

# EVALUATION BENCHMARK – RESOLUTION 46/2

of the United Nations Human Rights Council on the situation in Nicaragua

1

**(OP2) Urges the Government to publicly condemn and ensure accountability for any attacks or acts of intimidation** [against human rights defenders] and to take measures to ensure a safe and enabling environment for the abovementioned persons to carry out their work freely.

## INDICATORS

- ▶ Number of public condemnations by the government.
- ▶ Number of trials by independent and impartial tribunals.
- ▶ Measures taken (including legislative, judicial, administrative, or other measures).

## STATE ACTIONS

### LACK OF ACTION

- No public condemnations by the government.
- No fair trial.
- No measures taken.

### ACTIONS CONTRARY TO THE RECOMMENDATION

- Failure to implement the I/A Court H.R. ruling in *Acosta v. Nicaragua* (*I/A Court H.R., March 16*).
- Escalation of attacks, threats, and other acts of violence committed against human rights defenders by government sympathizers or national police force agents (*IACHR, April 19*).
- A wave of arrests and attacks following the third anniversary of the April 2018 protest movement (*OHCHR, June 3*).
- Intensification of state attacks on press workers in the days after 15 April (*IACHR, 17 April*).
- As of 30 April 2021, more than 90 journalists and independent media workers are in exile (*IACHR-MESEN, 30 April*).
- Police siege against members of the CENIDH and the Asociación Madres de Abril (AMA), including the brief detention of the president of the AMA (*IACHR, 21 April*).
- A narrative that denies human rights violations and stigmatises victims persists from the highest State authorities (*IACHR-MESEN, 30 April*).
- 231 acts of harassment against defenders of a wide range of human rights in the context of the commemoration of the anniversary of the social outbreak of 2018 (*IM-Defensoras, 12 May*).
- The Nicaraguan State has not complied with the provisional measures in favour of CENIDH and CPDH (*CENIDH, 6 May*).
- The IACHR and the OHCHR condemn the persecution against potential presidential candidates and urge the Nicaraguan State to release them immediately (*IACHR and OHCHR, 9 June*).
- The OHCHR has observed an accelerated deterioration of the human rights situation (*OHCHR Oral update 47th session of the Human Rights Council, 22 June 2021*).

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

2 (OP3) Urges the Government of Nicaragua to **restore the legal registration of civil society organizations and independent media outlets** that have been cancelled since 2018, and to return seized assets, including confiscated property.

## INDICATORS

- Legal re-registration of civil society organisations and independent media
- Return of seized assets (including confiscated property).

## STATE ACTIONS

### LACK OF ACTIONS

- No legal re-registration of organisations or media outlets whose registrations were cancelled since 2018.
- Seized assets and property have not been returned.

### ACTIONS CONTRARY TO THE RECOMMENDATION

- The facilities of CENIDH, CISAS, Confidencial, Popol Na, and 100% Noticias have been used as maternity homes or health care centers under the jurisdiction of the Ministry of Health, while the Las Segovias Leadership Institute has been used as a university campus ([IACHR, February 8](#)).
- The State illegally continues to confiscate, dismantle, and appropriate the offices of feminist and human rights organizations ([IMD, February 19](#)).
- The State illegally expropriated and shut down the offices of the organizations Popol Na and CISAS ([IMD, March 22](#)).
- The Unidad Médica Nicaragüense was forced to close its offices due to constant attacks and threats ([Nicaragua Investiga, 23 June](#)).

## LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

3 (OP4) Urges the Government of Nicaragua to authorize **peaceful and public demonstrations**, and to repeal or amend legislation that may unduly restrict the **rights to the freedoms of expression and association, to privacy and to take part in the conduct of public affairs**, and that may prevent victims of human rights violations from exercising their right to seek a remedy or extend the period of detention without formal charge or criminalize dissenting voices.

## INDICATORS

- Number of demonstrations authorised or carried out without being repressed.
- Repeal or amendment of laws restricting the freedoms of expression, association, privacy, and participation in public affairs; limiting the right to appeal; and contributing to arbitrary detention.

