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## EVALUATION BENCHMARK 49/3 RESOLUTION

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

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2022

# INTRODUCTION

Twenty-one human rights organizations, motivated by the serious deterioration of the socio-political and human rights crisis that Nicaragua is going through, present the Assessment Framework of Resolution 49/3 which aims to monitor the level of implementation that the State of Nicaragua has given to the recommendations contained in this resolution approved by the United Nations Human Rights Council on March 31, 2022.

In this resolution, the Council - among other things - urged the Government of Nicaragua to "cooperate fully with OHCHR, including its Regional Office for Central America, the Human Rights Council and its mechanisms, including the Human Rights Expert Group on Nicaragua, and relevant treaty bodies, including by allowing them unimpeded, absolute and transparent access to the entire country and facilitating visits...".

Unfortunately, since the beginning of the crisis, the Government of Nicaragua has maintained a position of rejection of any form of cooperation with the Universal Human Rights System. In 2021 it refused to engage in constructive dialogue with the Committee on Economic, Social and Cultural Rights (CESCR); in June of this year (2022) it rejected the visit of the Group of Experts on Human Rights on Nicaragua; in July it absented itself from the review of the Committee against Torture (CAT) and called it a "provocation"; in August it did not attend the review of the Committee on the Elimination of Racial Discrimination (CERD); and finally, in October it did not participate in the review of the Human Rights Committee. Given the refusal to comply with its legal obligation to receive a delegation from the Subcommittee on Prevention of Torture (SPT) for a confidential visit in 2023, the CAT and the SPT publicly condemned the State in a joint communiqué on November 29, for the first time in the history of both committees, highlighting the gravity and exceptionalism of the lack of cooperation of the Government of Nicaragua.

In addition, widespread impunity prevails in the country where the concentration of power and weakening of the rule of law de facto eliminates any margin for accountability. At least 355 fatal victims of repression are counted, more than 1600 people injured and, as of May 2020, 1614 arbitrarily detained in the context of peaceful demonstrations that began in April 2018; more than 219 people remain deprived of liberty for political reasons in conditions that, according to the Inter-American Court of Human Rights, are constitutive of cruel, inhuman and degrading treatment, and of particular danger for women and elderly people; and at least 90 attacks on indigenous peoples of the Northern Caribbean Coast of Nicaragua; among other serious human rights violations.

For the Office of the High Commissioner for Human Rights (OHCHR), "Nicaragua is going through an authoritarian political phase [...and incompatible with democracy, the rule of law and human rights]", which was more than evidenced in the context of the municipal elections of last November 6, an electoral process "characterized by the repression of dissident voices and the undue restriction of political rights and civil liberties".

The following is the evaluation of the Collective 46/2, regarding the recommendations made by the Human Rights Council in its Resolution 49/3.

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The 46/2 Collective has regularly investigated, documented and reported to the international community on the lack of actions by the Government of Nicaragua to address its international human rights obligations and the international community's human rights concerns. The Collective has encouraged member states of the UN Human Rights Council to appoint a group of international experts to investigate the human rights crisis in the country since April 2018. For security reasons, the names of all of the Collective's member organizations cannot be provided. More information: <https://www.mecanismoparanicaragua.org/>

OP1 Expresses grave concern at the deterioration of democracy and the human rights situation in Nicaragua, in particular with regard to the enjoyment of civil and political rights, the continued reports of human rights violations and abuses, the lack of accountability in this regard since April 2018, the persistent prohibition of public demonstrations and the disproportionate use of force and acts of intimidation and harassment by the police to repress peaceful protests and the commission of acts of violence by armed groups, as well as reports of an increase in cases of unlawful arrest and arbitrary detention, expedited trials without due process, harassment, torture and other cruel, inhuman or degrading treatment or punishment, gender-based killings, including femicides, and sexual and gender-based violence in detention;

## STATE ACTIONS

- OHCHR found a deterioration of the human rights situation, in particular civil and political rights, in a context characterized by the absence of dialogue, deepening political crisis, and isolation of Nicaragua from the international community
- In this report OHCHR concludes that the human rights situation in Nicaragua has progressively deteriorated since 2018 without the Government having shown political will to address the crisis through dialogue and the implementation of recommendations made by human rights mechanisms. ([September 2022 OHCHR Report Nicaragua human rights situation](#)).
- On November 3, 2022, the Human Rights Committee in showed its concern on issues related to the fight against impunity and past human rights violations; violence against women, right to life, prohibition of torture and other cruel, inhuman or degrading treatment; treatment of persons deprived of liberty; liberty and security of the person; independence of the judiciary; Right to a fair trial; freedoms of expression and association and right to privacy; use of force in the context of demonstrations; participation in public affairs; rights of indigenous peoples and other minorities. ([Human Rights Committee concluding observations](#)).
- On September 1, 2022 the Committee against Torture expressed concern about the lack of procedural safeguards in the administration of justice; conditions of detention and solitary confinement, disciplinary sanctions and punishment of prisoners; lack of independence of the national human rights prosecutor's office, impunity and complaints mechanisms: investigations and amnesties; criminalization of protest and acts of repression; gender-based violence, violence against indigenous peoples and Afro-descendants; reparations, including compensation and rehabilitation. ([Committee against Torture, Concluding Observations on Nicaragua](#)).

