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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Albania,* Australia,* Austria,* Belgium, Bosnia and Herzegovina,* Brazil,* Bulgaria,* Canada,* Chile, Colombia,* Costa Rica, Croatia,* Cyprus,* Czechia, Denmark,* Dominican Republic,* Ecuador,* Estonia,* Finland, France, Georgia, Germany, Greece,* Guatemala,* Iceland,* Ireland,* Italy,* Latvia,* Liechtenstein,* Lithuania, Luxembourg, Marshall Islands,* Monaco,* Montenegro, Netherlands (Kingdom of the),* North Macedonia,* Norway,* Paraguay, Peru,* Portugal,* Romania, Slovakia,* Slovenia,* Spain,* Sweden,* Switzerland,* Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

52/... Promotion and protection of human rights in Nicaragua

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other relevant international human rights instruments,

Reaffirming the primary responsibility of States to respect, protect and fulfil all human rights and fundamental freedoms and to fulfil their obligations under the human rights treaties to which they are party and other human rights agreements to which they have subscribed,

Reaffirming also the importance of the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, of which Nicaragua is State party, as a means of preventing and reducing statelessness and ensuring the protection of stateless persons,

Recalling its resolutions 40/2 of 21 March 2019, 43/2 of 19 June 2020, 46/2 of 23 March 2021 and 49/3 of 31 March 2022 on the promotion and protection of human rights in Nicaragua,

Recalling also that the Human Rights Council shall, inter alia, contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies,

Welcoming the oral updates of the United Nations High Commissioner for Human Rights on the situation of human rights in Nicaragua, presented to the Human Rights Council at its fiftieth and fifty-second sessions, the comprehensive report on the situation of human

* State not a member of the Human Rights Council.



rights in Nicaragua presented to the Human Rights Council at its fifty-first session,¹ the interim oral update of the High Commissioner on the situation of human rights in Nicaragua presented to the Council on 15 December 2022, and the report of the Group of Human Rights Experts on Nicaragua presented to the Human Rights Council at its fifty-second session,² and expressing profound alarm that the Group of Human Rights Experts on Nicaragua found reasonable grounds to believe that the following crimes against humanity have been committed in Nicaragua since 2018: murder, imprisonment, torture, deportation, rape and other forms of sexual violence of comparable gravity, and persecution,

Expressing alarm at the continuing democratic backsliding and sociopolitical and human rights crisis in Nicaragua, and also at the erosion of the rule of law, the independence of the judiciary and the separation of powers, and their multidimensional impact on the enjoyment of civil, political, economic, social and cultural rights,

Expressing concern at the continuous refusal of Nicaragua to cooperate with international and regional human rights mechanisms, particularly the Office of the United Nations High Commissioner for Human Rights, including its regional office in Central America, the Group of Human Rights Experts on Nicaragua and the special procedures of the Human Rights Council, and recognizing that this refusal continues to create a protection gap in the country,

Expressing serious concern at the continued disregard of Nicaragua for its international human rights obligations, including its failure to engage with and submit periodic reports to the relevant treaty bodies, most recently by refusing to cooperate with both the Committee against Torture and the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and even questioning the legitimacy of the treaty body system as a whole,

Expressing concern at the decision of Nicaragua to interrupt its engagement with international human rights mechanisms and its denunciation of regional instruments, and recalling that, as its obligations under legally binding instruments remain in force, the competent human rights mechanisms will continue to exercise their mandates to monitor the country,

Expressing grave concern at the violations of civil and political rights in the lead-up to and during the municipal elections held in November 2022, in contravention of the obligations of Nicaragua to uphold the right of every citizen to take part in the conduct of public affairs and to vote and be elected in genuine periodic elections, including the failure of the Government of Nicaragua to implement electoral and institutional reforms aimed at guaranteeing free and fair elections, carried out in a transparent manner, the adoption and continued use of legal provisions that explicitly aim, or may be used, to restrict the ability of Nicaraguan citizens to participate in the political process, the exclusion from participation of political parties whose legal status has been arbitrarily cancelled, the wave of arrests and disqualifications of political opponents in the months leading up to the elections, acts of violence and intimidation to coerce voters, including by setting up check points around polling stations to track voters and denying access to the polling stations to people perceived as political opponents, and the widespread political violence during the entire process,

Expressing serious concern at the aggravated situation of those who have been forcibly displaced and the continuing trend in forced displacement, commending neighbouring and other States in the region for their continued efforts to host and welcome Nicaraguan migrants, refugees and asylum-seekers, while acknowledging the associated socioeconomic consequences and challenges for those States and their citizens,

Expressing grave concern at the adoption and continued use of legal provisions that explicitly aim, have been used or may be used to restrict the ability of Nicaraguans to exercise their fundamental freedoms; at the broad scope of the Amnesty Law of 2019; and at the implementation of legislation by the Government of Nicaragua, including the amendments to some provisions of the Criminal Code and the enactment of the Foreign Agents

¹ A/HRC/51/42.