## STATE ACTIONS

### LACK OF ACTION

- The set of laws passed in 2019 that are incompatible with the right to truth, access to justice, and comprehensive reparation for victims of repression, including the Amnesty Law, remain in force. This fact, coupled with the lack of independence of the administration of justice, consolidates impunity for human rights violations ([IACHR-MESEN](#), [April 30](#)).

### ACTIONS CONTRARY TO THE RECOMMENDATION

- As of 30 April 2021, at least 1,614 persons are victims of arbitrary deprivation of liberty in reprisal for having participated in acts of protest or opposition to the government ([IACHR-MESEN](#), [April 30](#)).
- Nelson Lorio was violently and arbitrarily deprived of his liberty, together with 6 other people who aimed to carry out a protest action in Managua ([IACHR](#), [April 22](#)).
- Sources documented a massive deployment of police and pro-government civilian groups to prevent any public demonstration in commemoration of the third anniversary of the 2018 social protests. This deployment includes police preventing more than 100 leaders from leaving their homes, the massive occupation of public spaces to prevent protests, arrests, and intensified surveillance ([IACHR](#), [April 20](#)).
- On April 20, police shut down a mass service in Esteli Cathedral in remembrance of the murder of Franco Valdivia, along with other actions to prevent public demonstrations demanding justice and an end to impunity ([IACHR](#), [April 21](#)).
- Police were deployed to repress and/or impede several campaign events in the context of national elections. The campaign launch of Medardo Mairena (April 8) was affected. Members of the Fuerza Democrática Nicaragüense were prevented by the police in Nueva Segovia, Ocotol from attending the launch of the National Coalition (May 2) candidature. Police seized the headquarters of Ciudadanos por la Libertad during the registration of candidates Félix Maradiaga and Luis Fley (June 1).

## LEVEL OF IMPLEMENTATION



NOT IMPLEMENTED

# 4

(OP5) Calls upon the Government of Nicaragua to cease immediately using **arbitrary arrests and arbitrary detentions**, as well as threats and other forms of intimidation or alternative measures of detention, as a means to repress dissent, to release all those arbitrarily or illegally detained without condition, to guarantee due process rights, to ensure that conditions of detention have due regard for the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela rules) and comply with applicable human rights obligations.

## INDICATORS

- ...▶ Number of arbitrary arrests.
- ...▶ Number of threats and other forms of intimidation or alternative forms of deprivation of liberty.
- ...▶ Number of arbitrary detainees released unconditionally.
- ...▶ Number of trials respecting international standards of due process; compliance of conditions of detention with the Nelson Mandela Rules.

## STATE ACTIONS

### ACCIONES CONTRARIAS A LA RESOLUCIÓN:

- – Precautionary measures were granted to the student Kevin Roberto Solís due to a situation of risk in the context of deprivation of liberty. Evidence of risk included the beatings received during his detention, an alleged lack of medical attention, and poor conditions of detention ([IACHR, April 23](#)).
- Human rights defenders Celia Cruz and John Christopher Cerna Zúñiga suffered ill treatment, the denial of medical care, attacks, and sexual assault while in prison ([OHCHR, June 3](#)).
- People who protest against the government have been placed in maximum security cells while in custody, suffering increased surveillance, searches, and isolation ([OHCHR, June 3](#)).
- Nelson Lorio was violently and arbitrarily deprived of his liberty, together with 6 other people who aimed to carry out a protest action in Managua ([IACHR, April 22](#)).
- As of 30 April, at least 115 people remain deprived of their liberty ([IACHR-MESEN, April 30](#)).
- As of 7 May, there are 112 people imprisoned for political reasons, all of them facing flawed judicial processes plagued by irregularities and violations of due process ([Mechanism for the recognition of political prisoners, May 7](#)).
- As of 31 May, 48 people had been arbitrarily detained in connection with the national elections, 40 of whom were members of political parties or organizations, including Medardo Mairena (presidential pre-candidate of the Movimiento Campesino) and a journalist, both of whom were later released ([Urnas Abiertas, June 15](#)).