- On August 30, the Committee on the Elimination of Racial Discrimination expressed its concern about the lack of State cooperation in the area of human rights; implementation of the convention and data collection, especially the lack of an updated population census and the demographic composition of the population; the adequacy of the legislative framework to combat racial discrimination; access to the territories of indigenous and Afro-descendant peoples, who it considers continue to face structural discrimination; It also expresses its deep alarm at the attacks against indigenous and Afro-descendant peoples and shows its concern at the absence of mechanisms to guarantee free and informed prior consultation of indigenous peoples; and shows its serious concern at the impact of the development of extractive, agro-industrial and infrastructure projects on indigenous and Afro-descendant peoples that is affecting their livelihoods. It is concerned about the use of force against Afro and indigenous persons during detention; lack of independence of the justice system and discriminatory practices that significantly affect their access to justice (Committee on the Elimination of Racial Discrimination in its Concluding Observations on Nicaragua).

## IMPLEMENTATION STATUS

**✗ NOT IMPLEMENTED**

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OP2 Expresses concern at the worsening restrictions on civic and democratic space and repression of dissent in Nicaragua in the form of acts of intimidation, harassment and illegal or arbitrary surveillance of human rights defenders, including women human rights defenders and human rights of indigenous people defenders, Afro-descendants and persons engaged in environmental issues, referred to as environmental human rights defenders, community and religious leaders, journalists and other media professionals, students, victims of human rights violations and their families, and others who express critical views of the Government of Nicaragua, and urges the Government to publicly condemn any attacks or acts of intimidation or harassment and sexual or gender-based violence and ensure accountability for such acts, and to take steps to ensure a safe and enabling environment, both online and offline, for these individuals to carry out their work freely;

## STATE ACTIONS

### CONTRARY ACTIONS

- The Nicaraguan state has continued to restrict civic space. So far this year, it cancelled the legal personality of 1,112\* human rights and development organizations, professional associations, including medical, entities linked to the Catholic Church, and others, totaling at least 1,178 since 2018. (September 12, 2022, OHCHR Report).

- Cancellations have also reached 12 universities, affecting the right to education, which was also impacted by other measures restricting university autonomy and academic freedom ([OHCHR Report](#)).
- Freedom of expression also continued to suffer. Nicaragua fell 23 points in the World Press Freedom Index, from "difficult" to "very serious", ranking 160th out of 180 countries ([OHCHR Report September 2022](#)).
- In October 2022 UN and IACHR experts publicly call on Nicaraguan authorities to restore the full enjoyment of civil and political rights, especially freedom of expression, peaceful assembly and association ([October 2022 UN and IACHR Special Rapporteurs on Freedom of Assembly and Association](#)).
- Human Rights Committee expresses concern at reports of violence following the invasion and colonization of indigenous territories by mestizo settlers ([3 November 2022 Human Rights Committee concluding observations](#)).
- Committee on Racial Discrimination expresses deep alarm at attacks against indigenous peoples and Afro-descendants (August 30 concluding observations of the Committee on racial discrimination)
- The State represses human rights defenders through the migration system in three ways: banishment, immigration detention and harassment. IM-Defensoras has identified 140 people affected by this type of violence. At least 96 have taken place between 2021 and the present (IM-Defensoras, October 13, 2022).

## IMPLEMENTATION STATUS

**✗ NOT IMPLEMENTED**

3

OP3 Also expresses concern about the growing number of civil society organizations, universities and independent media outlets that have been forced to cease their activities due to unduly restrictive administrative and financial constraints imposed by the legal reforms adopted since 2018, as well as the arbitrary cancellation of their legal registration and the impact such closures have on independent human rights monitoring and the enjoyment of those rights, both online and offline, especially the rights to freedoms of opinion, expression, association and peaceful assembly, to privacy and to education, as recognized in Articles 12, 19, 20 and 26 of the Universal Declaration of Human Rights, Articles 17, 19 and 21 of the International Covenant on Civil and Political Rights and Article 13 of the International Covenant on Economic, Social and Cultural Rights, and urges the Government of Nicaragua to legally re-register civil society organizations, universities and independent media whose registration has been cancelled since 2018, restore the independence of private universities placed under government control, and return seized assets, including confiscated property;

