' (Morris, 2023; Rocha et al., 2023), that research left me with extensive knowledge of Nicaragua's hybrid carceral system and its violent internal practices. It also left me with a network of research collaborators both in and outside prison, which would later facilitate my at-distance research with (released) political prisoners, their family members and organizations.

It is difficult not to overstate the devastating effects – socially, emotionally and academically – of what has been the region's most violent outburst of political repression since the end of the Cold War. Unfortunately, political persecution quickly hit close to home. Amid the Clean-Up Operation, a good friend was picked from the street by police and subjected to brutal interrogation techniques. Danny was arrested a few months later. I had known him for about ten years then. For many of those previously roped into the carceral state through regular imprisonment, the mass protests offered *the* opportunity to "unite against the police," as the prisoner-curated SPN La Modelo Facebook page noted, calling on "thugs from all neighbourhoods to leave their beef and help the people."⁵ In the vein of critically engaged ethnographic practice (Clarke, 2010), I soon found myself organizing with the diaspora and mobilizing my previous research toward advocacy and activism with *autoconvocados*, family members of political prisoners and, later, released political prisoners. The present research is therefore embedded both in an ongoing ethnographic endeavour,⁶ as well as human rights research conducted in collaboration with released political prisoners' and family member organizations (e.g. RIDH, 2020; UPPN, 2022). Keeping in mind the Nicaraguan state's vested interest in delegitimizing the stories of released political prisoners – drawing in particular on Cold War rhetoric of an "imperialist intervention" that casts the 2018 protests as a "failed coup attempt" and legitimizes their resort to armed repression against an enemy threat⁷ – the materials presented here center the perspectives and experiences of the victim-survivors of state crimes.

In particular, this paper draws on collaborative work with the *Unión de Presas y Presos Políticos Nicaragüenses* (UPPN, Nicaraguan Political Prisoners Union), who refer to themselves as an *organización de víctimas* (victims organization). The UPPN was born in March 2019, in the direct aftermath of the protests, following the first wave of arbitrary detentions related above. In the run-up to Nicaragua's periodic revision before the UN Committee Against Torture (UN-CAT) I collaborated with the UPPN's Commission for Justice on the

production of a shadow report (see UPPN, 2022). This report was based on the extensive testimonies that of part of their membership provided regarding the human rights violations they suffered at the hands of police agents, prison officers and para-state operatives (n=30). These testimonies were given by 20 released male and 10 released female political prisoners, who were imprisoned in the direct aftermath of the 2018 protests. They were all released between the end of 2018 and 2019, following the implementation of the controversial Amnesty Law (when the government decided to release most political prisoners, but also unilaterally exculpated itself from all crimes committed during the repression of the protests). We complemented these testimonies with follow-up interviews conducted between April and May 2022 (n=21) on the basis of an extensive interview guide they asked me to develop to gauge the consequences and aftermath of political imprisonment in their post-release lives. Though this dataset is limited and should be understood with the particular conditions and time period of their detention and release in mind, the testimonies of other political prisoners detained and released since 2019 share key characteristics with this group. This has been underlined by declarations of the 222 political prisoners released in February 2023, who were boarded on an airplane and stripped of their nationality ('deported') as the Nicaraguan National Assembly approved a new law blatantly violating the international right to national belonging (GRHEN, 2023).

Carceral citizenship in a hybrid carceral system

In Latin America, with citizenship regimes highly stratified between the haves and the have-nots, policing tends to focus on the provision of "citizen security" to the more affluent or 'law-abiding' citizenry, while those perceived to produce (feelings of) insecurity are effectively projected and treated as non-citizens (Alves, 2018; Bergman, 2018; González, 2021). In many cases, prison then comes to serve as a repository for these criminalized Others (Birkbeck, 2011; Weegels, 2020a). According to Miller and Stuart (2017: 533), "carceral citizenship begins at the moment of a criminal conviction and is distinguished from other forms of citizenship by the restrictions, duties and benefits uniquely accorded to carceral citizens, or to people with criminal records." This makes it a differentiated but technically finite citizenship regime, in the sense that it has a clear starting point as well as a projected end point, namely when a formerly incarcerated person's parole ends or criminal record can be expunged. However, as incarceration unequally affects different sectors in society, especially those marginalized, excluded and criminalized, the *experience* of carceral citizenship is strongly tied into the intersectional experience of forms of second-class or even non-citizenship (Lerman & Weaver, 2014; Massey, 2020). Paradoxically, becoming a carceral citizen is also often the first time many incarcerated people are guaranteed any rights at all (De Leon Villalba, 2018).

