



III

EVALUATION BENCHMARK 46/2 RESOLUTION

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

September 2021 - January 2022

1 INTRODUCTION

Twenty one human rights organizations, motivated by the serious human rights situation that Nicaragua is going through, join forces to prepare this third and final Evaluation Framework, which aims to assess the level of implementation of the recommendations contained in Resolution 46/2 of the United Nations Human Rights Council by the State of Nicaragua.

However, the Nicaraguan government continues to show no intention of resuming meaningful cooperation with the international community, since it expelled the UN and IACHR human rights presence from the country in December 2018 and continues to fail to implement any of its recommendations. Nor has it allowed the Inter-American Court to enter the country to supervise the situation of political prisoners. The repression has not stopped and even escalated in the context of the November 2021 elections with the arbitrary imprisonment of presidential candidates, political leaders, human rights defenders, businessmen, journalists, peasant leaders and students who are now being subjected to judicial processes that do not respect the minimum guarantees of due process and are being tried and sentenced according to legal provisions that are incompatible with international human rights standards.

Of particular concern to the international community must be the, at least, 167 people who continue to be deprived of liberty in conditions that endanger their lives and personal integrity. According to the Inter-American Court, these conditions constitute cruel, inhuman, and degrading treatment, while there are also indications of torture and sexual assault in the case of women. Likewise, the Inter-American Commission, through its remote monitoring, has been able to update the number of fatal figures of the repression, which now amounts to 355 for the period from April 18 to July 31, 2019. These serious human rights violations continue in impunity and there is no open investigation. Attacks on freedom of the press and freedom of association have continued to escalate with more than 80 civil society organizations outlawed in addition to universities that have also been cancelled. This, in a context of widespread impunity where the concentration of power and the weakening of the rule of law de facto eliminates any margin for accountability and impartial management of legal matters.

This is the third and last of the evaluation frameworks that, like the previous two, continues without registering any step towards the implementation of the recommendations, and continues to reflect a marked lack of cooperation with the mechanisms for the protection of human rights. This while the situation in the country continues to seriously deteriorate. Since the beginning of the crisis in April 2018 to date, at least 110,000 Nicaraguans have been forced into exile without guarantees for their return to date.

Finally, we invite you to join our efforts by sharing the evaluation framework and using the hashtags #SOSNicaragua and #NicaraguaEnLaONU on social media, and calling on the UN Human Rights Council to create an international investigation and accountability mechanism through the hashtag #MecanismoParaNicaragua.

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2

(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

NO ACTION

- The government has not taken any steps towards accountability or the development of measures to guarantee the work safety of defenders. A report published by the Inter-American Commission on Human Rights (IACHR) on October 28, 2021, on the concentration of power and weakening of the rule of law in Nicaragua indicates that the judicial system is and continues to be centralized in the Executive, which leaves de facto little scope for accountability and impartial management of legal matters. ([IACHR, 28 October](#)).

CONTRARY ACTIONS

- Acts of harassment, threats, raids, arbitrary detentions and ill-treatment against any person considered to be an opponent of the current government, perpetrated by police and para-police groups ([IACHR, 28 October](#)).
- Former diplomat and political analyst Edgar Parrales, 80, was arrested on November 22nd and is being arbitrarily detained after giving interviews to the media about the country's exit from the Organization of American States. ([IACHR 23 November](#)).
- On November 8th on the occasion of his re-election, President Ortega delivered a speech in which he proliferated insults towards (30) imprisoned leaders of social movements, journalists, defenders and presidential pre-candidates, stating that they should not be Nicaraguans and that they should leave the country for good. In addition to contributing to exacerbating the climate of hostility and intolerance against persons identified as opponents of the government, it puts the lives and integrity of defenders and those who remain in state custody at greater risk ([IACHR, 10 November](#)).