## STATE ACTIONS

### CONTRARY ACTIONS

- July 29, 2022 UN experts denounce the arbitrary closure of civil society organizations and state that it "represents a clear pattern of repression of civic space." While the closure of civic space has been observed since the 2018 crisis, the closure of organizations has accelerated as a result of the Law on Regulation of Foreign Agents (2020) and the General Law on Regulation and Control of Non-Profit Organizations (NPOs) that recently came into force.
- From 2018 to October 2022, 176 feminist and women's rights organizations have been cancelled (IM Defensoras, October 11, 2022).
- On May 5, 2022, the Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: of the Special Rapporteur on the promotion and protection of the right to freedom of opinion express concern about the "General Law on the Regulation of Non-Profit Organizations (NPOs)" in light of fears that its implementation may result in violations of human rights and fundamental freedoms guaranteed by international law, including the International Covenant on Civil and Political Rights ("ICCPR") and the International Covenant on Economic, Social and Cultural Rights ("ICESCR") as well as the American Convention.

## IMPLEMENTATION STATUS

✗ NOT IMPLEMENTED

4

OP4 Urges the Government of Nicaragua to authorize and facilitate peaceful and public demonstrations and to repeal or amend legislation that may unduly restrict human rights, in particular the rights to freedoms of expression, peaceful assembly and association, the right to participate in the conduct of public affairs and the right to privacy, in accordance with international law, and prevent victims of human rights violations from exercising their right to an effective remedy or prolong the period of deprivation of liberty without formal charges or criminalize dissenting opinions;

## STATE ACTIONS

### CONTRARY ACTIONS

- In May 2022, the spokesperson for the UN Human Rights Office publicly expressed concern about the recent law passed that "further restricts the functioning of civil society, contrary to the country's human rights obligations" and issued a statement on the repression of civil society in Nicaragua.



- The OHCHR reports a specific persecution against the Catholic Church with 12 radio and television media of the Catholic Church; acts of harassment against priests including a criminal investigation against the Bishop for inciting hatred with the purpose of destabilizing the State and attacking the authorities (OHCHR Report September 2022).
- The Human Rights Committee expresses its concern about: the restrictive application of Law No. 872 (2014) and Law No. 1070 (2021) to require prior authorizations for holding rallies; the closure of multiple media outlets and the harassment and intimidation of human rights defenders and journalists; Law No. 1042 criminalizing the publication of false information, and reports on the use of the Law to control social networks and digital media through the specialized cybercrime police unit; improper monitoring of internet content and interception of communications through antennas capable of capturing telephone traffic, without judicial authorization (3 November 2022, concluding observations human rights committee).
- Other violations of the rights of persons perceived as opponents have consisted of depriving them of leaving the country, through the withholding of their passports by immigration officials. In three other cases documented by OHCHR, consular officials abroad required exiled activists to return to Nicaragua to renew their passports, at the express instruction of the capital. The Office has also documented four cases in which Nicaraguan citizens were arbitrarily prevented from entering or returning to their own country (OHCHR Report September 2022).

## IMPLEMENTATION STATUS

✗ NOT IMPLEMENTED

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OP5 Urgently calls upon the Nicaraguan authorities to immediately cease the use of arbitrary arrests and detentions, as well as threats and other forms of intimidation or alternative measures of deprivation of liberty to repress dissent, to unconditionally release all persons arbitrarily or illegally detained, as well as those who have been prosecuted under ambiguous criminal laws or laws that arbitrarily restrict civil and political rights, to revoke their convictions and to withdraw their convictions, as well as those who have been prosecuted under ambiguous criminal laws or laws that arbitrarily restrict the civil and political rights of the Nicaraguan population, reverse their convictions and drop the charges against them, respect due process of law, and ensure that prison conditions comply with applicable human rights obligations and conform to standards such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules);