Inside prison, states become formally responsible for the lives of those they incarcerate (UN, 1955). They are moreover obliged to treat incarcerated people

with “respect for their inherent dignity and value as human beings,” and provide them with adequate housing, sanitation, nutrition and health services (UNODC, 2015). Yet most Latin American prison systems are characterized by overcrowding, understaffing and a general lack of resources as a result of (deliberate) political negligence on part of most governments in the region (Carranza, 2012; IACHR, 2011; Sozzo, 2022). Perhaps most striking in the face of the region’s carceral turn⁸ is that, even as the systematic violation of prisoners’ human rights persists, *all* Latin American legal systems do “recognize resocialization as the purpose of imprisonment” (De Leon Villalba, 2018, p. 19). Even as deprivation of liberty is legally the punishment adjudicated, then, incarcerated people often remain (extralegally) subjected to additional forms of physical or psychological punishment, exclusion, and deprivation (IACHR, 2011) – so much so that in many countries these have become part and parcel of prison governance practices (Darke et al., 2021; Sozzo, 2022).

In Nicaragua, the use of violence is a key extralegal governance practice. As I have explored in-depth elsewhere (2018, 2021), Nicaragua is home to a hybrid carceral system that is strongly tied into the reemergent Sandinista party-state. Prisoners and former prisoners colloquially refer to this system as *el Sistema* (the System). This *Sistema* encompasses not only the formal criminal justice system (police, prison system and judiciary), but also an extralegal system of state power melded with political and criminal power. Within the *Sistema*, mutual entanglements of (para)state and criminal governance manifest in different configurations – akin to the “criminal governance networks” described by Enrique Desmond Arias (2006), and the “hybrid state” described by Rivke Jaffe (2013). These configurations exceed the formal criminal justice system to include the full relational system of actors that are able to exert their power over and through the state apparatus, including its executive, legislative and governing institutions. This way, incarceration produces carceral subjects that can be acted upon both by the penal state’s *legal* framework (Garland, 2013) and the *Sistema*’s *extralegal* governance practices. These extralegal governance practices have become so engrained in the criminal justice system that the *Sistema* might best be understood as an expansive *hybrid carceral system*, which emanates from a highly politicized institutional framework.

Until the 2018 protests, the *Sistema* was largely veiled by public secrecy and its capacity to make its extralegal operations appear legitimate. Yet its full-scale deployment in the crackdown on the protests pushed its existence into the spotlight. An overt collaboration between the National Police and armed para-state groups pertaining to the governing political party, the Frente Sandinista de Liberación Nacional (FSLN, Sandinista National Liberation Front), was for instance immediately evident during Operation Clean-Up (GIEI Nicaragua, 2018). These kinds of para-institutional collaboration proved extant beyond the police during the subsequent persecution of demobilized protesters, when the legal premises of due process were violated substantially (Amnesty International, 2018; GRHEN, 2023). During the first wave of arbitrary detentions, hundreds of

people were arrested without judicial or police warrants, sometimes in joint police and para-police operatives. Most were subsequently held without being charged or without timely and regular access to a lawyer, well beyond the legal term for *habeas corpus* (48 hours at the time). If indicted, prosecutors presented trumped-up or even false criminal charges – usually for ‘common’ crimes such as drug dealing or robbery. They did so largely without presenting evidence, by producing false ‘evidence’, or including the presentation of (false) testimonies of government supporters and/or police officers. The judiciary was not only willing to accept these flagrant violations, but also actively participated in the reestablishment of political persecution by hosting closed-door hearings without proper conditions for legal defense or mechanisms of accountability, and in some cases even adjudicating sentences well beyond the penal code’s limitations on sentence duration (GHREN, 2023). Firmly rooted in the party-state system, the judiciary thus subordinated itself to orders from the executive branch rather than constitutional and legal codes, whereby its control-function on the executive evaporated (see also Figure 1).