- From 1 April to 31 May, 398 acts of political violence were registered in the electoral context. Victims included both individuals and groups of people (including journalists, members of NGOs, and political figures) as well as institutions or organizations (including NGOs, media organizations, and political parties). These acts included harassment, threats, aggressions, injuries, detentions, retentions, and prosecutions ([Urnas Abiertas, June 15](#)).
- In only one week (2-8 June), four presidential pre-candidates were arbitrarily detained, along with other people connected to them through employment or political affiliation: Cristiana Chamorro, Arturo Cruz, Félix Maradiaga and Juan Sebastián Chamorro. As of 13 June, nine more opposition leaders had also suffered arbitrary detention in the form of kidnapping or forced disappearance by the national police: José Adán Aguerri, Violeta Granera Padilla, José Pallais Arana, Tamara Dávila Rivas, Ana Margarita Vijil, Dora María Téllez, Suyen Barahona, Hugo Torres Jiménez and Victor Hugo Tinoco ([Urnas Abiertas, June 15](#)).
- As of 14 June 2021, 124 persons remained in detention for political reasons ([Mechanism for the recognition of political prisoners](#)).

## INITIAL ACTIONS

- Liberation of Celia Cruz (trans woman and human rights defender) on April 25, after a year of arbitrary detention ([OHCHR, June 3](#)).

## LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

5 (OP6) Urges the Government of Nicaragua to **combat impunity** and to ensure accountability and justice for victims of human rights violations in the context of the 2018 protests, including by conducting independent and impartial investigations into the multiple forms of repression and violence that killed more than 300 people and injured 2,000, including alleged extrajudicial executions, enforced disappearances, torture and other grave human rights violations and abuses reported since April 2018 by the Office of the High Commissioner, and by amending the Amnesty Law.

## INDICATORS

- Number of independent and impartial investigations of violations in the context of the 2018 protests, including extrajudicial killings, enforced disappearances, and torture, among others.
- Remedies for victims of violations in the context of the 2018 protests.
- Amendments to the Amnesty Law.

## STATE ACTIONS

### LACK OF ACTION

- The set of laws passed in 2019 that are incompatible with the right to truth, access to justice, and comprehensive reparation for victims of repression, including the Amnesty Law, remain in force ([IACHR-MESEN, April 30](#)).
- The State shows a clear lack of will to combat impunity ([IACHR, April 19](#)).
- The Permanent Council of the Organisation of American States (OAS) approved by a large majority a resolution expressing its "alarm at the deteriorating political environment and human rights situation in Nicaragua, including the use of repressive laws and actions to intimidate and threaten members of the opposition and the press, and to restrict political participation" ([OAS, June 15](#)).
- The OHCHR has observed a concerning and rapid deterioration in the human rights situation in the country ([OHCHR Oral update on the situation of human rights in Nicaragua 47th session of the Human Rights Council, 22 June 2021](#)).
- The IACHR identified and denounced "a new phase of repression" in Nicaragua in the run-up to the elections ([IACHR, June 21](#)).

## LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

6 (OP7) Also urges the Government of Nicaragua to take effective measures to prevent and address the increase in **sexual and gender based violence**, including gender-related killings, by strengthening the capacity of the Attorney General's Office and the Judiciary, in line with international standards, as well as by implementing preventive educational policies and programmes.

## INDICATORS

- Number of measures to prevent and combat sexual and gender-based violence (including legislative, judicial, administrative, or other measures).
- Actions undertaken to strengthen the capacity of the prosecution and judiciary in accordance with international standards.
- Number of prevention policies and educational programmes on sexual and gender-based violence.

## STATE ACTIONS

### LACK OF ACTION

- No measures have been adopted to prevent or combat sexual and gender-based violence, including educational initiatives or strengthening of the Prosecutor's Office.

## ACTIONS CONTRARY TO THE RECOMMENDATION

- Sexual violence, including allegations of sexual abuse and rape, were documented in the context of the crisis ([IACHR, April 19](#)).
- Trans women were held in custody in men's detention centers, including the human rights defender Celia Cruz, who was exposed to sexual violence and verbal abuse ([UN Rapporteur on Human Rights Defenders and other experts, June 3](#)).
- Between January and April 2021, 29 women were disappeared and subsequently found dead or in situations of sexual violence ([Confidencial, April 4, 2021](#)).
- 9 women are currently detained for political reasons ([Mechanism for the recognition of political prisoners](#)).