### CONTRARY ACTIONS

- In its report to the Human Rights Council, OHCHR reported that 180\* persons (18 women and 162 men) continued to be deprived of their liberty, including those who were detained in the electoral context between May and November 2021. Fifty of them (11 women and 39 men) were tried in first instance between January and May 2022 on charges of undermining national integrity, propagation of false news, money laundering and related offenses, figures contemplated in Laws Nos. 1042, 1055 and in the Penal Code. Their trials were held behind closed doors, without the presence of the public, most of them in a police detention center, instead of in courts of law; and defense attorneys were not allowed to review the files or meet with their clients for more than a few minutes before the hearings and without due privacy. All of the defendants were convicted and sentenced to prison terms of up to 13 years and disqualification from holding public office. On appeal, these sentences were upheld and the cassation appeal is currently being processed, but the rulings have not been overturned, with the exception of only one. ([OHCHR Report September 2022](#)).
- The OHCHR reports that the same inhumane conditions of detention referred to in the last report continue, which could endanger their physical and mental health ([OHCHR Report September 2022](#)).
- CAT Committee is concerned about the serious conditions of detention, including the situation of women, overcrowding, insalubrity, lack of ventilation and access to natural light, malnutrition and limited access to drinking water and medicines in these prisons; reports received on the difficulties in accessing adequate medical care; reports of assaults and sexual violence in detention facilities, with a particularly high incidence for women detainees, including transgender women incarcerated in male prisons; lack of information on the results of investigations into all deaths in custody that occurred during the period under review; denial of access to places of deprivation of liberty to representatives of OHCHR and other international organizations, as well as humanitarian and human rights non-governmental organizations. ([September 1, 2022 Committee against Torture, Concluding Observations on Nicaragua](#)).
- The CAT Committee is also concerned about the regime of solitary confinement for periods longer than 15 days as a disciplinary sanction. Also of concern are documented cases of collective punishment of prisoners, as well as reports of unjustified restrictions such as the suspension of family contact, especially with minors, and the prohibition of any type of correspondence or reading material. Also, it is of concern reports of invasive body searches and undue pressure on family members of persons deprived of their liberty during visits. ([September 1, 2022 Committee against Torture, Concluding Observations on Nicaragua](#)).
- CAT Committee also refers to Numerous cases of torture and ill-treatment in prisons and police stations documented by various international mechanisms and non-governmental organizations during the period under review, as well as the lack of information regarding the follow-up given to such complaints by the authorities. ([September 1, 2022 Committee against Torture, Concluding Observations on Nicaragua](#)).

- The IACHR's Special Follow-up Mechanism for Nicaragua (MESENI) received information on the serious health situation of women deprived of their liberty in the context of the crisis, due to the lack of access to specialized and timely health services, deplorable conditions of detention and reprisals against them for being identified as opponents of the current government. It highlighted the situation of Evelyn Pinto, María Esperanza Sánchez and Nidia Barbosa. It also expressed concern about the regime of isolation and incommunicado detention of prisoners in the DAJ (IACHR, May 27, 2022).
- The IM-Defensoras described in an alert the serious state of health of Evelyn Pinto and Esperanza Sanchez following a communication with their families (IM-Defensoras, May 18, 2022).
- Likewise, the situation of Nidia Barbosa, who was taken out of her cell and transferred to an intensive care unit in critical health condition, without further information being given to the family members (IM-Defensoras, May 20, 2022), was also alerted (IM-Defensoras, May 20, 2022).
- On August 12, various mandates, including the Rapporteur on Extrajudicial Executions, made a statement on the situation of these three women defenders. They indicated that: "The facts denounced, the practices and the conditions of detention seem to indicate a deliberate denial of the right to life for these three women defenders. Deliberate denial of adequate and timely health care, as well as other acts of negligence, that
- and other acts of negligence, potentially amounting to a violation of the absolute and non-derogable prohibition of absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, inhuman or degrading treatment or punishment. Further, that: death resulting in whole or in part from the denial of adequate and timely medical care is by definition timely and adequate medical care is by definition an arbitrary death for which the State is responsible. (Special Procedures of the Human Rights Council, August 12, 2022).
- The IACHR also urged the State of Nicaragua to guarantee the political prisoners in El Chipote, communication and contact with their families, daughters and sons in dignified and safe conditions and in accordance with international standards and national legislation. This is based on information it received regarding the persistence of deplorable conditions of detention, mistreatment, isolation, incommunicado detention and the lack of access to timely, adequate and specialized medical care for the detainees at El Chipote, many of whom are beneficiaries of precautionary measures granted by the IACHR and provisional measures granted by the IACHR Court (IACHR, May 13, 2022).
- In relation to the above, such is the desperation of political prisoners that some of them have undertaken hunger strikes, with the purpose of being allowed visits or the fulfillment of their rights. This was documented by IM-Defensoras in the case of Tamara Dávila (IM-Defensoras, August 19, 2022) and Dora María Téllez (IM-Defensoras, September 22, 2022), based on information received by their relatives.

- On May 27, 2022, the Group on Arbitrary Detention issued Opinion No. 10/2022, regarding Arturo Cruz Sequeira and others, referring to the arbitrary detention of 14 pre-candidates and social leaders in the context of the November 2021 elections.

## IMPLEMENTATION STATUS

✗ NOT IMPLEMENTED

6

OP6 Urges the Government of Nicaragua to combat impunity and ensure accountability and justice for victims of human rights violations, including by designing and implementing a comprehensive action plan for accountability that is inclusive and victim-centered, conducting independent, transparent and impartial investigations into multiple forms of repression and violence, including in the context of the electoral process, reported since April 2018 by the Office of the United Nations High Commissioner for Human Rights, including alleged extrajudicial killings, enforced disappearances, torture and other serious human rights abuses and violations, ensuring effective remedies and compensation for victims, and amending the 2019 Amnesty Law;

## STATE ACTIONS

### CONTRARY ACTIONS

- The Human Rights Committee is concerned about the incompatibility of Law No. 996 on Amnesty and Law No. 994 on Comprehensive Attention to Victims in force with the Covenant. (3 November 2022, concluding observations of the Human Rights Committee).
- The CAT Committee is concerned about Law No. 994 of 2019, which implements the Plan of Integral Attention to Victims since it does not guarantee the right to comprehensive reparation in accordance with Article 14 of the Convention, nor does it provide for any measures to guarantee the right of victims and their families to access justice. (September 1 Committee against Torture, Concluding Observations on Nicaragua).

