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HOUSE OF COMMONS
CHAMBRE DES COMMUNES

The Honourable Irwin Cotler, P.C., O.C., M.P., Mount Royal
L'honorable Irwin Cotler, C.P., O.C., député, Mont-Royal

March 19, 2012

President Daniel Ortega
Attorney General Julio Centeno
Republic of Nicaragua
Managua, Nicaragua

Dear President Ortega and Attorney General Centeno:

I am writing as a Canadian Member of Parliament, former Minister of Justice and Attorney General of Canada, law professor, and counsel to such individuals as Nobel Peace Prize Laureates Nelson Mandela and Andrei Sakharov to convey my serious concern regarding the wrongful conviction and ongoing mistreatment of an American citizen, Jason Puracal.

I understand that wrongful convictions occur in every criminal justice system in the world. During my own time in the Canadian government, I ordered the review of seven cases in Canada where I determined that there was compelling evidence of a miscarriage of justice. Ultimately, all seven individuals had their convictions quashed or were acquitted of the charges against them. But without the reviews of these cases, these individuals might well have continued to languish in prison for crimes they did not commit.

Having reviewed Jason Puracal's case in substantial detail, I would urge you to order such a review of his case. His wrongful conviction is, to be frank, even more clear and compelling than some of the cases where I ordered such reviews in Canada. I have no doubt that Mr. Puracal's conviction is a serious miscarriage of justice.

This is not just my opinion – the California Innocence Project, which reviews claims of more than 2,000 imprisoned people annually, has adopted Mr. Puracal's case as one of 10 it selects each year to work on. It only adopts the small number of cases where it concludes "there is strong evidence of factual innocence." And there is growing attention being paid internationally to the grave injustice that has been perpetrated against Mr. Puracal.

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Mr. Puracal moved from Seattle to Nicaragua in 2002 to serve in the U.S. Peace Corps. After his service, he stayed in Nicaragua, bought a real estate company, and married a Nicaraguan woman with whom he has a four-year-old son. On November 11, 2010, the Nicaraguan police raided Mr. Puracal's office, seizing all the computers and files. They then forced their way into his house without a warrant, searched it and his truck, but found no evidence of any crime. Nonetheless, the police arrested Mr. Puracal, and he has been held in a Nicaraguan prison ever since. Mr. Puracal (along with ten other defendants, none of whom he knows) was charged with drug trafficking, money laundering, and organized crime. After being held without evidence for nearly 9 months, he was wrongfully convicted and sentenced to 22 years in prison.

Mr. Puracal has repeatedly declared his innocence and the prosecution's own witnesses at trial demonstrated that he did not commit the crimes with which he was charged. The police witnesses testified that they never recovered any drugs in his possession or in his office, home, or truck. Similarly, the police and prosecutors failed to understand basic real estate procedures, including the function and use of an escrow account, which would have explained Mr. Puracal's legitimate business transactions. Moreover, during the trial, Mr. Puracal's due process rights were severely violated. He was denied the opportunity to present key witnesses in his defense, to access exculpatory evidence, or to have confidential communications with his attorney – all of which contributed to his wrongful conviction.

In addition, the presiding judge, Artola Narvaez, was not qualified to be appointed to the bench. To be a district court judge under the Nicaraguan Constitution, one must have practiced as a licensed attorney for at least three years and have served as a local judge for at least two years; yet Judge Narvaez did not meet either required qualification. Finally, during the trial, the judge shifted the burden of proof to Mr. Puracal, forcing him to prove his innocence, an action that violates both Nicaraguan and international legal standards.

Mr. Puracal, as I have been able to appreciate, also suffers under terrible conditions in prison where he has been denied edible food, potable water, and proper medical care. He is currently sharing a 15' x 15' concrete cell with seven other men. Inside there is no running water. The cell includes an area that is 3' x 5' with a hole in the ground that serves not only as a toilet, but also a sink, shower, and dishwashing area. The cell, including his bed, is infested with ticks and ants. Consequently, Mr. Puracal suffers from bites all over his body. He is allowed only an hour of sunlight once per week; however, the area to which he is taken shares space with an open sewer system, making the one-hour excursion unbearable. Mr. Puracal is unable to regularly drink the water, which is infected with parasites, and he cannot eat the

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two portions of beans and rice provided daily because they are laced with bicarbonates. He previously had to be hospitalized after his digestive system reacted to the bicarbonates. Thus, he has to rely on weekly food deliveries from his family, but often has to go days at a time without eating. Nicaragua is a party to the International Covenant on Civil and Political Rights – and that treaty prohibits states from subjecting persons to cruel, inhuman, and degrading treatment, let alone torture. It is a *prima facie* violation of this treaty for the Government of Nicaragua to fail to provide Mr. Puracal with edible food and potable water on a daily basis.

There is nothing ambiguous about the injustice that has been inflicted upon Mr. Puracal. Under these circumstances, I very much hope you will both ensure the case is thoroughly and independently reviewed by your prosecutors, and that you immediately improve the conditions under which he is detained.

Sincerely,

Irwin Cotler, P.C., O.C., M.P.

Mount Royal

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