How might we think of the enactment and experience of carceral citizenship in a system where its “restrictions, duties and benefits” depend not only on a shifting legal realm then, but also on an expansive realm of extralegal governance practices and actors? This is pivotal to consider because in such circumstances incarcerated people’s rights and duties depend not only on state institutions wielding significant discretionary power, but also on carceral communities hierarchically organized both in opposition to and allegiance with (para)state actors (much like other countries in the region, such as Brazil, Guatemala, and Venezuela; see also Darke et al. 2021; Daudelin & Ratton, this issue; Fontes, this issue). Crucially, Nicaragua’s prison system holds out privileges – the highest of which is early release – that incentivize obedience to the *Sistema* even in the face of systemic injustices. While *benefits* can thus be obtained, *rights* are never guaranteed. After all, the *Sistema* continuously proves itself willing and able to act with impunity beyond the very laws in place to gird it. This became especially clear through the ex post facto expansion of and amendments to the penal code and procedures, penalizing previously legal activities (such as protesting or sharing anti-government opinions on social media), and providing legal space for the violation of due process (by extending, for instance, the term for *habeas corpus* from 48 hours to 90 days).⁹ Still, the exceptional practice of ‘law’ persists. The judiciary, for instance, failed to timely indict people incarcerated in the new wave of detentions leading up to the 2021 presidential ‘elections’. Also here, leading opposition figures were not indicted until long after the 90-day period transpired. New laws and legal amendments thus appear to be implemented not only to signal the expanding realm of possibility for political persecution and its minimum conditions, but also to remind carceral subjects that even if the law is amended, it can still be broken at the will and whim of political powerholders, particularly as a form of extralegal punishment.

This way, the Nicaraguan party-state and its *Sistema* behave much like an Agambenian state of exception – “a no-man’s-land between public law and political fact, and between the juridical order and life” (Agamben, 2005, p. 2), in which “what is at stake is a force of law without law” (Agamben, 2005, p. 39).

Crucially, rather than access to rights, the enactment of carceral citizenship in Nicaragua then comes to relate to incarcerated people’s access to *participation* in the social, political and economic life of this hybrid carceral system. Normally, particular benefits and duties can be derived from this system, the distribution of which is tied into the co-governance arrangements in place between authorities, prisoner councils and powerful prisoners. Such arrangements engage particular (groups of) prisoners in surveillance and administrative duties on behalf of the authorities, while they also include authorities in the extralegal enforcement of order and management of prisons’ illicit economies.¹⁰ They also include an array of extralegal governance relations and practices that make authority control over prison at least in part dependent on prisoner self-governing practices and vice versa. Albeit mostly tacitly and covertly, co-governance arrangements thus hinge on a constant negotiation of power mediated by the deployment of violence and collusion on both ends of the stick. Through the shared maintenance of prison’s social order, incarcerated people thus partake in the benefits and fulfil the duties of hybrid carceral citizenship. While the largest benefit this system holds out is selection for early release, the biggest duty is the performance of respect and “gratitude” to the custodial regime (i.e. the prison institution and the Sandinista state), particularly to *el comandante y la compañera* (the president and his wife, the vice-president), who stand at the pinnacle of the *Sistema* and without whom early releases would not be granted.¹¹ Though all of this makes prison life quite volatile, in the eyes of ‘regular’ (formerly) incarcerated people it also provides possibilities for negotiation and the exercise of agency, which takes the pressure off a system that is significantly overcrowded and underfunded.

Importantly, regular incarceration is usually reserved for those who do not have the financial means or the political *palanca* (springboard) to ‘negotiate’ their way out of an indictment or conviction. Prisons are thus essentially spaces of poverty and (delinquent) *color*, reserved for those who interrupt the Sandinista communitarian order (Weegels, 2020a). Though this coloured/class difference was largely reproduced in the first wave of mass post-protest detention, when lower class *autoconvocados*, students, peasant leaders and “media traitors” were targeted in particular – reproducing the notion that wealthy opponents and well-known longer term dissidents were “untouchable” – this would be inversed a number of years later. As the government shifted its focus from punishing the poor and unconnected, they went after those they held financially and politically responsible for the uprising. Also here, their treatment of those who had once been on their side was excessive. That said, they never stopped politically imprisoning ‘regular’ protesters (*gente de a pie*). While they kept those in leadership positions separate (largely in isolation at the newly erected Evaristo

Vásquez police complex, commonly referred to as the new Chipote), ‘lower class’ political prisoners are still transferred principally to La Modelo men’s and La Esperanza women’s penitentiaries.