## IMPLEMENTATION STATUS

✗ NOT IMPLEMENTED

OP7 Also urges the Government of Nicaragua to take effective measures to provide a safe environment for victims of human rights violations and their families, including political prisoners and members of the opposition, as well as persons with long-term injuries and disabilities;

## STATE ACTIONS

### CONTRARY ACTIONS

- OHCHR continued to document acts of harassment, especially against human rights defenders, journalists, clergymen, political opponents or persons considered as such, which have consisted mainly of constant and intimidating police presence in front of their homes or workplaces, affecting their privacy and activities; permanent monitoring; selective detentions and/or photographic capture of vehicles and the requirement of their occupants' documents, and the fencing of access roads to the facilities of organizations considered critical of the Government. Officials and citizens related to the Sandinista National Liberation Front also allegedly participated in these acts of harassment, intimidating other people for allegedly using social networks against the Government (OHCHR Report September 2022).
- **In 2022 the Inter-American Commission on Human Rights has issued 15 precautionary measures that Nicaragua rejects and does not implement:**
  1. Edgar Francisco Parrales Castillo (Resolution 1/22)
  2. William Alfredo Balmaceda Ubieta and his family (Resolution 7/22)
  3. Martha del Socorro Ubilla, Marlon Antonio Castellón Ubilla, Marvin Antonio Castellón Ubilla (Resolution 8/22)
  4. Indigenous people of the Musawas, Suniwas and Wilú Communities of the Mayangna Suni As territory in the Autonomous Region of the Northern Caribbean Coast (Resolution 9/22)
  5. Lázaro Ernesto Rivas Pérez (Resolution 17/22)
  6. Yoel Ibzán Sandino Ibarra (Resolution 21/22)
  7. Samuel Mauricio Mairena Rocha (Resolution 23/22)
  8. Yubrank Miguel Suazo Herrera (Resolution 25/22)
  9. José Antonio Peraza Collado, Roger Abel Reyes Barrera and Irving Isidro Larios Sánchez and their respective family groups (Resolution 26/22).
  10. José Alejandro Quintanilla Hernández and his immediate family (Resolution 27/22).
  11. Rusia Evelyn Pinto Centeno (Resolution 38/22)
  12. Yolanda del Carmen González Escobar and her next of kin (Resolution 42/22)
  13. Edder Oniel Muñoz Centeno and Lidia Lorena Barbosa Castillo (Resolution 47/22)
  14. Juan Lorenzo Holmann Chamorro and his next of kin (Resolution 49/22).
  15. José Santos Sánchez and his next of kin (Resolution 57/22).

- On May 25, 2022, the IACHR Court extended the Provisional Measures granted to Juan Sebastián Chamorro and others, to grant them to: Michael Edwing Healy Lacayo, Álvaro Javier Vargas Duarte, Medardo Mairena Sequeira, Pedro Joaquín Mena Amador, Jaime José Arellano Arana, Miguel Ángel Mendoza Urbina, Mauricio José Díaz Dávila, Max Isaac Jerez Meza and Edgar Francisco Parrales.
- On October 4, 2022 , the Court granted Provisional Measures for 45 persons deprived of liberty in 8 detention centers in Nicaragua.

## IMPLEMENTATION STATUS

✗ NOT IMPLEMENTED

8

OP8 Further urges the Government of Nicaragua to take effective measures to prevent, investigate and ensure accountability for acts of sexual and gender-based violence, including gender-based killings, and to adopt a survivor-centered approach to gender-based violence and abuse;

## STATE ACTIONS

### CONTRARY ACTIONS

- The Human Rights Committee was concerned about the total criminalization of abortion and about the high rates of violence against women, in particular the high number of femicides (November 3, 2022, concluding observations of the Human Rights Committee).
- The CAT Committee notes with concern the increase in femicides, including of girls, between 2020 and 2021. It regrets the lack of repeal of Article 9 of the Comprehensive Law against Violence against Women and Reforms to Law No. 641, Penal Code (Law No. 779) of 2012, which limits the definition of femicide to the murder of women in the context of a relationship. It also regrets the incorporation of mediation between the victim and the aggressor, which increases the risk of impunity, while exposing victims to revictimization and reprisals (September 1 Committee against Torture, Concluding Observations of on Nicaragua).
- Católicas por el Derecho a Decidir (Catholics for a Free Choice) recorded 42 femicides from January to the end of August 2022. In addition, it identified at least 110 femicides in degree of frustration (Article 66, September 2, 2022).

