



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/03458/2020 (V)**

THE IMMIGRATION ACTS

**Heard at Field House IAC
On the 7 November 2022**

**Decision & Reasons Promulgated
On the 06 December 2022**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

**M G
(ANONYMITY DIRECTION MADE)**

Appellant

AND

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R. Spurling , Counsel instructed on behalf of the appellant.

For the Respondent: Ms Nolan, Senior Presenting Officer.

DECISION AND REASONS

Introduction:

1. This is the remaking of the appellant's appeal following the decision of Upper Tribunal promulgated on 15 January 2022 setting aside the decision of the First-tier Tribunal as involving the making of a material error of law.
2. I make a direction regarding anonymity under Rule 14 of the Tribunal Procedure (Upper Tribunal Rules) Rules 2008 as the proceedings relate

to the circumstances of a protection claim. Unless and until a Tribunal or court directs otherwise the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

3. The hearing took place on 7 November 2022 at the Tribunal Hearing Centre where the appellant and both advocates attended.

Background:

4. The appellant is a national of Nicaragua and was studying at university between March 2016 and April 2018.
5. In April 2018, the appellant decided to attend the first of a series of mass political demonstrations in X. The appellant had not supported any political party but had attended for her own personal reasons against pension cuts. She had never attended any demonstrations prior to this. Also by way of protest she stopped attending university classes.
6. After returning home in April 2018 she attended weekly demonstrations every Saturday in her home city. It is stated that during the period from 18 April 2018 to 1 September 2018 she attended 20 demonstrations in 2 locations. The appellant was not arrested due to her attendance of the anti-government demonstrations and had no issues with the authorities (at Q 53 and 65 of AIR).
7. In the alternative in her interview she claimed that the FSLN obtained the names of students were absent from classes in X in April 2018 and began arresting them. The appellant believed her name was on the list, but she continued to attend demonstrations.
8. On 20 July 2018 she applied for and was issued with a Nicaraguan passport by the government authorities.
9. The appellant last attended a demonstration in Nicaragua on 1 September 2018.
10. Fearing for her safety, her parents arranged for her to leave Nicaragua as a result of having attended political demonstrations.
11. On 3 October 2018, the appellant left Nicaragua by plane and travelled on the government issued passport to the United Kingdom.
12. The appellant claimed that her mother had informed her that pro-government supporters and the police had been to her parents' home on several occasions in search of her during the period since she left Nicaragua.

13. It is the appellant's case that on return to Nicaragua she would be arrested and killed because of her attendance at the protests in the 2 cities identified. She has also posted anti-government posts on her social media account.
14. The appellant arrived in the United Kingdom on 4 October 2018.
15. The appellant claimed asylum on 26 November 2018.

The respondent's decision:

16. The respondent considered her claim for protection in a decision letter dated 1 June 2020. It was accepted that she was a citizen of Nicaragua.
17. As to her claim to have attended demonstrations, at paragraphs 23 – 29 the respondent accepted that she had attended demonstrations in Nicaragua.
18. As to the threat from the authorities, the respondent concluded that during the period that she was in Nicaragua and despite a stated fear of arrest and the government the appellant was never arrested or faced any for persecution due to her further attendance of a total of 20 anti-government demonstrations.
19. By reference to the material obtained by the appellant and her claim that the FSLN had obtained the names of students who are absent from classes in X in April 2018 and began arresting them for "being against the government", it was noted that the appellant continued to attend demonstrations although she believed her name to be on the list and whilst being in fear of the government looking for her.
20. At paragraph 32 the respondent noted that available reference material confirmed that there were crackdowns upon students following the April 2018 demonstrations and whilst that was acknowledged, the respondent considered that it did not necessarily mean that she was one of the students targeted, particularly given the size and scope of the demonstrations.
21. The respondent concluded that the appellant was unable to provide a consistent account regarding if, or when, she was actually aware of government interest in her and this was evident from her replies in interview. When asked again to confirm whether she actually knew for certain that government supporters and police were looking for her whilst in Nicaragua, she confirmed she did not know this and only assumed it.
22. The respondent also took into account that she applied for and was granted a Nicaraguan passport on 20 July 2018 by the government authorities without any apparent issues and even though she believed she was known to the government and pro-government supporters as

a political demonstrator and a name had been added to a list of suspects to be arrested.

23. The respondent considered that the appellant and her family were able to reside in their family area without experiencing any threats or persecution from the government for a period of 5 months between May - October 2018. As her claim was that she was wanted by the authorities for her involvement in the April 2018 demonstrations and they had a list of those who did not attend university it was not considered credible that they would wait until October to attempt to arrest her and that this undermined her claim.
24. On 3 October 2018, the appellant left Nicaragua travelling on her own passport. The respondent took into account her claim that she was detained for 30 minutes before boarding but she was allowed to leave the country without any further official attention or issues. The respondent considered that the appellant had failed to establish that the delay was the result of her political activities. Furthermore, if she were wanted by the authorities it was not credible that she would be detained for 30 minutes and then allowed to leave the country.
25. As to the claim that her mother had informed her that the pro-government supporters and police had been to their home on several occasions in search of her, and she had submitted copies of screenshots from social media sites one being a message and a mother regarding a visit to the home by armed men on 10 October 2018, the author of the message could not be verified. It is also unknown who translated the message therefore no weight could be given to that document.
26. In summary, viewing the account of how the appellant departed Nicaragua it was not considered plausible that the representatives of the authorities who had an ideal opportunity to arrest her during boarding and detain her and then failed to do so would then continue to search for her at her parents' home when they had already detained her one week earlier and subsequently released to flee the country.
27. The respondent considered the US Department of State 2019 country reports on human rights practices dated March 11, 2020, relating to freedom of movement. The extract noted that the government strictly controlled the entry of persons affiliated with some groups specifically humanitarian and faith-based organisations. The government may prevent the departure of travellers of pending cases; authorities uses authority against individuals involved in the protest movement.
28. It was noted also that the last time she stated her mother had told her any government authorities had come looking for was in May 2019 and it was also noted that her immediate family still resided there and had not come to any harm after she left.

29. As a result the respondent did not accept that she was at risk of harm as a result of events in Nicaragua.
30. As to the assessment of any future fear, it was not accepted that she had a genuine subjective fear on return to Nicaragua. She claimed to have supported no political party and the demonstrations in April 2018 the first physical activity she had undertaken. She had never nor been she ever a political activist/leader and only decided to attend the demonstrations on learning of them on social media. She had not been politically active whilst in the UK.
31. The respondent considered that the country material confirmed that although political unrest was present in Nicaragua from April 2018, the information available confirmed the lifting of the foreign office non-essential travel back to Nicaragua and that it had calmed down in many areas. Further evidence relied upon by the Secretary of State confirmed that the Nicaraguan government was open to the return and safety of political exiles and that the country material demonstrated that the Nicaraguan authorities had released a large number of political activists in the interests of national reconciliation.
32. The remainder of the decision letter considered article 8 of the ECHR.