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

7

(OP8) Urges the Government of Nicaragua to seek free, prior and informed consent as contemplated in the United Nations Declaration on the Rights of **Indigenous Peoples**, and to take effective measures, in consultation with indigenous peoples, to prevent and address the increasing violence committed against them, including by conducting prompt and independent investigations into alleged killings and land seizures by armed groups.

## INDICATORS

- ...▶ Number of cases in which free, prior, and informed consent was obtained.
- ...▶ Number of cases of killings and land confiscations by armed groups.
- ...▶ Number of prompt and independent investigations into allegations of killings and land seizures by armed groups.

## STATE ACTIONS

### LACK OF ACTION

- The State of Nicaragua has not adopted any mechanism for consultation with indigenous peoples with free, prior, and informed consent ([IACHR thematic hearing, March 2021](#)).
- Between 2011 and 2021, the NGO CEJUDHCAN has documented the deaths of 49 Miskitu indigenous people, 53 injuries, 46 kidnappings, and 4 disappearances ([IACHR thematic hearing, March 2021](#)).

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED



**8** (OP9) Calls upon the Government of Nicaragua to continue to take steps to progressively realize the **rights to education and work, and to ensure the right to the enjoyment of the highest attainable standard of health for all.**

## INDICATORS

- Progressive realization of the right to health, in compliance with the criteria of availability; accessibility; acceptability; and quality.
- Progressive realization of the right to education, in compliance with the criteria of availability; accessibility; acceptability; and adaptability.
- Progressive realization of the right to work, in compliance with the criteria of availability, accessibility, acceptability, and quality.

## STATE ACTIONS

### ACTIONS CONTRARY TO THE RECOMMENDATION

- UNAN-León expelled five students in July 2021 for "undermining peace and stability" based on Rectoral Agreement N° 45-206-2021 [[100% Noticias, July 2](#)]
- Two leaders of the student movement, Lesther Lenin Alemán and Max Isaac Jerez Meza, were arrested for the alleged crimes of robbery with intimidation, kidnapping, serious injuries, extortion, and multiple damages during the protests of 2018. They are also being investigated for "acts that undermine the independence and sovereignty...inciting foreign interference [National Police Press Release 181-2021 of July 6, 2021}.

### LACK OF ACTION

- Education:** 150 students expelled in retaliation for their participation in mobilisations launched in April 2018. ([IACHR-MESEN, April 2021](#))
- The University Council reiterated the ban on enrolment of expelled students for the year 2021 ([IACHR, April 2021](#)).
- Harassment of student leadership continues, including the cases of Byron Estrada and Ricardo Baltodano ([IACHR, April 2021](#)).
- Health:** concern about the lack of information and state of health of persons deprived of liberty for political reasons ([Intervention by the President of the IACHR, Antonia Urrejola Extraordinary Session of the OAS Permanent Council, June 23, 2021](#));
- With regard to the COVID-19 pandemic:** i) no implementation of physical or social distancing measures ii) serious lack of public, reliable and transparent information iii) independent investigations denounce under-reporting of official figures on COVID positive cases and deaths, ([IACHR, April 2021](#)) iv) more than 405 health professionals have been dismissed since the beginning of the crisis leading to a decrease in the response capacity of the public health system ([IACHR-MESEN, April 2021](#)).



**9** (OP10) Urges the Government of Nicaragua to take effective measures to provide a **safe environment for victims of human rights violations**, including former political prisoners and opposition members, and those with long term injuries and disabilities.

## INDICATORS

- ...▶ Number of Precautionary Measures and Provisional Measures agreed upon with beneficiaries and effectively implemented.
- ...▶ Number of investigations carried out into threats, aggressions, and other attacks against victims of human rights violations.

## STATE ACTIONS

### LACK OF ACTION

- No investigations have been carried out nor have the protection measures granted by the IACHR been implemented. On the contrary, sieges, threats, and harassment have continued.