## IMPLEMENTATION STATUS

✗ NOT IMPLEMENTED

OP9 Urges the Government of Nicaragua to take effective measures, in meaningful consultation with indigenous peoples, in compliance with its legal obligations, to prevent and combat the increasing number of acts of violence committed against them, including by conducting prompt and independent investigations into allegations of attacks, killings and usurpation and invasion and confiscation of land by armed groups;

## STATE ACTIONS

### CONTRARY ACTIONS

- The Human Rights Committee expresses concern about acts of violence against indigenous peoples following the invasion and colonization of their lands by mestizo settlers (3 November 2022, concluding observations Human Rights Committee).
- The Committee on Racial Discrimination refers to the lack of sanitation of indigenous territories which has led to illegal attacks and invasions by settlers and non-indigenous persons in indigenous territories, generating serious conflicts and violence over access to land and natural resources (August 30, 2022, concluding observations of the Committee on racial discrimination).
- The CERD Committee is deeply alarmed at the allegations received of acts of violence and attacks on life and physical integrity perpetrated against members of indigenous peoples and Afro-descendants within their territories. In particular, the Committee is seriously concerned about the numerous attacks that have been perpetrated against indigenous peoples in the Mayangna Sauni As Territory in the area of the Bosawás Biosphere Reserve. The Committee is seriously concerned that these acts may go unpunished (30 August concluding observations of the Committee on racial discrimination).
- The CERD Committee is concerned about allegations that licenses for the exploitation of natural resources and development projects within indigenous territories are granted without prior consultation processes being carried out, or are carried out with persons who are not authorized to represent the affected peoples. In particular, the Committee is seriously concerned that the Grand Interoceanic Canal project affecting the territory of the Rama indigenous people and the Afro-descendant Kriol communities and the territory of the Black Creole Indigenous Community of Bluefields has not been duly consulted with the affected peoples and communities, which has also been the case with the deep water project in Bluefields, the forest and carbon conservation project and the BioClima project (August 30 concluding observations of the Committee on racial discrimination).
- The Committee is seriously concerned about the impact of the development of extractive, agro-industrial and infrastructure projects on the natural resources found in the lands and territories of indigenous and Afro-descendant peoples, which seriously affects their livelihoods and ways of life, generating food crises, forced displacement and health problems for the affected communities (August 30 concluding observations of the Committee on racial discrimination).

- The Committee is concerned about allegations of lack of independence and persistence of discriminatory practices in the justice system that significantly affect access to justice for indigenous and Afro-descendant peoples (30 August concluding observations of the CERD).
- The CERD is concerned about allegations that licenses for the exploitation of natural resources and development projects within indigenous territories are being granted without prior consultation processes being carried out, or are being carried out with persons who do not have the legitimacy to represent the affected peoples. In particular, the Committee is seriously concerned that the Grand Interoceanic Canal project affecting the territory of the Rama indigenous people and the Afro-descendant Kriol communities and the territory of the Black Creole Indigenous Community of Bluefields has not been duly consulted with the affected peoples and communities, which has also been the case with the deep water project in Bluefields, the forest and carbon conservation project and the BioClima project (August 30 concluding observations of the CERD).
- The Committee is seriously concerned about the impact of the development of extractive, agro-industrial and infrastructure projects on the natural resources found in the lands and territories of indigenous and Afro-descendant peoples, which seriously affects their livelihoods and ways of life, generating food crises, forced displacement and health problems for the affected communities (August 30 concluding observations of the Committee on racial discrimination).
- The Committee is concerned about allegations of lack of independence and persistence of discriminatory practices in the justice system that significantly affect access to justice for indigenous and Afro-descendant peoples (30 August concluding observations of the CERD).
- The Committee is concerned about information received regarding the non-certification of indigenous authorities legitimately elected in community or territorial assemblies, which are also unknown by government institutions and the imposition of "parallel governments" that affect the rights of autonomy and political participation of indigenous and Afro-descendant peoples of the Caribbean Coast (30 August concluding observations of the CERD).
- The CAT Committee is concerned about reports of violent attacks against members of indigenous peoples and Afro-descendants, some resulting in death, and the alleged reluctance of the authorities to investigate these incidents. Also of concern are reports indicating attempts to criminalize these groups and the stigmatization of human rights organizations working to protect their rights, as well as the absence of information regarding the status of the investigation of complaints filed with the police (September 1 Committee against Torture, Concluding Observations on Nicaragua).
- On September 7, several Procedures pronounced themselves on the presence of illegal settlements within the ancestral territories of indigenous peoples and on allegations of acts of impunity that have affected indigenous peoples. It refers specifically to the attack that caused the death of 15 indigenous people in 2021 and shows concern about the sanitation of indigenous peoples' territories and environmental damage caused by extractive activities that do not have the consent of indigenous peoples (September 7, 2022 mandate of the Special Rapporteur on the rights of indigenous peoples, Special Rapporteur on human rights and the environment, Special Rapporteur on extrajudicial, summary or arbitrary executions).