² A/HRC/52/63.

Registration Law, the Law on Cybercrimes, Law No. 977 on Combating Money Laundering, the Financing of Terrorism and the Proliferation of Weapons of Mass Destruction, Law No. 1055 on the Rights of People to Independence, Sovereignty and Self-Determination for Peace, and Law No. 1115, the General Law on the Regulation and Control of Non-Profit Organizations, the amendment of article 21 of the Constitution and the adoption of Law No. 1145 on the Loss of Nicaraguan Nationality, all of which, contrary to international human rights law, hinder victims of human rights violations from exercising their right to an effective remedy, which may include reparations and full disclosure of the truth, and further restrict the rights to freedom of opinion and expression, of association, of peaceful assembly and of movement, the right to a nationality, the right to take part in the conduct of public affairs and the right to privacy, as recognized in international law, unduly limiting the activities of human rights defenders and civil society,

Condemning the continuation of arbitrary detentions and new arbitrary detentions, including in the context of the municipal electoral process of 2022, of, inter alia, political leaders, human rights defenders, business people, journalists, religious leaders, Indigenous Peoples, Afrodescendants, peasant and student leaders, members of civil society organizations and relatives of real or perceived dissidents, and expressing grave concern for their integrity, treatment and detention conditions, including health conditions, which may constitute torture or cruel, inhuman or degrading treatment or punishment, and recognizing the particular challenges faced by older and sick persons, and women and girls, in detention,

Recalling General Assembly resolution 70/175 of 17 December 2015 on the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which established that disciplinary sanctions and restrictive measures shall not include the prohibition of family contact and that family contact may be restricted for only a limited period of time and as strictly required for the maintenance of security and order, Assembly resolution 65/229 of 21 December 2010 on the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), which prohibit sexual misconduct and the abuse of women and girls in detention, and Assembly resolutions 77/209 and 77/219 of 15 December 2022 on, respectively, torture and other cruel, inhuman or degrading treatment or punishment, and human rights in the administration of justice, which both mention the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles),

Expressing grave concern at continuing reports of trials of persons who were arbitrarily detained, which have been held without respect for due process or legal guarantees, including the rights to be presumed innocent until proven guilty, to a fair and public hearing by a competent, independent and impartial tribunal, and to adequate time and facilities for the preparation of a defence,

Acknowledging the decision of Nicaragua to release from prison 222 political prisoners on 9 February 2023, and expressing deep concern at their deportation by Nicaragua,

Condemning in the strongest terms the decision of Nicaragua to arbitrarily revoke the Nicaraguan nationality of the 222 political prisoners deported on 9 February 2023, of that of 94 additional persons on 14 February 2023 and of other political prisoners who remain in the country, in contravention of their human right to a nationality and which, as stateless persons, exposes them to further human rights violations and abuses,

Recalling that persons arbitrarily deprived of nationality are protected by international human rights and refugee law, as well as by instruments on statelessness, including, with respect to States parties, the Convention relating to the Status of Stateless Persons and the Convention relating to the Status of Refugees and the Protocol thereto,

Condemning in the strongest terms the arbitrary seizure of assets, belonging to, amongst others, persons who have been arbitrarily stripped of their nationality, conducted by the Government of Nicaragua,

Condemning the growing restrictions imposed by Nicaragua on the exercise of the right to freedom of thought, conscience and religion, including by the arbitrary arrest and harassment of religious leaders,

Condemning also all acts of intimidation, harassment and reprisals, both online and offline, by State and non-State actors against individuals and groups that seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, with the Organization of American States or the Inter-American Commission on Human Rights,

Profoundly concerned at allegations that the denial of re-entry into Nicaragua of Ms. Anexa Alfred Cunningham, a member of the United Nations Expert Mechanism on the Rights of Indigenous Peoples, may be linked to her work as a United Nations expert, her work as an Indigenous leader and woman human rights defender or her affiliation with the Indigenous organization and political party Movimiento Indígena de la Costa Atlántica (Yatama),

Seriously alarmed by the reports of the deteriorating human rights situation of Indigenous Peoples and Afrodescendants in Nicaragua, many of whom who are facing increased repression, persecution, discrimination, threats and harassment, including violations and abuses of their rights, the persistent failure of Nicaragua to grant titles and protect demarcated and titled Indigenous territories from encroachment by settlers, the stalling of investigations into homicides, sexual and gender-based violence, and attacks related to territorial disputes in the Mayangna Sauni As territory,