Protesters’ violent subjection to hybrid carceral control

The deployment of governance practices and actors emanating from Nicaragua’s hybrid carceral system was directly evident in the repression of the 2018 protests. While the first response was to kill and only later to imprison, the latter governance technique was deployed with significant violence.¹² Following from the above, and taking into account the particular momentum of the mass post-protest detentions, out of the 30 released political prisoners providing testimony toward the shadow report, 25 reported the use of excessive force by their captors, largely while already handcuffed. Danny too noted that “once the patrol truck drove off, the insults began [...] then the kicking.” Like him, most of these 30 *excarcelados* passed through the old El Chipote jail. They reported repetitive interrogations at all hours of the day for several days on end, as well as the constant use of insults and obscene language, mockery, and/or forced nudity. In effect, we reported incidences of torture across 16 categories of the methods of torture explored by the Valech Commission¹³ and the vast majority were tortured in more than one way. Aside from the number of methods applied, 93 per cent reported the repeated use of torture methods, especially threats and beatings during interrogations.

The use of torture and the involvement of both state and para-state actors in these acts had the effect of producing an imminent sense of ontological insecurity among detainees, who suddenly found themselves in that “anomic space in which what is at stake is a force of law without law” (Agamben, 2005, p. 39). Especially for those who had never been in prison, the violence deployed and range of potential outcomes seemed limitless. Though they were already aware the party-state would stop at nothing to take back control over the country, precisely its hybridity and track record for the extralegal deployment of force meant they knew themselves in imminent danger. Expelled from the nation’s moral community as treacherous, anti-communitarian subjects (deemed ‘terrorists’, ‘coup-mongers’, ‘delinquents’, ‘criminals’, ‘vandals’, ‘vampires’, etc. in government discourse), they were not only *told* but made to *feel* from the moment of their arrest that any regular citizenship rights and benefits they may have enjoyed before were lost beyond repair. Though I will not repeat their horrifying accounts of physical and psychological torture here (these are documented amply in the report *Detained, tortured and displaced: Political imprisonment and its aftermath in Nicaragua*) I will present some of the report’s key findings as they pertain to the way in which the hybrid carceral system impinged itself on this particular group of detainees, pointing to their distinct experience of carceral subjectivation or ‘citizenship’ and control.

Though the deployment of beatings upon arrest or at police precincts is unfortunately quite common in Nicaragua (CENIDH, 2017; Weegels, 2018), political prisoners' distinct inauguration into carceral citizenship was already noticeable upon arrest, both in the degree of extralegal punishment and logistics of penal incorporation. Presumed guilty ahead of any legal procedure, they were to be immediately punished for their transgression of "the people's peace" and secluded to the nation's toughest jails. This literally placed a larger distance between political detainees and their personal and political networks, who would often be kept in the dark about their precise whereabouts for days on end. The fact that they were politically detained, also meant that any attempt to deploy financial or political resources to leverage release was futile, especially once transferred to Managua. Unlike regular arrestees, political detainees were mostly transferred from their local precincts to Managua within 24 hours of their detention – mainly to El Chipote, and in some cases directly to La Modelo. Though it was precisely at some local precincts – like Masaya, Nindirí and Jinotepe – that the most heinous forms of torture were executed between police and para-state operatives, their transfer to Managua marked their transition to an inevitably uncertain and long period of arbitrary detention. In all but one of the cases, released political prisoners pointed to police agents as the material actors of the acts of physical and psychological violence they suffered.

Only two of the victim-survivors reported receiving (partial) medical care following these acts of torture. Even in the five cases of reported sexual assault and rape,¹⁴ no medical care was provided after the fact, causing severe, lasting consequences for the survivors – physically, medically, and psychologically. This points to a serious and systematic negligence of the institutional duty of care and medical assistance. Though the lack of adequate medical care is quite common in Nicaragua's prison system, in the case of politically motivated arbitrary detentions it conveniently served so as not to leave administrative traces of the enacted torture, thus hindering the process of accountability, justice and reparation. In most cases, authorities even went so far as to ensure that the physical marks of their actions were not observed by relatives or legal representatives of the victims, for instance by not duly informing them of the whereabouts of their loved one or with the permission to visit the detainee for several days or even weeks after the arrest. This was often complemented by threats with greater acts of violence against the detainees or their relatives if they were to speak of what happened to them.

Inside the prison system, political prisoners were largely excluded from participation in prison's co-governance arrangements, as they were not allowed onto the prisoner councils, precluded from reeducational activities (such as schooling, sports, and prison work), and by and large from prison's illicit markets. This curtailed their possibility to participate in spaces and activities aimed at the construction of carceral citizenship and the obtainment of its benefits, such as (illicit) resources, yard time, education, sports, and cultural activities, including (for reeducational activities) the related points toward sentence reduction.