- The conflict over land in indigenous peoples' territories continues to generate episodes of violence in the territories of the Caribbean Coast and threats to the integrity of its members. On February 13, the Inter-American Commission on Human Rights extended precautionary measures to protect the lives and personal integrity of the Musawas, Suniwas and Wilú communities of the Mayangna Sauni As territory due to armed violence by third parties. Land titling is still pending, as in other cases, despite the fact that the collective property title was delivered to them in 2005 (OHCHR Report September 2022).

## IMPLEMENTATION STATUS

✗ NOT IMPLEMENTED

10

OP10 also urges the Government of Nicaragua to take effective measures to guarantee the independence, transparency and impartiality of the justice system, the electoral authorities, the National Police, the Public Prosecutor's Office and the Human Rights Ombudsman's Office, to respect its international obligations regarding fair trial guarantees and to take effective measures to guarantee the separation of powers and the reestablishment of the rule of law;

## STATE ACTIONS

### CONTRARY ACTIONS

- Committee against Torture reiterates its concern about the lack of independence and impartiality of the judiciary vis-à-vis the executive. It is concerned about consistent reports that its partisan use facilitates interference and control by the executive branch. In this regard, it is concerned about reports that the current lack of separation of powers in the State party facilitates the use of criminal law to criminalize dissent and the violation of due process and contributes to impunity (1 September 2022 Concluding observations of the Committee against Torture).
- The Human Rights Committee also expressed itself on the levels of politicization and corruption in the Judiciary as well as allegations about the lack of timely and independent intervention of the Public Prosecutor's Office in the clarification of the violations that have occurred since 2018; irregularities in the system of random assignment of cases related to these violations. As well as on the violations of due process, in particular, the use of ambiguous criminal types during investigations and prosecutions. (November 3, 2022, concluding observations human rights committee).

## IMPLEMENTATION STATUS

✗ NOT IMPLEMENTED

11

OP11 Encourages the Government of Nicaragua to adopt a time-bound plan of action to implement the recommendations made by international and regional human rights mechanisms, including those made in the reports of the High Commissioner, and the recommendations received during the third cycle of the Universal Periodic Review of Nicaragua, in meaningful consultation with civil society and victims;

## STATE ACTIONS

### CONTRARY ACTIONS

- In its report on the human rights situation in Nicaragua on September 13, the OHCHR highlighted Nicaragua's lack of cooperation in implementing all OHCHR recommendations, and the lack of political will to address the crisis through dialogue and implementation of recommendations made by UN human rights bodies and mechanisms. The State has not allowed the re-entry of the OHCHR, and since 2020, has rejected its reports. As of 2022, it also ceased responding to communications and requests for information. This report highlights that the recommendations made by the High Commissioner in all of her reports constitute a roadmap with concrete actions for Nicaragua to design solutions to overcome the current critical situation, with the support of the international community. ([OHCHR Report September 2022](#)).
- The Nicaraguan government has rejected the adoption of precautionary and provisional measures. For example, before the [precautionary measure No. 505-15](#) (Musawas, Suniwas and Wilú Communities), the Government reaffirmed its rejection and condemnation of 'the impertinence of the IACHR to continue a biased campaign directed by sectors adverse to the government in order to continue its attacks in the context of the international media struggle against Nicaragua, with the objective of maintaining the domination of the United States of America over the peoples who submit to it.

## IMPLEMENTATION STATUS

✗ NOT IMPLEMENTED

12

OP12 Calls upon the Government of Nicaragua to prevent, prevent, publicly condemn, investigate and punish any acts of intimidation, harassment or reprisals against political leaders, journalists, human rights defenders and any person critical of the Government, including acts committed 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 regional mechanisms;

## STATE ACTIONS

### CONTRARY ACTIONS

- In July 2022, Anexa Alfred Cunningham, a member of the UN Expert Group on the Rights of Indigenous Peoples, was denied entry into the country. In an absolutely illegal and arbitrary manner, the defender was prevented from boarding her flight back to Nicaragua, where she lives and where her family was waiting for her, including her minor children under her care, leaving her in a de facto situation of exile. (IM-Defensoras, October 3, 2022).