- Arbitrary detention and subsequent forced disappearance, and threats to the detriment of a human rights defender from Movimiento Campesino who is being held incommunicado, and whose whereabouts are unknown for acts allegedly related to his work as a human rights defender and participation in social protests. To date, there is no official information on the place of detention, contact with the authorities, with his family and lawyers. There is also no information on his state of health and conditions of detention ([UN Special Procedures, 25 August](#)).

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

3

(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

NO ACTION

- The organizations and media outlets canceled since 2018 have not been legally re-registered.
- Their seized assets and confiscated property have not been returned.

CONTRARY ACTIONS

- Shortly before the general elections of November 7th, 2021, cancellation of legal status of three political parties and the continued harassment of civil and human rights organizations through the continued closure of the democratic space and the independent press. In addition, arbitrary restrictions on civil society's freedom of association, such as those imposed by the Law of Foreign Agents or the cancellation of the legal status of 45 civil organizations during 2021, including organizations dedicated to foreign aid, women's organizations and medical associations that were critical of the government's Covid-19 response. ([IACHR, 4 November](#)) ([UN Deputy High Commissioner for Human Rights, 14 December](#)).

4

(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

CONTRARY ACTIONS

- Civil society organizations receiving foreign funding to observe elections and promote freedom of expression were also forced to cease or limit their activities due to obstacles imposed by the so-called "Foreign Agents Regulation Act." (UN Deputy High Commissioner for Human Rights, 14 December).
- In the weeks leading up to election day, many journalists were denied accreditation and entry into the country, hindering independent coverage of the electoral process. This was in addition to the violations of freedom of the press and the right to information previously documented by OHCHR, including raiding of the country's main print newspaper and arbitrary arrests, harassment and threats of journalists and media workers involved in critical reporting of the Government, leading dozens of them to flee the country. Protests or demonstrations by groups not participating in the elections were banned in the country by the new electoral law. All these restrictions and human rights violations created an environment unconducive to genuine and free elections. (UN Deputy High Commissioner for Human Rights, 14 December).

- Freedom of expression was severely curtailed as the general election approached. Foreign journalists who wanted to document Election Day were denied entry to the country and key political opponents were imprisoned without much reason, stripping the elections of any political pluralism. (IACHR and OHCHR, 4 November)
- Arbitrary restrictions of civil society's freedom of association, including those imposed by the Foreign Agents Act and the cancellation of the legal status of 45 civil society organizations during 2021, which further reduced civic platforms at a time when they should have been carefully protected. Public demonstrations are banned in the country, particularly those organized by individuals and organizations who are regarded as government critics. (IACHR and OHCHR, 4 November)
- Allegations of unjustified dismissals of university professors and teachers for having participated in the social protests between April and August 2018. (UN Committee on Economic, Social, and Cultural Rights, 11 November)

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

5

(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

NO ACTION

- The High Commissioner for Human Rights has insisted on the urgency to immediately release all people arbitrarily detained and have their civil and political rights fully restored. ([UN Deputy High Commissioner for Human Rights, 14 December](#))
- 160 individuals remain arbitrarily detained ([IACHR-MESENI, December 2021](#)).
- As of 31 January 2022, civil society organizations documented 167 political prisoners. ([Mechanism for the recognition of political prisoners, January 2022](#)).