Most were also physically segregated from regular prisoners. A significant portion was either temporarily or permanently relegated to sites of solitary or ‘maximum security’ forms of confinement – such as the Chipote jail, or La Modelo’s maximum security pavilion known as *la 300*. In these highly isolated spaces, the only activities available to them were religious. In the old Chipote jail, for instance, an evangelical cult would be organized once a week, which would pass by all detainees’ cells on the long corridor, and allowed for the participation of those incarcerated by way of collective singing, clapping and the sharing of experiences shrouded in the recital of biblical verses. Fito, who spent little over a month in the old Chipote jail before being transferred to the new Chipote facilities, reminisced that “over the course of the next 2-3 hours they would slowly make their way from one end of the corridor to the other – even if you weren’t religious, that was sacred time.” He explained it was a key moment for detainees held at El Chipote to find out who else was on the corridor and how they were doing, while also being able to express emotion through religious code, and depositing their desires for release in a higher power.

Yet not all political prisoners spent their all their prison time in such heavily surveilled spaces. In the case of the male majority transferred to La Modelo penitentiary in 2018, prison authorities resorted to two techniques for population management. They segregated dozens of political prisoners in a new cellblock, *galería 16*, and scattered the rest over regular prison cells (which hold between 8-15 people). Importantly, in the latter case, they would only include one political prisoner per cell and generally not in all cells on a block, as they quickly realized that most regular prisoners tended to express solidarity with the political prisoners. Though placement in regular cells still precluded political prisoners from participation in all activities outside the cell (yard time, educational, sports and religious activities), it did allow them access to some illicit benefits, like cell phones. That said, their presence often led to more regular searches, which placed them on tense footing with those attempting to conduct illicit business on the cellblock. At the same time, authorities would often make sure they were placed in cells that housed a prisoner council member, to facilitate their close surveillance without needing to sit outside their door. In other words, political prisoners were brought into the logics of the co-governance system, but largely precluded from its legal benefits, while required to perform all its duties – compliance first and foremost.

In the large dorms of the segregated *galería 16* (which could hold up to 100 prisoners each), a different story unfolded. Consisting solely of political prisoners – both *pintas* and *muchachos* as Danny would say (i.e. people ‘of the street’ with criminal records and protesters with no prior prison experience) – the dorms were more difficult for the authorities to govern. However, they did not seem to be particularly interested in this either. Within months, *galería 16* came to fall under prisoner self-governance. Informed by regular prisoner’ self-governing practices, as well as practices of resistance and survival developed during the protests, the political prisoners managed to claim the cellblock entirely to

themselves. The first sign of this was a small riot organized early March 2019, which was swiftly repressed, but led to a settlement that authorities would no longer enter the dorms. “It was beautiful,” Danny recalled, “in spite of all the deprivations and everything they had done to us [...] we felt like we conquered some space for ourselves, a little dignity, from which we could confront the everyday reality of being in prison.”

This would come to an abrupt end on 16 May 2019, however. Following a disagreement with prison guards, another riot began and before long, the political prisoners had broken through the cellblock’s roofing and stood chanting and yelling from the top of what was supposed to be Nicaragua’s toughest prison. Rather than negotiating another settlement, the authorities met this protest with lethal violence. For the first time in over 30 years, a prisoner was shot dead during a riot. The 57-year old Eddy Montes, a kind man who would spend his time playing checkers, presiding the religious cult and providing advice to the younger prisoners, was killed by an automatic rifle bullet to the back. The political prisoners were crudely reminded of their place as disposable subjects, of their status as enemies of the state, and of the fact no rights were guaranteed to them – not even the right to life. The authorities severely beat other protesters as they repressed the riot, but did not need to kill more than one prisoner for ontological insecurity to take root again. Don Eddy’s death forced all political prisoners to reckon with the fact that the array of possibilities was expanded with that of death, for which no justice could be sought in the face of the *Sistema*. On the contrary, they were to express gratitude for being kept alive.