The decision of the First-tier Tribunal:

33. The appellant appealed that decision to the FtT (Judge Forster) on the 5 January 2021. In a decision promulgated on the 14 January 2021 the judge dismissed her appeal.
34. At paragraphs [13]-[33] the FtT] set out his findings of fact and analysis of the evidence.
35. The judge set out his conclusions on the claim at paragraphs [29 - 33]. He concluded that the appellant was not known to the authorities in Nicaragua and that she was not a person of interest to them and thus did not have an objective fear of persecution because of her political opinion. He rejected her claim that on return to Nicaragua she would be arrested and killed as a result of her attendance at demonstrations in 2018.
36. At paragraphs [31]-[33] the FtT] made reference to the country background information provided by both parties. He made reference to the evidence relied upon by the appellant which focused on action taken by the government against political opponents and the reference to the harassment of political prisoners, their families, human rights abuses and corruption but that external information produced by the respondent was that although there was unrest in Nicaragua from April 2018 the situation had calmed down. He concluded that there continued to be problems in Nicaragua for political opponents of the government but not such that, as a general

matter, there are substantial grounds for believing that any civilian return to their, solely on account of their presence, faces a real risk of being subjected to indiscriminate violence amounting to serious harm within the scope of article 15 (b) of the QD. The judge did not accept that the appellant had demonstrated that she would be at real risk of harm on return to Nicaragua. The FtTJ therefore dismissed her appeal.

37. Permission to appeal was sought and permission was granted by FtTJ Andrew on 5 February 2021 for the following reasons:

“I am satisfied that there are arguable errors of law in the decision. As to ground 1 the judge has not considered HJ(Iran) despite this being referred to the skeleton argument. However, he has considered the issue of media entries and is made sustainable findings in relation to this.

Ground 2: the grounds complain that the judge did not consider and make findings in relation to the country information. This is an arguable error of law.

Ground 3: in respect of this ground, I am satisfied that the judge used the correct standard of proof and made sustainable findings in relation to the photographs supplied. I do not find this to be an arguable error of law.

38. In a decision promulgated on the 15 January 2022, the Upper Tribunal set out its decision for reaching the decision that the FtTJ's decision involved the making of an error on a point of law. At paragraph 99 the following summary was provided :

“In summary, I have found a material error of law in the decision of the FtTJ based on the failure to assess future risk on return based on her expression of political opinion in the context of the decisions of HJ (Iran) and RT(Zimbabwe). For the reasons that I have given the error of law does not undermine the factual findings made by the FtTJ relevant to events in Nicaragua and the rejection of her account of interest shown in her via messages from her mother and the photos of the broken window and the door being on the wall (paragraph 26 - 27). The finding at paragraph [28] that the appellant had been active on Twitter in the UK in connection with her opposition to the government remains a preserved finding along with the FtTJ's assessment of the evidence that those particular posts were made under name “X” and that the appellant's evidence was that she did so was so no one would know who had posted the messages. It will be for the tribunal to undertake an assessment of the appellant's conduct/political opposition held as at the date of the hearing and for an assessment of risk on return to be made based on that evidence and in the light of the up-to-date country materials provided by each of the parties.”

I therefore set aside the decision of the FtTJ and preserve the findings that I have referred to. The decision will be remade by the Upper Tribunal in accordance with the directions sent out accompanying this decision.”

39. This decision should be read alongside the error of law decision. I therefore set aside the decision of the FtTJ and preserved the findings that I have referred to. The decision will be remade by the Upper Tribunal in accordance with the directions sent out accompanying this decision.

The resumed hearing:

40. The resumed hearing took place on 7 November 2022 at the Tribunal Hearing Centre where the appellant and both advocates attended.
41. The appellant's solicitors provided an updated bundle of documents containing an updated witness statement from the appellant, a joint witness statement from the appellant's mother and father supported by a copy of the Nicaragua ID cards and a country report from Dr Hilary Francis (6 July 2022) [15-36 AB], copies of twitter posts, both translated and untranslated, a letter from a community organisation.
42. A further document that was not in the bundle but provided separately was a copy of the 2022 Nicaragua Human Rights May - October 2022. In addition Mr Spurling provided a skeleton argument dated 30 October 2022 and indicated during his submissions that he relied upon an earlier skeleton argument and bundle of supplementary evidence dated 2019-2021.
43. The respondent relied upon the original respondent's bundle including the decision letter, asylum interview and documents contained within that bundle. No skeleton argument was provided on behalf of the respondent nor any country materials relevant to Nicaragua.
44. The appellant gave evidence with the assistance of the court interpreter. At the outset of the hearing both the appellant and the interpreter confirmed that they could understand each other and there were no problems or difficulties identified during the hearing.
45. In evidence the appellant adopted her witness statements dated 8 April 2019, an undated statement (responding to the refusal letter) and updated witness statement dated 28th of July 2022 (supplementary bundle).
46. She was asked about her political activities conducted in the UK and that if returned to Nicaragua would she stop those activities? The appellant stated that she would continue in her political activities and when asked about the consequences, she stated that she thought the authorities would arrest her and would "try and silence me." She stated that she would continue with her political activities because she wanted her country to have democracy and for them to "hear my voice" and "for the voice of the people to be heard and because of my rights."

47. In cross-examination she was asked about her Twitter account (page 49 – 50 supplementary bundle AB) and it was suggested that the evidence on those pages were where she had retweeted other people’s tweets. She was asked where the evidence was of “her voice.” The appellant stated that she had provided several tweets on account that were her tweets and content and had also retweeted comments. She stated that she was also active in the community in X where they carried out different activities as to the events in Nicaragua. She stated that in 2009 she attended a demonstration in London to protest against what had happened in Nicaragua.
48. The appellant was asked why she is not provided a copy of her profile page to show how many followers she had. The appellant stated that her Twitter page was public. When asked why she now posted under her name when previously she had used a different name (that did not identify her) the appellant said that was because she wanted to have her name correctly. When asked to explain she said “I do not know I just corrected it there are no reasons whatsoever” she stated that she changed it one to one and ½ years ago. She confirmed that it was the same account but under her name.
49. The appellant was asked about her recent witness statement (paragraph 8) where she stated that her mother told her that she had been approached in Nicaragua and was asked about her. She was asked if the mother had told exactly who had been approaching the house? The appellant stated that she had been told and that some men wearing T-shirts of the government party had come to the house and that was how her mother had distinguished who they were.
50. She was asked if the men had ever said to her mother why they were looking for her? She replied, “because they know that I am against the government and participated in demonstrations.” When asked if the men coming now with the same men who have been coming since 2018? She stated, “not the same faces but always from the government.”
51. As to the identity of the people who attended her home, it was suggested that the men who worked on behalf of the police, but the police never came for her. She stated, “they work with the police.”
52. The appellant was asked about the message exhibited in respondent’s bundle (p 81;D7) It was put to the appellant that she had said in evidence the police had never come to arrest her, but the message said that the police officers did come to arrest her. The appellant stated “they did come at that time but not since then ever since it has been the government men wearing T-shirts. They work in conjunction with the police.”
53. The appellant was asked to explain her mother’s witness statement. The appellant stated “according to the people who came to my house

the paramilitary and police with the government. The police belong to the Council of citizen power, and they are constantly coming to my house and my mother confirmed the messages that she sent to me.”