### ACTIONS CONTRARY TO THE RECOMMENDATIONS

- The set of laws passed in 2019 that are incompatible with the right to truth, access to justice, and comprehensive reparation for victims of repression, including the Amnesty Law, remain in force. This fact, coupled with the lack of independence of the administration of justice, consolidates impunity for human rights violations (IACHR-MESEN, April 30).
- The IACHR has condemned the serious escalation of repression in Nicaragua (IACHR, June 18)
- During 2021, the IACHR has received 27 requests for precautionary measures, the majority of which were presented during the month of June (IACHR, Antonia Urrejola, June 23).

## NIVEL DE IMPLEMENTACIÓN

**✗ NOT IMPLEMENTED**

**10** (OP11) Calls upon the Government of Nicaragua to take effective measures to guarantee the **independence and impartiality of the justice system** and the Office of the Human Rights Advocate.

## INDICATORS

- ...▶ Measures taken to comply with the UN Basic Principles on the Independence of the Judiciary.
- ...▶ Measures taken to comply with the Paris Principles on guarantees of independence and pluralism of the National Human Rights Institution (Section B).

## STATE ACTIONS

### LACK OF ACTION

- The Government has not taken any measures to guarantee the independence and impartiality of the justice system, nor has the Human Rights Ombudsman's Office taken any measures to guarantee the independence and impartiality of the justice system

### ACTIONS CONTRARY TO THE RECOMMENDATIONS

- Arbitrary arrests without timely judicial reviews, raids without warrants and without displaying the certificate of occupation of property, and preventive detention for periods of up to 90 days persist (Urnas Abiertas, June 30).

## LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

**11** (OP12) Urges the Government of Nicaragua to adopt a time-bound action **plan to implement the recommendations made by international and regional human rights mechanisms**, including those made in the reports of the High Commissioner, in consultation with civil society and victims.

## INDICATORS

- ...▶ Adoption of a time-bound Plan of Action, in consultation with victims and civil society, to implement the recommendations of international and regional mechanisms.

## STATE ACTIONS

### LACK OF ACTION

- No action plan has been adopted to implement the recommendations of international and regional mechanisms.

## LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

# 12

(OP13) Calls upon the Government of Nicaragua to **cooperate fully with the Office of the High Commissioner**, including its Regional Office for Central America, the Human Rights Council and its mechanisms, and the **Organization of American States** and the **InterAmerican Commission on Human Rights**, including by granting unfettered access throughout the country and facilitating visits, and to positively consider the recommendations made in their reports and offers of technical assistance, the requests for country visits made by the special procedures in accordance with the standing invitation it extended in 2006, and to strengthen its cooperation with relevant treaty bodies.

## INDICATORS

- ...▶ An agreement to allow OHCHR, IACHR (including MESENI) and Special Procedures to enter the country unhindered and to carry out their work without hindrance.
- ...▶ Positive responses to proposals for technical assistance.
- ...▶ Positive responses to requests for country visits by at least two Special Procedures mandates.
- ...▶ Enhanced cooperation with Treaty Bodies.

## STATE ACTIONS

### — LACK OF ACTION

- No positive response has been given to requests for country visits by Special Procedures, even requests without a specific date for a visit.
- No agreement has been reached to allow international or regional human rights mechanisms to enter the country unhindered.

## LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

# 13

(OP14) Also calls upon the Government of Nicaragua to prevent, refrain from and publicly condemn, investigate and punish any acts of **intimidation or reprisal**, including against those who cooperate or seek to cooperate with international and regional bodies, including the United Nations, its representatives and mechanisms in the field of human rights, and with the Organization of American States and the Inter-American Commission on Human Rights.

## INDICATORS

- ▶ Number of public condemnations, investigations, and sanctions for acts of intimidation or reprisal by the Government.
- ▶ Number of cases of reprisals documented in the Secretary-General's annual report on reprisals.

## STATE ACTIONS

### NO HAY ACCIÓN

- No public condemnation has been documented in any of the five cases included in the UN Secretary-General's latest report on reprisals.

## LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

14

(OP15) Urges the Government of Nicaragua to engage in meaningful and inclusive negotiations with civil society and opposition parties and groups, and to work with international organizations to adopt, by May 2021, as outlined by the Organization of American States in its resolution AG/doc.5710/20, electoral and institutional reforms to ensure **free, fair, transparent, representative and credible elections**, in accordance with international standards, that include the presence of independent national and international electoral observers.