For political prisoners, the experience of carceral citizenship thus included a process of subjectivation to the functioning of the *Sistema*, which restricted them from most arenas of participation available to regular prisoners. If they could however, like regular prisoners, *portarse vivo* (be clever) and keep their heads down, there were ways in which the continuous violence reserved for them could be toned down. Keeping one’s head down is however not in the nature of most political activists and it would be wrong to think this depends only on their attitude. After all, the *Sistema* reserves the prerogative to act outside of its previously established governance regulations (including the law) at will. That is to say, there are no guarantees that obedience will lead to any kind of lenience, and there are no rights.

Civil death and the search for justice

Much in the same sense that this generation of political prisoners’ intramural experience of carceral citizenship was marked by their repeated subjection to extralegal governance practices, their extramural experience was characterized by restrictions emanating from a strong continued presence of the hybrid carceral system in their lives. This started with the way in which they were released. Following the pattern of extralegality, no political prisoner to date has been released upon the formal termination of their sentence, not even those whose

sentences have in fact terminated (like Marvin Vargas and Jaime Navarrete). Yet most political prisoners have in effect been released, in spite of their original sentence terms far exceeding the time they spent in prison. Generally, larger and smaller bouts of collective releases occurred upon the presidency's whim – whenever they decided it was a politically convenient moment for a show of power or 'good faith'. It is highly likely, for instance, that mounting international pressure following the death of Eddy Montes, combined with the internal need to relieve pressure off the prison system at risk of more riots, resulted in the 2019 Amnesty Law under which this generation of political prisoners was released. Beyond its use as an external strategy, holding out the possibility of early release (and practicing it) moreover works to pacify prisons internally – a technique the Nicaraguan government has already deployed vis-à-vis regular prisoners for over a decade (Weegels, 2019, 2020b). Prior to 2018, this was primarily how the Sistema sought to augment the desired effect of prisoner compliance, all the while enhancing its discretionary power.

Contrary to what one would assume for an amnesty, most of the records of those released under the 2019 Amnesty laws were not expunged. In effect, they largely remained tied to the carceral system through the legal figure of *convivencia familiar* (family cohabitation, which is the penal system's final regime phase, comparable to probation). This figure was even applied to some excarcelados who were never sentenced in the first place. Importantly, this legal figure largely prevents formerly incarcerated people (both regular and political) from leaving the country and makes it difficult for them to relocate internally, as it obliges them to comply with a period of weekly or bi-weekly visits to the courthouse to 'sign' with the judge, among other restrictions. In the case of released political prisoners, following the workings of the hybrid carceral system, not only local police but also para-state operatives – including members of the government-aligned Consejos de Poder Ciudadano (CPC's, Citizen Power Councils) – were subsequently mobilized for their post-release surveillance. This way, they experienced a tight transcarceral grip.

Bringing Ben Crewe's (2011, p. 524) conceptualization of prison's "penal grip" – that is, a "lighter but tighter hold over prisoners' lives" that "turns the self into a vehicle of power rather than a place of last refuge" – into dialogue with work done by feminist carceral geographers on prison's transcarceral workings through the stigma formerly incarcerated people carry with them (e.g. Allspach, 2010; Moran, 2014), I proposed the notion of a *transcarceral grip* to better understand how carceral logics such as surveillance, stigma, violence and control follow formerly incarcerated people into their post-release lives (Weegels, 2020b). This transcarceral grip is articulated through continued carceral intervention and post-release stigma in formerly incarcerated people's lives, which are deemed to give them *color* (a delinquent stigma or bad reputation). In the case of released political prisoners, this prison *color* or delinquent stigma is compounded by the political *color* of opposing the regime. Of course, the transcarceral grip emanating from a hybrid carceral system works by not only legal

but also extralegal means. This way, outside prison, carceral citizenship continues to be brokered and enforced in ways that exceed the legal framework. For *excarcelados*, this exacerbates the physical, psychological, social and economic consequences of their imprisonment, which they explain as conducive to an actual or a sense of “civil death”.

The extensive network of extrajudicial surveillance that almost permanently harassed *excarcelados* reduced many to public silence and the non-exercise of their fundamental and civil rights. Of the 21 *excarcelados* interviewed with the UPPN on the aftermath of their imprisonment, all developed medical conditions due to the conditions of their imprisonment and/or the torture they suffered. They also reported various psychological and mental health sequelae, including (severe) depression, anxiety, paranoia, recurring nightmares and insomnia – leading, in some cases, to suicide attempts. The denial of basic rights extended far beyond the denial of medical care (and the eventual closure of the few NGO’s who provided mental/health services to *excarcelados*): Seventeen out of the 21 interviewees reported the loss of or expulsion from their job and difficulty in obtaining new employment; twelve were expelled from their educational center; nine were denied public services related to the renewal or production of an ID, and eight were denied other forms of public service, like the renewal of their driver’s license or provision of work permits. None felt safe to go to the police if they would be the victim of a crime, believing it more likely they would be detained than any action to be taken against a potential aggressor. These formal mechanisms of exclusion were exacerbated by recurring incidents of (para)state surveillance or harassment. Many would notice police patrols or unmarked cars parked in their street, and police or para-police operatives (often referred to as *grupos paramilitares* or *motorizados*) taking pictures outside the house or following them across the city.