54. It was suggested to her that she had previously said that the reason why people were looking for her was because she was known to be against the government, but that was not what her mother had said in the witness statement (paragraph 9) she said they knocked on the door and asked where you were, she said she did not know, and they left. It was suggested there was nothing in her mother’s statement where people would say that they knew that she was politically active. She was asked why she believed that they had said this to her mother? The appellant stated “because they come several times that is why they said this to her. I do not know why my mother has not mentioned this before.”
55. The appellant confirmed on 18 April 2018 to 1 September 2018 no one came to the family house but that was because she had been for a few months at university in X and this was when the demonstration started, and she was protesting. This was what it initiated everything, and they were not sure who was going to the protests.
56. She could not remember the date of the last protest she thought it was in September 2018. She confirmed that she left Nicaragua on 3 October 2018 and confirmed that she had been in Nicaragua between September and October, and no one came looking for her. She explained “I was staying at home at the time; I was trying to get my sister’s house and my other family members to stay.”
57. In re-examination, the appellant was asked about her Twitter account. The appellant had her mobile telephone with her and accessed the Twitter account for both advocates to see and also the tribunal. It confirmed the name of her account she had stated in her oral evidence and consistent with page 59 of the bundle and underneath by way of a banner it stated “Nica (short for Nicaragua) denouncing the dictatorship; God loves me”. Underscored this shows a figure for followers of 1392 and people she followed of 687. It showed that she had joined Twitter in July 2012.
58. Mr Spurling took the appellant through the evidence of the tweets, and that at page 42, 43, 44, 45, she confirmed that they were not retweets but her own words in the tweet posted.
59. When asked about her mother’s witness statement and the question that she was asked that it did not say that they were looking for her because of anti-government views, why else would they be looking for her? She stated, “there was no other reason; that is the job of the group Council of citizen power to look for people who oppose them.”

60. In answer to questions from the tribunal concerning a Twitter account, she confirmed that she had opened the account in July 2012 and had tweeted before coming to the UK whilst in Nicaragua. When asked what the tweets had said from 2012, she stated that she publish things that she was doing during the day, she retweeted about thoughts and news and that since 2018 they had started through the platform between things that were going on because Twitter was the way that they could publish information in real time. Since 2018 she had tweeted everything that was going on and if there were dangers they would be treated.
61. At the end of the oral evidence the parties provided their oral submissions. I am grateful to both advocates for their helpful submissions.

The submissions:

62. Ms Nolan made the following submissions on behalf of the Respondent. She relied on the decision letter dated 1 June 2020 and relied upon the previous preserved findings.
63. She submitted that the appellant was not credible. The appellant had stated in her oral evidence in chief that she would continue to be politically active if returned to Nicaragua because she wanted her voice to be heard however in oral evidence and asked why she changed the name on her Twitter account she could give no reason at, and that explanation was not in keeping with evidence that she wanted her voice to be heard.
64. She submitted that the evidence in relation to interest of the authorities in Nicaragua was also not credible because the evidence from her mother (paragraph 4) set out that she confirmed that she clearly remembered the content of the message. Paragraph 5 sets out the content but that was in stark contrast to the content of the message set out at D7 of the respondent's bundle which referred to a van with paramilitary men and police office coming to arrest for participating in protests. Ms Nolan submitted that none of that was referred to in the mother's witness statement (the arrest, participating in demonstrations or the police). The appellant in oral evidence stated that her mother never told her why the men were coming for her. The appellant said it was because she was against the government. However that was not in the mother's witness statement it just refers to them coming to the house and there is no mention as to why they were interested in her the reason given that she was against the government.
65. Ms Nolan submitted that the witness statement from her mother was self-serving and was no more than an attempt to deal with the weight issue identified at the previous hearing.

66. It is further submitted that the appellant confirmed in oral evidence that between April to September 2018 no one had come looking for her although she claimed that she was at university. The last demonstration she attended with 1 September 2018 and she left on 3 October 2018 and therefore she was at the family home, but no one came looking for at that point. Therefore it was unlikely or incredible that it was only after that she left the men came looking for her.
67. In respect of her sur place claim, it was submitted that she did not have any genuinely held views against the government. The FtTJ had accepted that she attended demonstrations, but she was not a member or supporter of any particular party and her role in the demonstrations was nothing more than an ordinary participant. She was not identified as a person of interest, nor had she come to the attention of the authorities before leaving Nicaragua.
68. Ms Nolan refer to the evidence of the Twitter account and submitted that it was a limited snapshot relying on the decision in XX(PAK) and the references to social media. There was no full disclosure and headnote 8 was relevant. The tweets had little evidential value and there was no history of the tweets. The appellant had 1392 followers but looking at the posts exhibited in the bundle they showed few likes, and few messages were re-tweeted. Therefore looking at the evidence it did not show someone who held genuine views or on return was likely to continue to post anti-government messages and therefore would not be at risk on return as a political oppositionist nor would she have any social media presence.
69. Turning to the expert report, it was noted that the police did not actively monitor all social media activity and that the risk occurred once an individual was detained therefore it would be necessary to be satisfied of risk of harm before being detained (see paragraph 4;p17). Ms Nolan referred to the individuals mentioned at paragraph 4 and that Donald Mendoza was detained because he was known to be an opponent of the government whereas the appellant would not be someone who was known as an opponent of the government.
70. Paragraph 5 refers to low-profile critics of the government however the appellant would not be known as a low-profile critic of the government due to the demonstrations.
71. At paragraph 7 of the expert report, it deals with the issue of passports and the distinct phases of repression but the key point to note she submitted that it was during the early stages of the repression and that all the examples are given in May 2018 rather than October 2018 when the appellant left.
72. At paragraph 11 of the report, the expert noted that it was likely that the government has taken steps to monitor demonstrations in the UK, but she was not aware of any direct evidence to show they were

doing so. Therefore whilst she was active in the community there was no evidence to show the government was monitoring the demonstrations in the UK.

73. Paragraph 13 referred to the investigation of protesters social media, but this was after they had been detained for other reasons. The authorities do not have the resources to monitor the contents of all social media content.
74. At paragraph 14 reference was made to even the most minimal local reputation as a government critic can lead to prosecution under the cybercrime's law even when social media activity itself is not forthcoming however it was submitted that she would not become known because the appellant's activity of attending demonstrations was not likely to be known by the Nicaraguan government. Ms Nolan submitted that at paragraph 29, the expert was not aware of evidence specifically related to asylum seekers deported from the UK, but it has not been established that she would become the subject of any investigation on return and therefore the social media activity would also become unknown.
75. The expert also relied upon the claimed repeated visits has indicated that the appellant had been identified as a critic of the government (see paragraph 18), which is why the expert had stated she was at risk. The graffiti on the wall is set out at paragraph 21 of the expert report. However the claim is not credible and therefore no weight could be attached to the photo nor was there any direct evidence linking it to the appellant and cannot be satisfied that it is a photograph of the property therefore the appellant has not been visited by government supporters or members of the CPC or the police.
76. Ms Nolan then referred to the background material and bundle 1 page 68 - 70 "Nicaragua: law threatens free elections". She submitted that that document referred to the upcoming elections at page 77 the cyber law article did not show that the cyber law related to others except journalists and as a result of the covid 19 pandemic. She accepted that there were issues in relation to the political situation in Nicaragua and about the upcoming elections but that the government were not trying to find everyone who attended the demonstrations in 2018. She submitted that the appellant had not established any genuinely held political beliefs and that therefore the principles set out in HJ (Iran) and RT(Zimbabwe) did not apply and she would not be expected to hide her opinions.
77. In the event that she was found to be credible and genuine in her political opinions, the social media activity would only be known if she were arrested for other reasons based on the expert evidence and that she would not be known as a critic of the regime. It is not possible to monitor all social media activity in Nicaragua.