CONTRARY ACTIONS

- Arbitrary detention of no fewer than 39 political leaders, human rights defenders, business people, journalists, peasant, and student leaders during the electoral period between May and October. This includes seven people who had registered as pre-candidates or had publicly expressed their intention to run for President. All of them were detained on the basis of legal provisions incompatible with international human rights standards; the judicial proceedings to which they were subjected to did not adequately respect due process. ([UN Deputy High Commissioner for Human Rights, 14 December](#))
- In spite of this and after months of opacity, the Public Prosecutor's Office of Nicaragua announced the resumption of the oral trials against the persons arbitrarily deprived of liberty in the framework of the electoral cycle accused of committing "undermining the national integrity, for having received resources from foreign sources to commit the crimes of money laundering, property and assets". ([Public Prosecutor's Office of Nicaragua, January 31, 2022](#)).
- Many of the persons deprived of their freedom in the electoral period were held incommunicado for over 90 days, some in prolonged solitary confinement, and have only been able to see their families on isolated occasions. Such conditions pose real risks to their physical and mental integrity and may constitute cruel, inhumane, or degrading treatment or even rise to torture. As a matter of urgency, authorities must allow regular visits by lawyers and relatives of the detainees, including their children, and ensure detention conditions fully comply with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). ([UN Deputy High Commissioner for Human Rights, 14 December](#)).
- Given the government's inaction regarding the arbitrary detentions and persons deprived of liberty, the OAS Permanent Council adopted a resolution urging the Government to release all political prisoners and to accept a high-level mission of good offices with the aim, among others, of holding early elections with international observers. ([OAS, 8 December](#))

IACHR Precautionary Measures granted to:

- IACHR decided to extend precautionary measures to Merdado Mairena and Pedro Mena in Nicaragua. According to the request, the proposed beneficiaries are currently at risk as they have been detained and incommunicado from family members and lawyers in the current context of the country. They have been detained since May 2021. (IACHR resolution 79/2021, 3 October)
- Journalist Jaime José Arellano Arana, after considering that he is in a serious and urgent situation of risk of irreparable harm to his rights in Nicaragua due to his work as a journalist critical of the government. In March 2021, he was arrested at his home and held incommunicado. (IACHR Resolution 82/21, 12 October)
- Mauricio José Díaz Dávila, former deputy of the Central American Parliament, and Max Isaac Jerez Meza, student of political science. (IACHR Resolution 83/2021, 12 October)
- Miguel Ángel Mendoza Urbina, a political prisoner who has been imprisoned for more than 120 days, and his family, after considering that they are in a serious and urgent situation. risk of irreparable damage to his rights, given, among other things, the conditions of his detention. (IACHR Resolution 85/2021, October 15)
- Danelia Valenzuela Castro, Nolvía María Rodríguez Cerrato, Luis Manuel Marchena Marachena Bogran, Marcos Arturo Herrera Beltran, Jaime Isabel Maradiaga Maradiaga, Mayling Mariela Naira Moncada, Mathil Alexander Perez Amador, Roger Alexander Espinoza Mendez, Joel Noe Blandon Villagra and their respective families, Leonidas Cruz Cano and Juan Abelardo Mata Guevara, due to being identified or perceived as opposition by certain sectors of the country (IACHR, 5 November)
- Denis Antonio García Jirón and his mother, Carmen Jirón. The beneficiary, currently deprived of his liberty, and his family members, have been subject to threats, harassment and aggressions by state agents in the current context due to his role as a political activist and participation in the protests against the government. (IACHR Resolution 95/2021, 27 November)
- María Lilly Delgado Talavera, subjected to harassment, intimidation and surveillance related to her work as a journalist. (IACHR resolution 101/2021, 8 December)
- Edgar Francisco Parrales Castillo. Political prisoner with serious illnesses who does not receive necessary medical attention. (IACHR Resolution 01/2022, January 12, 2022)

NIVEL DE IMPLEMENTACIÓN

✗ NOT IMPLEMENTED

6

(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

NO ACTION

- The IACHR updated Death Toll Records of the human rights crisis that started in April 2018 in Nicaragua. It stated that the updating and documentation work was done without access to official data from Nicaragua. The IACHR also reiterated the country's obligation to "investigate all acts of violence committed in the context of the crisis impartially and with due diligence, in order to put an end to impunity." ([IACHR, 15 November](#))
- Nicaragua must ensure accountability, truth-seeking and full reparation for victims of serious human rights violations committed since April 2018. ([UN Deputy High Commissioner for Human Rights, 14 December](#))