The tight transcarceral grip they found themselves in, which expressly restricted them from political organization and participation too, led many to experience it as a *muerte civil* (civil death). “You can’t express yourself freely and must always be careful not to suffer any violation of your rights,” Rohana explained. “You don’t feel safe to use public services, much less to use your civil and political rights.” Following her release from prison, she has not been able to get a stable job or exercise her profession. Facing continuous police harassment and community ostracization, she eventually fled the country. Many furthermore indicated that their families suffered similar types of exclusion from public life, rights and services they did. In other words, the transcarceral grip extended to their families and close friends. Yadira noted, for instance, that “my three youngest children were denied public education in the public school system and my eldest son was denied entry to the UNAN and the UNI [two public universities in Managua].” Similarly, Juan indicated that “my mother has had [medical] emergencies and they have not treated her at the public hospital [...] My sisters have not been able to resume their studies, nor do they go to state institutions or to the police or public health services.” I heard numerous such stories from the

family members of political prisoners too – mothers whose homes were constantly surveilled, sisters who were fired from their government jobs, partners who suffered the loss of clientèle due to (para)police harassment of customers. All of these are manifestations of the expansiveness of carceral citizenship by association, emanating from and enacted by the party-state’s hybrid carceral system. It is no coincidence then that a significant share of released political prisoners currently lives in exile, in spite of wanting “nothing more than to be in my country,” as Tomás noted.¹⁵

Admittedly, released political prisoners experience many of the same restrictions imposed by the *Sistema*’s transcarceral grip former regular prisoners do (Weegels, 2020b). Still, this grip holds most released political prisoners significantly more tightly. Yet – and this may sound strange – there is a fundamental advantage they hold over regular prisoners when it comes to contesting this grip: though they are ‘guilty’ of political activism, they are criminally innocent. This means that their experiences with the hybrid carceral system and its transcarceral grip are believed, widely documented and made to count.¹⁶ In other words, even if digitally or from exile, they can organize socially and politically around their victimhood, to seek justice for the injustices they suffered and advocate against carceral expansion.¹⁷ Though they are barred from doing so formally, with all national roads to justice cut off, they have successfully done so informally, internationally and via social media, and can count on popular support – both inside Nicaragua and in exile. Fighting their way to a seat at the table in coalitions and initiatives looking for transitional justice (for instance by organizing the report these testimonies are part of), their organizations have gradually become institutionalized and taken into account. In this context, their experience of carceral citizenship paradoxically provides them with the ‘benefit’ of inclusion in initiatives for transitional justice and criminal justice transformation.

Conclusion

This paper demonstrated how pivotal it is to include the dimension of the extra-legal in conceptualizations of carceral citizenship, so that all the ways in which carceral control (both formally and informally) impacts people’s experiences of citizenship can be better understood. I did so by following a group of protesters detained, imprisoned and persecuted in the direct aftermath of Nicaragua’s mass anti-government protests in 2018 into and back out of prison. With the re-emergence of political imprisonment, a differentiated carceral citizenship regime emerged, separating ‘regular’ from ‘political’ prisoners and precluding the latter from participating in the hybrid *Sistema*’s co-governance arrangements. This largely segregated reality meant that carceral citizenship’s benefits remained largely unavailable to political prisoners, while the duty of compliance was imposed on them with excessive force. The tight transcarceral grip they were subjected to post-release subsequently produced a state of de facto civil disenfranchisement, which they understood as civil death. In spite of their predicament,

however, released political prisoners continue to organize in the face of the *Sistema* and the violations it has committed (and continues to commit). Drawing on their *status aparte*, they are able to point assertively to the extralegal articulations of the *Sistema* and the expansive qualities of this authoritarian carceral state. If we listen carefully then, we might better understand how authoritarian penal power articulates in hybrid ways and, as a result, might begin purposively deciphering what it would take for such systems to break and be brought to justice.