78. Mr Spurling relied upon his written skeleton arguments which included the written submissions dated 26 October 2022 and the previous submissions entitled appellant written submissions on her rule 15(2A) evidence: recent country background evidence on the political situation in Nicaragua.
79. In response to the submissions made by Ms Nolan, he submitted that there had been a shift in the respondent's position and that the FtTJ did not impugn the credibility of the appellant's political views or her involvement in political activity in Nicaragua. The judge did find that she was not a member of any particular party and that she had not come to the adverse attention of the authorities when she left but he accepted that she had attended demonstrations and those findings were preserved. She had not claimed to be any more active than this. However it is extraordinary to say that someone who had gone to 20 demonstrations in Nicaragua did not have genuine political views in opposition to the government. It was important to bear in mind the background of the evidence of her position in the United Kingdom.
80. Mr Spurling addressed the evidence that the appellant relied upon. He submitted that the FtTJ was not able to give much weight to the text message and the photograph because of the way it was produced (see paragraphs 26 and 27 of his decision). Whilst this was a preserved finding, this was based on the evidence before the FtTJ at the time. There is now further evidence from the appellant's mother and a witness statement signed by her and supported by her ID card which specifically states that the graffiti was on the house and what had happened at the family home by reference to people attending at home looking for the appellant.
81. He submitted that there is now more evidence provided in a proper witness statement supported by identity documents and therefore the evidence was reliable and consistent with the appellant's account that she had given previously and should be assessed bearing in mind the lower standard of proof and that it was reliable and should have weight attached to it.
82. Whilst it was submitted by the respondent that the evidence was not credible, the evidence in fact was consistent. The text message at D7 is the initial enquiry and that since then her mother had said other people have been coming to look for her and gave the circumstances of what occurred at paragraph 5 of the witness statement. However if you look at paragraph 5 it is clear that the words after the - are not the words which her mother had set out in the text. All she is saying at paragraph 5 about the message is that she was specifically told that there was a group came looking for her. Paragraph 11 of the witness statement refers to the position of OS and his people and police. Therefore what the appellant's mother had said was consistent with what she had previously stated. He accepted that the message had said the police had come to the home (D7) and that it may be

that the appellant forgot about this, and she was repeating what she had been told 4 years ago. Her mother's evidence was that visits had been occurring since that time were not from the police but from a group associated with the police. Therefore there was no significant inconsistency and was also consistent with the expert report for the reasons set out at paragraphs 18 - 20 where it was stated that at a local level, monitoring of the population is delegated to neighbourhood committees known colloquially as "citizen power councils, who were reported to monitor the political attitude of their neighbours. 17% of those who had fled Nicaragua had been persecuted by the CPC's. Further evidence demonstrated that the local police work together with the CPC's and local paramilitaries.

83. Mr Spurling submitted that the appellant's mother did not say specifically state they had come for her because of her opposition to the government although she did say that in the text message however he posed the question why else would they come round? There is no other reason for them to be at the house and the evidence was it was because it was known that she was involved in political activity.
84. Further evidence was set out in the appellant's mother's witness statement that they were aware of people who had been arrested including the appellant's friend J who had been to the same university. The expert refers to that university between paragraphs 16 and 17 of her report and that the University had been the focus of anti-government protests in 2018 and subsequently became a focus for government repression. The appellant went to demonstrations at the University which had been such a focus of anti-government repression.
85. Mr Spurling submitted that whilst it was accepted that that she was able to leave Nicaragua, there was clear background evidence in the expert report and the articles relied on which demonstrated that the police regression waned and then came back since she left. Thus there are good reasons why someone who was not known as an oppositionist and not at risk in 2018 may become so after departure from Nicaragua.
86. Mr Spurling sought to address the decision in XX(PKAK) and that the main focus was on how the Iranian authorities would find out about social media and that it could be manipulated and faked. However she has social media activity that was not doubted by the FtT previously and there was no good reason to doubt it now. In cross-examination it was suggested that the tweets the appellant sent were only re-tweets however as seen from the documentary evidence many of the messages were original messages from the appellant herself and not retweets and they was original content. The appellant has used Twitter for a long time since 2012 and has been able to

express her views, in any event it will be irrelevant if they were retweets or not.

87. Mr Spurling addressed the background evidence set out in the additional document entitled “Nicaragua human rights, May - October 2022”, and provided a copy that was highlighted with the parts that he relied upon. At page 2, references were made to serious health problems for women who were detained in Nicaragua, that the human rights situation in Nicaragua had continued to decline over the past 3 months with detainees held in appalling conditions, civic space shrinking and an unprecedented rise in people fleeing the country. It is recorded that “scores of people remain locked up in the wake of political, human rights and electoral crises over the past 4 years. Page 5 of the report referred to “silencing civil society” and that Parliament has shut down at least 454 organisation since November 2018 working in areas such as human rights, education and development but also medical and professional associations and that academic freedom and the autonomy of universities that come under threat. He submitted that there was clear government activity aimed at silencing opposition that the main point of the article shows government hostility was increasing and not decreasing and that the situation for those who are opponents of the government were at risk.
88. He summarised the country background evidence annexed to the Rule 15(2A) application and paragraph 14 of the written submissions as follows. That the nature of the opposition repression was not the same as it was in 2018 as the government was successful in stifling the demonstrations took place that year and that while most although not all of the people arrested in 2018 have been released, the situation had not “calmed down “in that
- opposition to the government continues
 - while the government may have changed its tactics, it has not ceased its attempts to repress opposition
 - many of those released in 2019 were re-detained and some are currently in detention:
 - the government does not restrict its adverse interest a high level prominent opponents, but it has extends it to activists, demonstrators and even the medical versions have treated those injured in demonstrations:
 - the government has legislated to make it easier to arrest and prosecute political opponents
 - the state has the means and motive to take action against those who express opposition online
 - the Nicaraguan legal process is not fair and transparent, and the judiciary is not independent

- detention conditions are inhumane, and they breach article 3 of the ECHR
 - it is dangerous to be a political opponent of the government of Nicaragua.
89. Turning to the factual matters, Mr Spurling relied upon his most recent skeleton argument (see paragraphs 8-9). In addition he invited the Tribunal to place weight on the supporting evidence from the appellant's mother regarding visits made to the house and that university classmates had been detained, persecuted and they have become political prisoners in Nicaragua. This included a young woman named J who was at university with the appellant and with whom she attended demonstrations, who was arrested in her own city of Jinotega, which Google Maps indicates is about 45 minutes' drive from the appellant's home city (appellant's parents' 12 July 2022 witness statement at paragraph 15).
90. Reference was made to the photographs of the graffiti on their home and the vandalised car(see witness statement paragraphs 4 and 10).
91. Further referred to evidence from the appellant stating that she knew J at University and had attended demonstrations with her (see paragraph 9 of recent witness statement and that she had continued her sur place activities in the UK on Twitter and had been involved in a cultural organisation supporting her account of the risks in Nicaragua.
92. The appellant's mother also states that she had to leave her job in the Human Resources Department of the X hospital on 05 June 2020 due to pressure being put upon her employers by 'the CPC and the [hospital] Union' because they knew of her daughter's opposition to the government (appellant's parents' 12 July 2022 witness statement at §14).
93. Mr Spurling submitted that the evidence from the appellant and her parents is consistent with the evidence in the 06 July 2022 expert report of Dr Hilary Francis, which notes that;
- (a) 'the political protests that began in Nicaragua in April 2018' have not been driven by political parties, which do not command much support among the Nicaraguan populace, but by 'loosely organised social movements not affiliated to any political party' (expert report at §2);
 - (b) 'the repression in Nicaragua has passed through distinct phases, and the repression has not been consistent.' (expert report at §3, §9, §25);
 - c) 'In the earlier, more chaotic period high profile protesters were sometimes able to leave the country. In September 2018, for

example, Lesther Alemán, one of the highest profile student protesters, travelled to the United States’ (expert report at §3 and §7);