CONTRARY ACTIONS

- A context of generalized impunity persists with respect to the serious human rights violations committed in the framework of state repression. ([IACHR, 20 November](#))
- In addition, the update of the registry of fatal victims in the context of the crisis shows an increase from 212 to 355 in the number of victims during the repression of social protests between April 18 and July 31, 2019. According to disaggregated by gender, 15 would be women and 340 men. In addition, 27 of the total victims would be children and/or adolescents. The data also accounts for 23 National Police officers who lost their lives in this context. ([IACHR, 15 November](#))
- According to data issued by the UNHCR, more than 110,000 individuals have been forced to flee Nicaragua and request asylum in other countries due to persecutions and human rights violations. ([IACHR, 20 November](#))

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

(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

NO 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.
- Gender stereotypes remain entrenched in society, making it difficult for women to exercise their economic, social and cultural rights, particularly in the workplace and to access decision-making positions in both the public and private spheres. (UN Committee on Economic, Social, and Cultural Rights, 11 November)

CONTRARY ACTIONS

- The Committee notes the information contained in the report on the care provided to women in so-called "maternity homes", in particular in rural areas that are difficult to access. However, it notes with concern the information regarding the reform of abortion legislation, which fully criminalizes abortion after eliminating the possibility of therapeutic abortion, leading to an increase in unsafe abortions in the State. The Committee is concerned that the State party has a very high rate of teenage pregnancies. The Committee regrets that it has not received information on maternal mortality rates or on progress towards the adoption of a law on sexual and reproductive health. (UN Committee on Economic, Social, and Cultural Rights, 11 November)

(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

NO ACTION

- The Committee Committee on Economic, Social and Cultural Rights is concerned about reports received on the lack of adequate mechanisms to guarantee the right of indigenous peoples to be consulted in decisions that may affect their rights, including their rights over the territories they have traditionally occupied. (UN Committee on Economic, Social, and Cultural Rights, 11 November)
- Lack of information on the impact of the measures adopted to combat discrimination against indigenous peoples and people of African descent. (UN Committee on Economic, Social, and Cultural Rights, 11 November)
- Aggressions and intimidation against indigenous communities defending the rights of native peoples continue. In mid-January 2022, a group of non-indigenous third parties intercepted members of the Mayangna Sauni As Territory, attempting to kidnap them. The community members managed to escape; however, they were threatened with future aggressions. (FIDH-OMCT, January 2022).

ACCIONES CONTRARIAS

- The State has not carried out adequate prior consultation procedures prior to the approval of major investment projects likely to affect the rights of indigenous peoples, such as the concession for the construction of the Grand Inter-oceanic Canal. (UN Committee on Economic, Social, and Cultural Rights, 11 November)
- Allegations that the State has promoted the creation of parallel governments to supplant the representation of legitimately constituted indigenous peoples' communities, which affects consultation procedures and facilitates the usurpation of indigenous territories. Stagnation in relation to the regularization of indigenous territories and the lack of effective mechanisms for the protection of indigenous peoples' rights to their lands, territories and resources. (UN Committee on Economic, Social, and Cultural Rights, 11 November)

- Serious social conflicts and violence generated around the possession and use of lands and territories between indigenous peoples and third parties occupying or interested in the exploitation of the natural resources found in such territories, particularly in the territories of indigenous peoples and Afro-descendants on the Caribbean Coast of Nicaragua. (UN Committee on Economic, Social, and Cultural Rights, 11 November)
- Information on the negative impact of the development of projects for the exploitation of natural resources by some companies, which cause irreparable damage to the environment and undermine the right to health and the right to an adequate standard of living of the affected communities, particularly indigenous and Afro-descendant peoples. (UN Committee on Economic, Social, and Cultural Rights, 11 November)

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

9

(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

NO ACTION

- The Committee on Economic, Social and Cultural Rights (UN Committee on Economic, Social, and Cultural Rights, 11 November) regrets that it did not receive information from the State party on:

1. the proportion of public expenditure allocated to social priorities, such as food, housing, water, sanitation, health and education, and notes with concern the information on the decrease in funding for the health and education sectors;
 2. the incidence of malnutrition and undernutrition in the State party and on the concrete results of the implementation of the Programa Productivo Alimentario (Zero Hunger Program);
 3. updated disaggregated statistical information on employment, unemployment, and underemployment rates, as well as on the availability and accessibility of technical-vocational education program;
 4. the amount of the minimum wage and whether it is sufficient to ensure a decent standard of living for workers and their families;
 5. the working conditions of women in some sectors, such as maquila and domestic work;
- According to some reports, there are high levels of malnutrition and undernutrition, including overweight and obesity, in the State. (UN Committee on Economic, Social, and Cultural Rights, 11 November)
 - Lack of tripartite agreements regarding the adjustment of the minimum wage. (UN Committee on Economic, Social, and Cultural Rights, 11 November)

CONTRARY ACTIONS

Right to Health

- Dismissal of doctors and medical personnel allegedly due to their refusal to comply with the order not to provide medical care to persons who were injured during such protests and in the context of the COVID-19 pandemic. (UN Committee on Economic, Social, and Cultural Rights, 11 November)
- According to figures from the Observatorio Ciudadano, deaths attributed to COVID-19 vary between 190 and 200 per week, contrary to what is reported by the Ministry of Health (MINSa), which reports one death per week. Absence of a public health response by the country's authorities focused on adopting effective preventive measures against SARS-CoV2 infection. Vaccination rates are very low compared to other countries in the region. Nicaragua has the capacity to vaccinate at least 150,000 people per day, but according to public information, the current vaccination campaign is not meeting these expectations. According to data from the Pan American Health Organization (PAHO), Nicaragua has one of the lowest vaccination rates in Latin America. As of mid-November, only 7.38% of the population had completed the vaccination schedule. (IACHR and SRESCER, 17 November)

Right to Work :

- High levels of unemployment, as well as at the significant number of persons working in the informal sector, in particular women, persons belonging to indigenous peoples and persons of African descent. (UN Committee on Economic, Social, and Cultural Rights, 11 November)
- Working conditions in these sectors [maquila and domestic work] remain precarious and continue to expose women workers to serious risks of abuse and exploitation. (UN Committee on Economic, Social, and Cultural Rights, 11 November)

Right to Education

- The CESCR is concerned at the shortcomings found with regard to the quality of education in terms of infrastructure and materials as well as the content of school curricula and teacher training, a situation that is more serious in rural areas and on the Caribbean coast. The Committee notes with concern reports of high dropout rates in both primary and secondary education, particularly in rural areas. (UN Committee on Economic, Social, and Cultural Rights, 11 November).
- The IACHR Special Rapporteur on Economic, Social, Cultural and Environmental condemns the cancellation of the legal status of 14 universities and educational organizations by the National Assembly. (IACHR Special Rapporteur on Economic, Social, Cultural and Environmental, 10 February).

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

10

(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

NO ACTION

- No investigations have been carried out and the protection measures granted by the IACHR have not been complied with, on the contrary, the sieges, threats and harassment have continued.

CONTRARY ACTIONS

- Increase in police harassment, acts of harassment, searches, threats and arbitrary detentions against opposition leaders, human rights activists, members of civil society organizations and journalists in different departments of the country. Most of these acts were allegedly perpetrated by police officers, parapolice and government sympathizers. According to the information received, at least 23 people were arbitrarily detained in nine departments, without arrest warrants and without providing information to their families, telling them that they had to wait 48 hours to receive additional information. In addition, members of the former Councils of Citizen Power (CPC) reportedly visited homes, calling on people to vote for the government party, as a form of intimidation. (IACHR, 10 November)

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

11

(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

NO ACTION

- The government has not taken any measures to guarantee the independence and impartiality of the justice system and the Human Rights Ombudsman's Office.