## INDICATORS

- ▶ Number of meaningful and inclusive negotiations with civil society, political parties, and opposition groups initiated by the government.
- ▶ Adoption of electoral and institutional reforms by May 2021 in accordance with OAS resolution AG/doc.5710/20.
- ▶ Authorisation of the presence of independent national and international election observers.

## STATE ACTIONS

### LACK OF ACTION

- No meaningful and inclusive negotiation with civil society, political parties, or opposition groups, despite Article 138-8 of the Constitution stating that the National Assembly must elect the magistrates of the Supreme Electoral Council in consultation with civil society.

## ACTIONS CONTRARY TO THE RECOMMENDATIONS

- On 4 May, the National Assembly (controlled by a ruling party majority) passed an electoral reform that disregarded the demands of the opposition, civil society, and international community by not incorporating safeguards to guarantee the impartiality of electoral authorities. It also contains provisions that do not comply with human rights norms and standards, including restrictions on the right to freedom of expression, assembly, and political participation. Under this reform, the authorities have in recent weeks dissolved two political parties without due process and using arguments that are contrary to international norms and standards ([OHCHR, May 28](#)).
- On 19 May, authorities announced they had initiated a criminal investigation of one of the main presidential pre-candidates, Cristiana Chamorro, for alleged money laundering through the Violeta Barrios de Chamorro Foundation. The investigation is based on the "Law against money laundering, terrorist financing, and proliferation of weapons of mass destruction" adopted in July 2018. This vague wording of this law has raised concerns that it may be used to silence dissent ([OHCHR, May 28](#)).
- The National Police has intensified its actions to restrict the movements of other opposition leaders ([OHCHR, May 28](#)).
- The dissolution of political parties and the initiation of criminal investigations that could lead to the disqualification of opposition candidates, without due process, not only undermine the aspiring candidate's right to stand for election, but also the right of voters to elect the candidates of their choice ([OHCHR, May 28](#)).
- The reforms to the Electoral Law approved on 4 May by the National Assembly have had immediate impacts. Law 1070 (Law of Reform and Addition to Law 331), which limits participation by widening the grounds for suspension and de-listing of political parties, has targeted the already-criminalized persons identified as political opponents of the government ([IACHR, May 14, 2021](#)). It also centralizes authority without proper independence by establishing a Special Constitutional Commission for Electoral Matters in the National Assembly. Likewise, the reforms do not allow for independent national and international observation and incorporate the language of accompaniers of the electoral process, leaving pending the regulation of accreditation and participation by the Supreme Electoral Council.
- As of 15 May, 41 people had been arbitrarily detained in connection with the national elections, 40 of whom were members of political parties or organizations, including Medardo Mairena (presidential pre-candidate of the Movimiento Campesino) and a journalist ([Urnas Abiertas, May 31](#)).
- On 18 May, the Supreme Electoral Council cancelled the legal status of the Democratic Restoration Party and the Conservative Party, preventing opposition sectors such as the National Coalition from having an electoral vehicle ([Swiss info, May 19](#)).
- Between 1 and 15 June 2021, 225 incidents of political violence in the electoral context were recorded. Data available up to 15 June shows that acts of judicial persecution beginning in May continued, combined with violations of due process and with cruel and degrading treatment of persons arbitrarily detained and prosecuted ([Urnas Abiertas, June 30](#)).

**The Nicaraguan government has not taken action to implement any of the recommendations included in Resolution 46/2.** The release of Celia Cruz is one possible exception to this conclusion, but her legal situation remains uncertain after the Supreme Court of Justice confirmed her thirteen-year sentence.

**The government has not taken steps to meet the initial recommendations or the recommended timelines,** such as the adoption of an action plan or the passing of electoral reforms by May 2021. The government has rejected any criticisms in this regard as “defamation.”

Furthermore, **the government has adopted several measures that contradict the recommendations,** resulting in a drastic reduction in civic space and an escalation in attacks on human rights defenders, journalists, potential presidential candidates, and dissidents. These measures create a context in which free, fair, and transparent elections are impossible.