(d) ‘Rather than actively monitoring all social media activity, the Nicaraguan police has relied on retrospective investigation once an individual is detained.’ (expert report at §4; see also §13);

(e) ‘the contention that a low profile means that the appellant is ‘safe’ is inaccurate. In recent months a number of low-profile critics of the government have received lengthy jail terms.’ ‘Even the most minimal local reputation as a government critic can lead to prosecution under the cybercrimes law.’ (expert report at §5 and §14);

(f) ‘There have been cases where social media activity, in and of itself, has prompted government repression’ (expert report at §12);

(g) ‘More broadly, though, the authorities have tended to investigate protesters’ social media presence after they have detained them for other reasons.’ (expert report at §13);

(h) ‘The X University, where the appellant studied and initially participated in protests..... was a focus of anti-government protest in 2018 and subsequently became a focus for government repression...In April 2019 the Inter-American Commission on Human Rights reported that 144 students had been expelled from the UNAN (the figure refers to all UNAN campuses, not just X) as a result of the government response to the protests. The expulsions demonstrate that the authorities have made a concerted effort to identify and monitor UNAN students who were involved in the protests.’ ‘Scrutiny of present and former members of the UNAN-X community has continued. ... In May 2021 applicants for scholarships at UNAN-X were asked what they knew about the 2018 protests and the death of Cadenas.’ (expert report at §16-§17);

(i) ‘...government supporters have played an extremely important role in the repression in Nicaragua and the appellant’s account of this harassment is consistent with other protesters’ experience. These visits are a clear indication that the appellant has been identified as a critic of the government.’ ‘At a local level, monitoring of the population is delegated to neighbourhood committees known colloquially as Citizen Power Councils (CPCs, although the correct term for the current iteration of these organisations is Sandinista Leadership Committees, or CLSs).’ ‘In subsequent years, government supporters have continued to play an active

role in surveillance and control in the region. '(expert report at §18-§19 and §20);

(j) The graffiti on the appellant's house, if credible, 'strongly suggests that she would be the target for further investigation and repression by government networks if returned to Nicaragua' (expert report at §21-§22); .

(k) 'The situation in Nicaragua has deteriorated considerably in the last year. In response to this deterioration the FCDO made Nicaragua a human rights priority country for the first time in 2021. In March 2022, the UK also co-sponsored a UN Human Rights Council (HRC) resolution on the protection and promotion of human rights in Nicaragua.' (expert report at §24);

(l) 'Since late 2020, when the Nicaraguan government began gearing up for the elections scheduled for November 2021, the repression has become more overt and more extreme once again... [Cybercrimes and sovereignty laws] have been used to justify a new wave of arrests since June 2021. The number of political prisoners has increased from 122 in June 2021 to 190 by 31 May 2022.' (expert report at §27);

(m) 'The broad scope of the [cybercrimes and sovereignty legislation], and the expansive way in which the Nicaraguan authorities have interpreted it, means that there is a high chance that the appellant could fall foul of these laws.' (expert report at §45; see also §33-§40, where the report discusses how the new laws are used as tools of repression, including 'to punish dissent online');

(n) A failed asylum seeker returned to Nicaragua from the USA, Valeska Alemán, was detained by police on 24 April 2021, badly beaten and released on 24 April 2021. (expert report at §29);

(o) Female protestors and detainees are at risk of gender-based violence (expert report at §31). Prison conditions in Nicaragua are likely to breach ECHR Article 3 (expert report at §47).

94. It is submitted that the evidence in the expert report of Dr Francis is consistent with the background evidence discussed in the written submissions on the appellant's behalf dated 26 October 2021.

95. In his concluding submissions, Mr Spurling relied upon paragraph 12 of his skeleton argument and submitted that the most up-to-date background evidence shows that:

(a) While there have been distinct phases to the repression in Nicaragua, the risk has not abated;

(b) The government maintains its adverse interest in those who were involved in the 2018 protests and in its opponents more generally;

(c) The authorities have a particular focus on present and former students of X (the university attended by the appellant), which was a focal point of the protests. This was set out at paragraph 17 of the expert report and that 3 years after the protests the government is still arresting people due to their involvement in the demonstrations.

(d) The government has in the last few years enacted cybercrimes and sovereignty laws which have been used since 2019 to lock up its opponents. He submitted that it was not just focused on journalists as submitted on behalf of the respondent (see evidence in the Rule 15(2A) application at page 7 from the Amnesty International report February 2021 and the expert report at paragraphs 33, 43, 44 and 45 referring to student activists, human rights activists and journalists and therefore it was reasonably likely that she would fall foul of these laws.

(e) The risk is associated with criticism *per se* not with the 'prominence' of the critic: people have been given lengthy gaol sentences for nothing more than comments made on social media online. Those known to have been persecuted range from presidential pre-candidate Arturo Cruz (expert report, paragraph 9) to high-school students (Samantha Jirón, report paragraph 5) and peasant farmers (Santos Camilo Bellorín, report paragraph 14);

(f) The local citizens' committees known as Citizen Power Councils/Sandinista Leadership Committees are the government's main organs of surveillance. There is evidence set out at paragraphs 18 - 20 of the expert report is consistent with the background evidence.

(g) Known protestors able to leave the country with ease in 2018 have been arrested on return. At least two failed asylum seekers returned from the USA were detained and investigated on return, one of whom is known to have been seriously beaten in detention. Whilst it was submitted on behalf of the respondent that the background evidence in the expert report only referred to May 2018, that was not correct (see page 9 of the expert report) which describes numerous cases where government critics were allowed to travel but were then subsequently detained with examples showing FM travelling to US and Europe in December 2018, that in June 2021 was detained and in March 2022 he was sentenced to 13 years in prison for conspiring to undermine national integrity. Other examples were given. He submitted that it suggested there may have been a policy letting

troublemakers out but then subsequently detaining them when they re-entered.

(h) The Nicaraguan authorities are known to investigate the use of social media by those they have arrested.

96. While the appellant was not a 'prominent' demonstrator, she was a committed protestor in 2018, who attended a university which was a focal point of the protests, and whose present and former students continue to be scrutinised. Her mother reports that a fellow student, with whom she attended demonstrations, has been arrested. Mr Spurling submitted that on return the evidence is likely that she would be known by authorities as a result of her involvement in the demonstrations, having attended university which is the focal point of them and that a person she attended university has been arrested and that the authorities continue to be interested in people who have been involved in the 2018 demonstrations and thus there was a reasonable likelihood that given her involvement she would continue to be of interest to the authorities.
97. He submitted that it did not matter if she were "low-level" and that if returned to Nicaragua it was reasonably likely that it would come to the authorities attention via the local Citizen Power Council would find out who she was and her views and she would be considered a person of interest to the authorities. This would reasonably lead to her detention, and it would not take much to look at her phone and discover her political activity.
98. She has continued to express her opposition to the government *sur place* in the UK. She is aware of the risk to her and has modified her behaviour in an attempt to avoid detection by disguising her name on her Twitter account. If returned to Nicaragua, it is reasonably likely that she would be investigated by the authorities, who are reasonably likely to check her activity on social media. He submitted it was a different question to the point made by the respondent that there was no evidence that they monitored social media but that there was a reasonable likelihood that an adverse interest was taken in her, social media accounts in her name would be scrutinised.
99. Mr Spurling submitted that her political views are genuine. She cannot be expected to protect herself by lying about her political beliefs and activity. In any event, her mother's evidence indicates that their local Citizen Power Council/Sandinista Leadership Committee has been actively monitoring their address and enquiring about the appellant's whereabouts and return. In the premises it is reasonably likely that the appellant cannot return safely to her home area. As she fears the state, and as there is no evidence to suggest that the state is not in full control of the territory of Nicaragua, she has no realistic internal relocation alternative.