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Notes

- 1 Unless noted otherwise, all names are pseudonyms to ensure the participants' safety. Place names, except for prisons, are generally omitted for the same reason.
- 2 Released political prisoners stress this term over the use of, for example *liberados* (freed political prisoners) or *ex-presos politicos* (former political prisoners), because "we are not free, we have simply been released." In many cases their release was conditional, not complete, and they are still subject to post-release surveillance, as I will explain in detail.
- 3 Confirmed by the United Nation Group of Human Rights Experts on Nicaragua (2023).
- 4 This situation was not entirely new, as Nicaragua's institutional closure from public scrutiny evolved gradually following the FSLN's return to power in 2007, and had affected my previous prisons research too (Weegels, 2021).
- 5 25 April 2018. Unfortunately, like many others, the SPN La Modelo Facebook page was taken down in 2019. It was curated by people incarcerated at La Modelo and formerly available at <https://www.facebook.com/SPN-La-Modelo-Nicaragua>. For years, it offered a unique glimpse into the country's largest prison (see for example "From drugs to pet iguanas: Snapshots from a Nicaraguan prison", France24, 5 January 2016, <https://observers.france24.com/en/20160105-drugs-prison-nicaragua-facebook-photos>).
- 6 Though this started out as a digital ethnography, it gradually came to include face-to-face encounters with released regular and political prisoners and their family members in exile, including since the start of 2023 regular group encounters toward the creation of a community theatre performance. This varied set of engagements has provided me with a deeper understanding of the different ways in which the political crisis continues to impact both the prison system itself and the lives of those drawn into it.
- 7 Embedded within a longer process of authoritarian control and media convergence (Cupples & Glynn, 2018).

- 8 For an overview see the introduction to this special collection (Parker & Weegels, 2023).
- 9 Political scientists and legal scholars have referred to this phenomenon as autocratic legalism (Corrales, 2015; De Sa de Silva, 2022).
- 10 Weegels, 2018. Formally, prisoner councils (*consejos de internos*) are delegated with the surveillance of the carceral community by keeping attendance lists for re-educational activities, for instance, but also they are charged with the presentation of prisoner complaints to the administration, or even settling disputes among prisoners. While they are generally perceived as *sapos* (snitches) by the prisoner body, the councils cannot consist of entirely disrespected prisoners, as they are also needed in their function as brokers between the authorities and the internal prisoner hierarchy for the reverse provision of information. This hierarchy is in turn made up of prisoners who can come to wield significant power on the cellblocks due to both the economic gains they make on the illicit terrain of prison's drug markets and their expertise as violence specialists.
- 11 The presidency has extralegally bestowed upon itself the discretionary power to select prisoners for early release since the early 2010s (Weegels, 2020b). Around 25.000 regular prisoners have been released in this way, mostly through ceremonial performances of gratitude.
- 12 Though people were all targeted for their participation in the protests, the net cast was significantly wider in terms of class origin and political trajectory in the direct aftermath of the protests than subsequent waves of political imprisonment, as the government appeared to be interested in maximal societal deterrence, the overt punishment of sectors they considered to be betraying them (such as the urban poor in former Sandinista strongholds such as Masaya, León and Managua), and the identification of movement leadership structures.
- 13 Due to its breadth and resonance with the Nicaraguan context, we borrowed the categorization of torture methods elaborated by the Chilean National Commission on Political Imprisonment and Torture (Valech Commission in short) for the UPPN report.
- 14 Three of them were male, two female. In all cases the assault was leveraged as a punishment or interrogation 'technique'. The dynamics of male-on-male sexual assault and rape differ from those of women, as they tie into discriminatory dynamics around homosexuality and emasculation, for which respectively penetration with the sexual organ or penetration with an object are commonly considered 'better suited'.
- 15 Perhaps the most extreme form of civil death is the loss of Nicaraguan citizenship, which was exercised against 222 released political prisoners and 94 other well-known dissidents in February 2023.
- 16 Contrary to regular prisoners, whose *color* generally precludes them from seeking justice for extralegal harms (Weegels, 2020a; see Varner, 2019, on the adjudication of guilt, innocence and citizenship).
- 17 Unlike in the United States or Europe, regular (former) prisoners do not usually associate for criminal justice transformation or repair, and are discouraged to do so (Smith & Kinzel, 2021; cf. Weegels, 2020b).

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