## IMPLEMENTATION STATUS

✗ NOT IMPLEMENTED

13

OP13 Urges the Government of Nicaragua to adopt electoral and institutional reforms and to engage in dialogue with all political parties, civil society and other actors, in Nicaragua or in exile, with the objective of ensuring free and fair elections, held in a transparent manner with independent international observers, starting with the next municipal elections in November 2022;

## STATE ACTIONS

### CONTRARY ACTIONS

- Persons detained in the context of the 2021 elections are facing detention conditions contrary to the UN Standard Minimum Rules for the Treatment of Prisoners, and many have been prosecuted and convicted without due process. (Oral Update High Commissioner, June 2022).
- In 2021 and 2022 the electoral law has been reformed, none of the reforms incorporates the suggestions of the international mechanisms in this respect, the OAS stated that the approval of these reforms was insubstantial and represented "a clear step backwards for the exercise of the political rights of Nicaraguans, by incorporating, among others, provisions contrary to international standards on electoral matters".
- On November 4, a communiqué of the IACHR denounced that the National Police and political operators of the Sandinista National Liberation Front (FSLN), substituted de facto the authorities of five mayoralties governed by the Citizens for Liberty party -whose legal status was cancelled in 2021-, after raiding the headquarters on July 3 and 4.

- Between January 1 and October 15, 2022, Urnas Abiertas has registered 709 acts of political violence in the electoral context of 2022 (Urnas Abiertas November 4), (Observatorio de violencia política).
- OACNUDH pronounced itself on the 8 arrests that were initially verified on Saturday, November 5.
- The regime made official the control over the 153 mayoralties of the country (November 8, 2022, Swissinfo).
- Nicaragua keeps in prison the political prisoners of the electoral context of 2021, sentenced to between 8 and 13 years to the pre-candidates. Persons detained in the 2021 election context are facing detention conditions contrary to the UN Standard Minimum Rules for the Treatment of Prisoners, and many have been tried and sentenced without due process. (Oral Update High Commissioner, June 2022).
- The Human Rights Committee expressed concern about legislative reforms regarding indefinite presidential reelection and the limitation of citizen oversight; the increase in grounds for revoking the legal personality of political parties through Law No. 1070; allegations received regarding the detention and criminalization of presidential pre-candidates; and allegations of electoral fraud.
- In addition, the Committee expresses its concern about the information received regarding the lack of independence and impartiality of the Supreme Electoral Council. Finally, the Committee is concerned about the approval of the Manual for the Certification of Communal and Territorial Authorities (2020), which establishes communal and territorial election procedures that violate communal statutes and Law No. 445 (November 3, 2022, concluding observations of the Human Rights Committee).

## IMPLEMENTATION STATUS

✗ NOT IMPLEMENTED

19

OP19 Calls upon the Government of Nicaragua to cooperate fully with the Office of the High Commissioner, including her Regional Office for Central America, the Human Rights Council and its mechanisms, including the Human Rights Expert Group on Nicaragua, and relevant treaty bodies, inter alia, by allowing them unimpeded access, to consider favorably the recommendations made in its reports, offers of technical assistance and requests to visit the country made by the special procedures pursuant to the standing invitation it issued in 2006;

## STATE ACTIONS

### CONTRARY ACTIONS

- The State did not present itself for review by the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee against Torture.
- In the interactive dialogue of the Human Rights Council with the High Commissioner on the situation of human rights in Nicaragua, the representative of Nicaragua to the Council continued the line of rejection of the OHCHR updates, which he considers an attack against its autonomy.
- The UN Subcommittee on Prevention of Torture (SPT) announced its plans for Nicaragua for the first half of 2023. In response to Nicaragua's refusal to comply with its obligation to receive the SPT delegation for a confidential visit, the SPT and CAT made unprecedented use of Article 16.4 of the OPCAT, which allows them to publicly condemn the State, and to publish the confidential report of the SPT's last visit.
- The CERD committee is concerned that since April 2018, when the socio-political crisis broke out, the State party has implemented arbitrary and repressive actions to close spaces for participation and dialogue at the national level. It is seriously concerned about the closure of a large number of civil society organizations working for the defense of human rights, including rights of indigenous and Afro-descendant peoples. It is also concerned about the State party's lack of cooperation and interaction with the regional and universal systems for the protection of human rights. (30 August concluding observations of the Committee on racial discrimination).

## IMPLEMENTATION STATUS

**✗ NOT IMPLEMENTED**

# CONCLUSION

This is the fourth Evaluation Framework of the 46/2 Collective - and first for Resolution 49/3 - which like the previous three continues to fail to record any steps towards the implementation of the recommendations made by the United Nations Human Rights Council, in this case of its Resolution 49/3, and continues to evidence a marked lack of cooperation of the State of Nicaragua with the human rights protection bodies.

The Government of Nicaragua, through the indiscriminate use of force by state and pro-government groups, and by applying a battery of ambiguous laws that fail to comply with international standards and state obligations under international law, continues to brutally repress the exercise of fundamental human rights.

In this context, the manifest lack of cooperation and the continuing deterioration of the human rights situation should alarm the international community to demand compliance by the Government of Nicaragua with its international obligations. During the interactive dialogue with the High Commissioner on the human rights situation in Nicaragua on December 15, the member states of the Human Rights Council should send a clear message of the fight against impunity, paying particular attention to the situation of arbitrarily detained persons and their families, indigenous peoples and Afro-descendants, and women and organizations defending their rights.