Discussion:

100. In reaching my assessment, I bear in mind the appellant bears the burden of substantiating the primary facts of her claim. The standard is a reasonable degree of likelihood. The burden and standard of proof applies to the factual matters in issue in this appeal. Also that it is for the appellant to establish his claim under Art 3 of the ECHR or under Art 15(b) of the Qualification Directive. In order to do so, she must establish that there are substantial grounds for believing that there is a real risk of serious harm on return.
101. Helpful guidance on the judicial analysis of credibility was provided in KB & AH (credibility-structured approach) Pakistan [2017] UKUT 0049. The Upper Tribunal highlighted the dangers of overly focusing upon matters of plausibility or demeanour, especially where assessments are made about States and cultures unfamiliar to the judge, who will necessarily look at such matters through a UK – cultural lens. Sufficiency of detail, internal and external consistency, and plausibility provide a useful framework (but not a straitjacket) to assess credibility in the round rather than affixing on a narrow dimension of the case to reach a broad finding of fact.
102. The starting point of the assessment of the appeal are the factual findings made by the FtJ which were preserved findings in accordance with the error of law decision.
103. They can be summarised as follows. The first demonstration that the appellant attended was on 18 April 2018 in X and took part in 20 demonstrations between then and September 2018. The last demonstration she attended was on 1 September 2018. The reason for the demonstration was the government's decision to reduce pensions which had led to widespread unrest in Nicaragua.
104. The appellant was not a supporter or member of any particular party, but she had attended demonstrations because she wanted to protest against the pension cuts.
105. The judge did not find that she had any particular role in the demonstrations she attended. It was accepted by the respondent that the appellant attended demonstrations in Nicaragua.
106. The judge stated at [16] that the appellant believed her name was on a list of people sought by the authorities, but she did not reach that conclusion until she was in the UK, and she did not leave Nicaragua because she thought her name was on a list. The judge found at [17] that the authorities had not identified her as a person of interest. She continued to attend demonstrations in her home area without any problems and that "she had a very low profile " (at [18]).

107. The judge found that despite taking part in the demonstrations in both X and her home area, the appellant was able to apply for and obtain a passport in July 2018. The judge referred to her witness statement (paragraph 11, no 2) where she stated, "I wasn't a leader in the demonstration perhaps that is why I was able to apply for a passport." The judge considered that was an entirely plausible explanation, but he concluded that the appellant was not of interest to the Nicaraguan authorities. The judge therefore concluded "that the appellant is not a person of interest the authorities because if she were, they would have stopped her leaving the country (at [21]).
108. The judge set out the evidence of a witness who was a family member of the appellant. She left Nicaragua in September 2018 because she was threatened by the CPC group that supports and is associated with the Nicaraguan government. It was stated that she and the appellant attended demonstrations together. Her relative had been granted asylum in the UK in 2018 (at [22]).
109. As to the images of the broken car window and the wards daubed on the wall the judge found they were of "unknown provenance" and did not "establish any connection with the appellant" (at [27]).
110. As to the Twitter messages and her assertion that while in the UK she had been active in connection with the opposition to the Nicaraguan government, the judge found that the post had been made under a particular name. The appellant's evidence was that she had done so, so that no one would know had posted the messages. In the light of that evidence, the judge concluded that the posts "will not have raised the appellant's profile or brought her to the attention of the authorities" (at [28]).
111. For the purposes of the hearing, further evidence has been adduced on behalf of the appellant including a witness statement from her, from her parents jointly and further country materials. There is also evidence of up-to-date social media and an expert report relating to Nicaragua. It has not been argued on behalf of the respondent that the evidence should not be admitted, and it is agreed that the tribunal should consider the evidence in light of the issues identified following the error of law decision but also as to what effect it has on the earlier preserved findings.
112. The expert report which was not previously available sets out the country situation in Nicaragua and provides a further evidential backdrop when considering the appellant's account and also in assessing any risk on return. I am mindful that an expert is generally expected to be a person with extensive knowledge or ability based on research, experience, or occupation and in a particular area of study. It has not been argued on behalf of the respondent that Dr Francis is not qualified to give an expert opinion concerning the circumstances in Nicaragua and she has provided a copy of her CV along with the

report setting out her expertise, academic qualifications in dealing with Latin America and particularly Nicaragua. Nor has her report been the subject of any challenge. I also observe that there has been no further country materials or evidence relevant to Nicaragua filed on behalf of the respondent. Having considered the contents of the report, it is a report which provides sources for its conclusions and is consistent with the general country materials exhibited in the appellant's bundle from reliable sources such as Human Rights Watch and US State Department reports.

113. There is no dispute on the evidence that the appellant, whilst in Nicaragua attended 20 demonstrations at the time of the widespread protests that began in April 2018. The country materials set out in both the appellant's bundle and referenced in the decision letter set out the description and circumstances of the protests. It is well known that students were at the forefront of the demonstration (see E 14), and it was reported by the government that the universities were occupied by "thieves and terrorists" (see E 16 respondent's bundle) and the government had accused universities of "housing criminals" (E18). Whilst the protest was sparked by government measures to limit pension payments it quickly snowballed into grassroots struggle against the government with most cities being involved in the protests. The evidence demonstrates that the government security forces repressed the protesters who were arrested and beaten, and it is recorded that between 325 - 535 people were killed as the government crushed the protests. Over 80,000 Nicaraguans fled into exile; many protesters were sentenced to decades in prison (E 40RB; Guardian article). Many of the people detained during the crackdown during the protests were subject to serious abuse amounting to torture (see E 47 Human Rights Watch: June 2019) and it is recorded that hundreds of detainees were subject to prosecution for alleged crimes in connection with their participation in the anti-government protests or their role in social movements that challenged the government. It included high-profile activists and ordinary people aged between 20 - 63 years (see HRW 2019). The cases documented by Human Rights Watch were consistent with what was described as a "pattern of systematic abuse against anti-government protesters and opponents." In comparison there was not a single investigation opened into members of the security forces.
114. The appellant left Nicaragua on 3 October 2018. Whilst in the UK she received information from her family that pro-government supporters and the police had been to her home in search of her. To support her claim she submitted screenshots of messages regarding that and also photographs showing images of broken car windows and words daubed on the wall of her home.
115. The FtTJ considered this evidence at paragraphs 24 - 27 but noted that the author of the message could not be verified, and it was unknown who translated the message. Similarly the photographs

were of “unknown provenance” and did not establish any connection with the appellant. For those reasons, the judge concluded he could not give very much weight that evidence and in the light that the appellant had no problems before leaving Nicaragua.