CONTRARY ACTIONS

- More than three years after the start of social protests on April 18, 2018, the IACHR has noted that the rule of law has broken up in Nicaragua due to the concentration of power in the hands of the Executive and to the application of a state of emergency. (IACHR, 20 November)

- Judicial proceedings to which detainees were subjected did not adequately respect due process. Those who remain in detention are being held incommunicado while facing ambiguous criminal charges. Respect of due process needs to be upheld. (UN Deputy High Commissioner for Human Rights, 14 December)
- The IACHR published on 28 October a report entitled "Concentration of Power and the undermining of the Rule of Law" which reports on the degradation of the judicial system, which has become completely closed and dependent solely on the Executive. At the time of its publication, "There is no system of checks and balances in the country, since all institutions respond to the decisions of the Executive". (IACHR, 28 October)
- In the report, the IACHR also reiterates what was said by the Special Rapporteur on the Independence of judges and lawyers (in 2013) that, 'the National Council of Administration and Judicial Career did not respect the selection and election processes, that the Judicial Career Law was not applied with regard to removability by not considering the judge's consent and that "the removal system does not have sufficient guarantees of impartiality"'. (IACHR, 28 October)
- Information received regarding the lack of independence and impartiality of the judiciary. The Committee is also concerned about the lack of independence of the Human Rights Ombudsman's Office, as well as its lack of responsiveness to human rights violations in the State party, reasons for which it was downgraded to "B" status by the Global Alliance of National Human Rights Institutions. (UN Committee on Economic, Social, and Cultural Rights, 11 November)

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

12

(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

NO ACTION

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

CONTRARY ACTIONS

- On 20 October, the IACHR sent a draft of the report Concentration of Power and the Undermining of the Rule of Law to Nicaragua for information and observations. In response, the State completely rejected the document stating that it was a "compilation of false, distorted and manipulated facts that do not reflect the reality of our country and whose sole purpose is to defame the State". (IACHR, 25 October)
- On November 19th, the State of Nicaragua announced its withdrawal from the Organization of American States after the latter declared that it considered the November 7th elections to be an electoral farce and did not recognize them. For two years after receipt of the notice of denunciation, Nicaragua's obligations to the Organization and its Charters remain in force, as well as its duty to comply with its international human rights obligations. The OAS also stated that Nicaragua is not in compliance with its commitments under the Inter-American Democratic Charter. (IACHR, 8 December)

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

13

(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

NO ACTION

- No positive response has been given 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.

CONTRARY ACTIONS

- On 7 October, the government was supposed to take part in a dialogue with the Committee on the situation in Nicaragua, but showed up only "in a listening capacity". It showed no effort to cooperate with the Committee and did not answer any questions, reiterating that it was there only as a listener despite numerous attempts by the Committee to establish a dialogue. Furthermore, the State report lacks official information on the political, economic, and social situation in the country, which made it difficult for the Committee to produce a comprehensive report that could clearly identify areas where the state should intensify its efforts. (UN Committee on Economic, Social, and Cultural Rights, 11 November)
- The Committee notes with concern the closure of opportunities for participation and dialogue at both the national and international levels, particularly with mechanisms for the promotion and protection of human rights. The Committee also urges the State party to re-establish dialogue and cooperation at the international level with regional and universal mechanisms for the protection of human rights, and regional and universal mechanisms for the protection of human rights. (UN Committee on Economic, Social, and Cultural Rights, 11 November)
- Rejection by the Government of informations presented at the UN Human Rights Council by the Deputy High Commissioner, stating that it 'is nothing more than a repetition of allegations that are distant from the truth and reality; representing a unilateral aggression against the Nicaraguan People and its legitimately constituted government.' (Interactive dialogue on the interim oral update by the Deputy High Commissioner on the situation of human rights in Nicaragua, 14 December)