116. As referred to above there has been new evidence on these issues which have been the subject of cross-examination and submissions from the advocates. From the evidence I make the following findings. The previous finding was that the appellant left Nicaragua without interest in her from the authorities. This was based on her ability to obtain and use a passport to leave the country. However evidence in the country materials and the expert report provide a backdrop to that evidence. I have set out above the events in 2018 which are not in dispute between the parties. That evidence is also set out in the expert report. At the time the appellant left Nicaragua, the material before the Tribunal demonstrated that during the period a number of protesters, activists and students left Nicaragua even high-profile activists (see paragraphs 3 and 7 of the expert report). Whilst it is submitted by Ms Nolan on behalf of the respondent that the examples given are in May 2018 and predate the October date when the appellant left, that is not reflected at paragraph 3 in the report. The evidence there refers to the repression in Nicaragua passing through distinct phases and that it was not consistent. Furthermore during the earlier period even high-profile protesters were able to leave; the examples are given in September 2018 have someone who then returned in 2021 and was detained.
117. The fact that the appellant could leave Nicaragua at that time does not necessarily mean that there was no subsequent interest in her. The evidence in the appellant’s mother’s message relates to the short period after she left. The initial message set out was exhibited at D6 (original) and D7 in translation. It was sent on a WhatsApp message and the content of the message is that the house had been visited by her military men and police officers to arrest the appellant for participating in the protests. The appellant confirmed in a witness statement (8/4/19) that a mother had told her that they had been watching the house and that since she had been in the UK many students she had known had been arrested.
118. The later evidence is contained in a witness statement from the appellant and also from a joint statement from her parents. The witness statement from the appellant’s parents refer to government supporters looking for the appellant who were members of what was described as the local “Council of Citizen Power.”
119. Ms Nolan submits that the evidence is self-serving and inconsistent. Whilst the evidence emanates from the appellant’s mother to designate the evidence as “self-serving” is not of itself a strong argument against its reliability (See R(on the application of SS) v SSHD (“self-serving” statements) [2017]UKUT 164).

120. When looking at the evidence, it is plain that the FtTJ felt unable to provide very much weight to that evidence said to be from the appellant's mother including photographs, as a result of the way that it had been produced. It has now been evidenced in a more formalised way by the use of witness statements and proper translations. There is also country background material which sets the evidence into its proper context.
121. In assessing the reliability of the evidence I have considered its internal consistency. Having done so I do not find that there is any real inconsistency between the message sent initially in 2018 and the description in the witness statement. In fact in a reading of the witness statement the appellant's mother confirms that she had sent the message after her daughter arrived in the UK in October 2018 and that "I clearly remember the contents of the message.... I also provided with photographs of graffiti on the wall of the house and our vandalised car "(see paragraphs 3 and 4). The later paragraphs 5 and 6 identified in Ms Nolan submissions do not appear to be referring to the earlier message but the later incidents that she stated occurred where people came to the house. Even if the appellant's mother was referring to the earlier evidence the first sentence of paragraph 5 confirms that she told her daughter that there was a group that had come to look for. That is the sentence before the identifiable dash in the paragraph. Looking at the evidence she was stating generally that a group had been coming to the house. Her evidence was since that initial visit a group had visited the house were part of an associated with the police.
122. As to the reasons for the visit, Ms Nolan submits that the appellant's mother did not tell her the reasons for coming. However the message and D7 plainly sets out the circumstances that the interest in her arose as a result of her participation in the protests. I therefore do not find that to be a point made as adverse to the appellant.
123. I have considered the evidence also in the light of the country materials to assess its plausibility and reliability. The FtTJ accepted that the appellant had attended X University in Nicaragua and attended 20 protests during the period before she left Nicaragua. The expert evidence provides an understanding of the significance and importance of the University that she attended noting that her university was the one that was the focus of the anti-government protests in 2018 and subsequently became a focus for government repression. In April 2019 it was reported that 144 students have been expelled from the University and other associated campuses as a result of the government's response to the protests. The expulsions demonstrate that the authorities had made a concerted effort to identify and monitor the students who had been involved in the protests and that scrutiny of the present and former members of the University had continued. This was supported by reference in the expert report for applicants for scholarships at the University who

were asked about the protests and the death of someone identified as “Cadena” who was central to the protests (in May 2021 and therefore sometime after the protests in 2018; see paragraphs 16 and 17 of the expert report).

124. That central evidence is consistent with the evidence provided by the appellant as long ago as 2018/19 where she referred to 2 friends from university who disappeared after the protests (the initial witness statement 8/4/2019 at paragraph 24). It is also consistent with the evidence from the appellant’s mother that some of her university classmates had been detained including one who lived 45 minutes away from the appellant’s home (see paragraph 15 of the witness statement).
125. The expert evidence referred to a student from the appellant’s University being detained in September 2018 and then released in 2019 as a result of the amnesty law but once again was detained later in November 2019.
126. Pausing there, I observed that the respondent’s decision letter cites country materials post 2018 to demonstrate that the situation of repression had changed or in other words “calmed down” (see paragraph 63 of the decision letter). It is stated that the external information confirmed that although political unrest was present in Nicaragua in April 2018, the situation calmed down as the FCO had lifted the non-essential travel ban. It is further submitted that the Nicaraguan government was open to the safe return of political exiles and that they had released a large number of political activists in the hope of national reconciliation.
127. The most recent country materials which I find from reliable source material refers to the circumstances since the protests and the Nicaraguan authorities “amnesty.” The evidence in the respondent’s bundle (E172) sets out that whilst the government released 392 people between March - June 2019 who were charged with “committing crimes against public security and crimes against the public peace”, 268 were released to house arrest but with the charges remaining. Following the amnesty law, police arrested and released prisoners in the context of further demonstrations. It is also recorded that the proposals of the amnesty by the authorities did not include a mechanism for the protection of those who returned (E172). Some people who were released were re-imprisoned (CE 110: country reports on human rights practice Nicaragua 2019).
128. The material is consistent with the summary of the country circumstances in Nicaragua since 2018 and that from June 2019 until late 2020 there was evidence of protesters who returned from overseas who were detained and held on falsified charges during that period (see paragraphs 25 and 26 of the expert report). Since late 2020 the Nicaraguan government were gearing up for the elections

scheduled in November 2021 and it is recorded that the repression became more overt and extreme with the new cybercrime law introduced on 27 October 2020. Mr Spurling relies upon a more recent report detailing events between May-October 2022 “Nicaragua Human Rights”.

129. On my assessment of the country materials, the circumstances in Nicaragua could not be properly described as having “calmed down” and it is plain from reading the expert report and in the context of the country materials generally that the repression remained albeit in phases (I refer to paragraph 24 of the expert report).
130. Returning to the evidence of the appellant’s mother, the description of the people recently attending the property is consistent with what is known in Nicaragua. The monitoring of the local population is delegated to local committees known colloquially as Citizen Power Councils (“CPC”) and they monitor the political attitude of their neighbours (see paragraph 19 of the expert report). The group is described as working with the police and local paramilitaries (see paragraph 20). I therefore find that the evidence of the appellant’s mother is consistent in its description of the nature of the people who came to the property with that set out in the expert report.
131. As to the photographs provided in October 2018 Ms Nolan submits that no weight should be attached those photographs as there is no direct evidence linking the photographs to the appellant. As set out earlier, the FtTJ stated that he could not attach very much weight to them because they were of unknown provenance and did not establish any connection with the appellant. However the FtTJ did not have the advantage of the later evidence and importantly the expert report. That later evidence provides the provenance and that the photographs were taken of the house lived in by the appellant.
132. Furthermore the significance of the graffiti is now ascertainable. The word used “Plomo” has a double meaning. It is an acronym, standing for Patria libre o morir-free fatherland or death-a traditional slogan of the Sandinista front. It is also the word for lead, and in Nicaragua implies lead bullets. It is the type of graffiti that has been widely used as a threat to scare opponents of the government and indicate that they will be targets of repression. In the report at paragraph 21, the expert produces a photograph from an article showing the word “plomo” and that it is accompanied with an x to demonstrate that the person had been “marked out” as a target. The same use of the word and an x is seen in the photograph which purports to be of the appellant’s house. Reference is made to the significance of such threats which begin with the wall being painted and have then escalated.
133. Drawing together those matters, I am satisfied that there is a reasonable likelihood that the appellant’s evidence as to the threats

that occurred after she left Nicaragua to be credible and reliable and that they are consistent with the country materials and the approach taken against those who took part in the 2018 protests who are viewed as being anti-government. The significance of the graffiti lends weight to the evidence and also that the University she attended is now known to have been the focus of the demonstrations and also the focus of government repression.

134. I do not find that those actions were as a result of the social media activity in the UK or her attendance at a demonstration in the UK for the following reasons. Firstly, the evidence is that whilst it is likely that the Nicaraguan government have taken steps to monitor demonstrations in the UK, there is no direct evidence of this. Secondly, the earlier material was not posted in the appellant's name therefore the authorities would not be able to link that to the appellant. Thirdly, even if the later posts are in the appellant's name as they are, the evidence does not demonstrate that the Nicaraguan authorities monitor all social media activities or social media outside of Nicaragua.
135. In the country materials in the respondent's bundle (E122) it is stated that there are credible reports of the government monitoring private online communications without legal authority. 7 NGOs have claimed that the government monitored their emails and online activity. Whilst the expert report refers to monitoring by the Nicaraguan government which has prompted government repression (see paragraph 12) the context of the relevance of social media is that the authorities investigate protesters social media presence when they have detained them for other reasons (see paragraph 13 of the report).
136. It is against that factual background that an assessment of risk on return is necessary.
137. Dealing with the sur place claim, it is submitted on behalf of the respondent that the appellant is not genuine in her political beliefs and that she would not be politically active on return to Nicaragua.
138. When assessing the evidence in its totality, I am satisfied that the appellant has given a credible account of having political views. Firstly, there is no dispute that the appellant whilst in Nicaragua attended a large number of demonstrations at a time when she attended a university at the heart of the protests and also attended protests in other locations. The FtJ accepted her evidence on this issue and that she had attended those demonstrations due to the actions of the government.
139. Whilst it is argued on behalf of the respondent that she had not been part of any political party that is irrelevant in my judgement. The country materials exhibited in the respondent's bundle provide a picture of those who took part in the protests against the government.

At E 13 - 23 (Al Jazeera report 13/8/2018) refers to the protesters as the “youth and university students being at the heart of the mobilisation” (E 11) and that “students were at the forefront of the demonstrations” (E 14). The accounts given by student protesters were also described as having joined the protests having never been part of any political party. The following is recorded from one protester “it is one thing watching it happen on your phone and another thing living it. After those 2 days, I could not stay without doing something.”

140. Furthermore whilst the protest was sparked by the government measures to lower pension payments, it is reported that they were chiefly driven by loosely organised social movements not affiliated to any political party reflecting a wider societal dissatisfaction with party politics. In fact 72% of Nicaraguan supported no political party (see paragraph 2 expert report).
141. I also take into account her conduct in Nicaragua which is consistent with her activities in the United Kingdom which have continued to demonstrate a genuinely held belief. It is not the case that the sur place claim arises only when in the UK and without any credible background. As to the social media posts they are on Twitter and the account is in the appellant’s name. Prior to this post were made in a different name although using part of her real identity. I find nothing adverse to the appellant having changed her name under which she posts. It is understandable that the longer you are in a country where freedom of speech is respected that it will provide confidence to do that.
142. Ms Nolan submitted that the genuineness of her political beliefs was undermined by the posts and that she simply retweeted other people’s views. However that submission is not reflected in the evidence. Whilst the appellant has retweeted other people’s comments, she has also tweeted her own views which have been expressed (see pages 42, 43, 44, and 45 of the supplementary bundle). In addition the appellant has not confined her conduct to social media posts but has also joined local communities.
143. Drawing together that assessment, I am satisfied that the appellant is genuine in her political views, and I further find that from the evidence provided she would seek to continue to hold those views on return to Nicaragua.
144. Turning to risk on return, the evidence demonstrates that there is no “pinch point” of return in Nicaragua as in other countries (for example see Iran). The fact that she would be removed from the UK would not by itself cause any interest in the appellant (confirmed by the expert report at paragraph 29).

145. However the risk identified in the evidence arises from any profile the appellant might have or more accurately what might be known about her as it is this which is likely to attract “retrospective investigation” and where the contents of any social media posts become relevant.
146. I have already found on the country evidence that it has not been demonstrated that the authorities actively monitor all social media activity, i.e. that outside the UK (see paragraph 4 of the expert report). However social media evidence becomes relevant once the person is of interest (see paragraph 4). Whether the person’s profile is high or low is no indicator of risk. The country materials refer to what might be termed “low profile” critics of the regime who have received lengthy jail sentences (see paragraph 5: where a named person had 18 followers on Twitter was sentenced to 11 years under the cybercrime law).
147. The cybercrime law as described in the country materials generally in the appellant’s bundle and in the expert report between paragraphs 33 – 39. The key provision is Article 30 of “spreading false news through information and communication technology” and is a wide definition covering all types of communications which have penalties arising from 2 to 5 years imprisonment. If the publication of false and biased information damages public order or sovereign security the penalty is 3 to 5 years imprisonment.
148. In assessing risk on return, I am satisfied that there is a reasonable likelihood or real risk that the appellant will be of interest to the authorities based on what would likely to be known about her. In particular that she was a student at X University which was the place of the focus of the protests and the focus of repression and that given she had left the country that she would likely be linked to the protests of that university. The evidence of the authorities attending her home and the local threats of “Plomo” demonstrate that she is also known to them, even if only to the local committees who provide monitoring of the local area. Whilst there has been a prolonged period since the appellant left Nicaragua, there is a reasonable likelihood that the local population would be aware that she is no longer at her parent’s home and the interest in her would thus remain.
149. Her social media activity would not be known for the reasons already given but there is a reasonable likelihood or real risk on the evidence and the expert report that social media posts would be investigated. The posts are plainly linked to the appellant and even though she has 1392 followers, and her posts are retweeted in small numbers it does not mean that the content would not be viewed as critical of the government as they are.
150. Even if it were the position that the appellant was not known to the authorities on the basis of the evidence provided by her mother, the evidence of the appellant’s political opinion is genuinely held, and I

am satisfied that she would continue to post her views on social media. I accept the submission made by Mr Spurling that if she continued to demonstrate her opposition to the government on return there is a real risk of persecutory treatment. Her background of attending previous demonstrations and being a member of the University at the focal point of the protests would be factors adverse to her. The cybercrime law as set out above has been used to arrest and detain those who have expressed anti-government views. I also accept the submission that if she ceased to be vocal about her opposition to the government on return through fear of persecution, that fear would be objectively well-founded (applying the principles in HJ(Iran) and RT(Zimbabwe)).

151. There has been no dispute on the evidence concerning the conditions of detention as set out in the country materials generally. The position with the detention of women as expressly set out in the expert report at paragraphs 31 detail severe conditions of detention.
152. For those reasons I am satisfied that it has been demonstrated that there is a reasonable likelihood or real risk that the appellant on return to Nicaragua will suffer serious harm or persecution on account of her political opinion or that imputed to her.

Decision:

153. The decision of the First-tier Tribunal involved the making of an error on a point of law and the decision is set aside; the appeal is to be remade as follows: the appeal is allowed on asylum and Article 3 grounds.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed Upper Tribunal Judge Reeds

Dated 11 November 2022