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

14

(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 ACTION

- No public condemnation of the reprisals reported by the UN has been registered

CONTRARY ACTIONS

- The criminal prosecution and harassment of political opponents, journalists, lawyers and human rights defenders on account of their opinions and beliefs and to ensure accountability, truth-seeking and full reparation for victims of serious human rights violations committed since April 2018 continues and must stop. (UN Deputy High Commissioner for Human Rights, 14 December)
- The most recent UN Secretary General's report on reprisals for cooperation with the UN (September 2021) includes four Nicaraguans who were targeted: Vilma Nuñez, Anibal Toruño, Marcos Carmona, and Jonathan Lopez. The report also discusses the impact of the Law on Foreign Agents on Nicaraguans' ability and willingness to cooperate with UN bodies. (A/HRC/48/28, 17 September)

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

15

(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

NO ACTION

- There have been no meaningful and inclusive negotiations with civil society, parties, and the opposition, despite article 138-8 of the Constitution that establishes that the National Assembly has to elect the magistrates of the Superior Electoral Council in consultation with civil society.

CONTRARY ACTIONS

- Information about public officials who were allegedly forced to vote in favor of Daniel Ortega, as well as to send proof of participation in the elections through photographs or by showing a finger stained with indelible ink, under threat of dismissal. The arrest of a student leader was also reported, as well as reprisals against people who did not show proof of having voted, such as a finger stained with indelible ink. In particular, medical students were reportedly banned from entering public and private universities and hospitals where they do their internships as a form of retaliation; the same allegedly happened to medical staff in public hospitals who, in some cases, were dismissed. (IACHR, 10 November)
- On November 4, in addition to the arbitrary detention of seven pre-candidates for the presidency, and of more than 30 social and political leaders, the IACHR reported the disqualification of a vice-presidential candidate, which ended up eliminating the political pluralism that the Government was obliged to guarantee in the next electoral process. (IACHR and OHCHR, 4 November)
- Election day could not be documented due to the refusal to allow several foreign journalists to enter Nicaragua in recent weeks and the lack of responses to requests for accreditation made to report on its development. (IACHR and OHCHR, 4 November 2021)

- Shortly after the general elections, multiple reports on restrictions on press freedom in the context of election day reported on the prohibition of reporters approaching polling stations; acts of harassment of the media and journalists; the temporary detention of journalists and the seizure of personal and work equipment; the obligation to broadcast a presidential speech on the national network during election day; the transmission in official media of electoral propaganda, violating the internal laws on the matter; and the expulsion and denial of the international press from entering the country to cover the elections. (Office of the IACHR Special Rapporteur for Freedom of Expression (RELE), 10 November)
- Irregularities were pointed out between the official communications and those of independent organizations regarding the percentages of votes. The State affirms that 65% of Nicaraguans went to vote while Open Ballot Boxes says that only 18% of them voted and revealed a high level of abstention of 81.5% (national average) during voting day (NGO Urnas Abiertas, 10 November)

LEVEL OF IMPLEMENTATION

✗ NOT IMPLEMENTED

CONCLUSION

Nicaragua has been immersed in a deep crisis for more than four years that has been analyzed by the Human Rights Council, with three resolutions adopted without the authorities having shown any intention of cooperating with the United Nations or with the Inter-American System for the protection of human rights. It has not implemented any of the recommendations issued and continues to brutally repress the exercise of fundamental rights by applying a series of ambiguous laws that clearly contradict its human rights obligations. There is no respect for due process and the weakening of the rule of law, where power is concentrated in the executive branch and where there is no impartial justice system, which has de facto eliminated the possibility of holding the State accountable.

Thus, in the face of the manifested lack of cooperation, the continuous deterioration of the human rights situation and the impossibility of obtaining justice at the national level, the Human Rights Council must send a clear message of the fight against impunity and must lay the foundations for a long-term justice process by establishing an international investigation and accountability mechanism for Nicaragua at its 49th session.