Expressing deep concern that, after the municipal elections of 2022, riot police reportedly repressed supporters of the Indigenous political party Yatama who claimed to have won in the municipality of Waspam, in the region of the Northern Caribbean Coast, with at least 19 people, mostly young Indigenous people, arrested and detained for several days,

Expressing grave concern at the continuing violations of the freedom of opinion and expression and the freedom to seek, receive and impart information, including for members of the press, including by the raiding and closure of the country's main print newspaper, and the arbitrary arrests, threats to and harassment of journalists and media workers involved in reporting that is critical of the Government, forcing many of them into exile,

1. *Expresses grave concern* at the deterioration of democracy, the rule of law, the separation of powers and the situation of human rights in Nicaragua, in particular with regard to the enjoyment of civil and political rights, including the right to a nationality, continuing reports of human rights violations and abuses, the lack of accountability and independent, transparent and impartial investigations since April 2018, including with respect to the killing of at least 300 individuals, the persisting bans on public demonstrations and the disproportionate and lethal use of force and acts of intimidation and harassment by the police to repress peaceful protests, and acts of violence by armed groups, including against Indigenous Peoples and Afrodescendant communities in the region of the Caribbean Coast, as well as reports of the increasing incidence of unlawful arrests and arbitrary detentions, expedited trials without due process, of harassment, torture and other cruel, inhuman or degrading treatment or punishment, gender-related killings, including femicides, and sexual and gender-based violence in detention and against those who visit detainees;

2. *Expresses concern* at the worsening restrictions on civic and democratic space and the repression of dissent in Nicaragua, which includes acts of intimidation, harassment and unlawful or arbitrary surveillance of human rights defenders, including defenders who are women, Indigenous, Afrodescendant and those working in environmental matters referred to as environmental human rights defenders, community and religious leaders, journalists and other media workers, peasants, students, victims of human rights violations and abuses and their family members, and individuals expressing views that are critical of the Government of Nicaragua, and urges the Government to publicly condemn and ensure accountability for any attacks or acts of intimidation or harassment, sexual and gender-based violence, and to take measures to ensure a safe and enabling environment, both online and offline, for the above-mentioned persons to carry out their work freely and without fear of persecution or reprisal;

3. *Expresses profound concern* at the dramatic increase in the number of civil society organizations, universities and independent media outlets, including those working with groups in vulnerable situations such as Indigenous Peoples, Afrodescendants, women, children and adolescents, that have been forced to cease their activities owing to unduly restrictive administrative and financial constraints imposed by the legal reforms passed since

2018, and at the arbitrary cancellation of their legal registration and the impact such closures have on independent human rights monitoring and the enjoyment of human rights, online and offline, especially the rights to freedom of opinion, of expression, of association and of peaceful assembly, to privacy and to education, as set out 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 restore the legal registration of civil society organizations, universities and independent media outlets that have been cancelled since 2018, to restore the independence and academic freedom of the private universities that have been placed under Government control and that of the public universities that have been stripped of their autonomy, to return arbitrarily seized assets, including confiscated property, and to allow for the continuation of their work without any type of intimidation, threat or reprisal;

4. *Urges* the Government of Nicaragua to allow and facilitate peaceful and public demonstrations and to repeal or amend legislation that may unduly restrict human rights, including the rights to freedom of opinion and expression, including the freedom to seek, receive and impart information, of peaceful assembly and of association, the right to take part in the conduct of public affairs, the right to a nationality and the right to privacy, as recognized in international law, and that may prevent victims of human rights violations from enjoying the right to an effective remedy or extend the period of detention without formal charge or criminalize dissenting voices;

5. *Urgently calls upon* the authorities in Nicaragua to cease immediately the use of arbitrary arrests and detentions, as well as of threats and other forms of intimidation or alternative measures of detention, as a means to repress dissent, to release immediately and unconditionally all political prisoners and all those who have been unlawfully, arbitrarily or unjustly detained, 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, to annul their sentences and waive charges against them, to respect fair trial guarantees and due process, to ensure that conditions of detention comply with applicable human rights obligations and are consistent with standards such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles) and the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules);

6. *Urges* the Government of Nicaragua to combat impunity and to 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- and survivor-centred, by conducting independent, transparent and impartial investigations into the multiple forms of repression and violence, including in the context of the electoral process, that have been reported since April 2018 by the Office of the United Nations High Commissioner for Human Rights, including alleged extrajudicial executions, enforced disappearances, torture and other grave human rights violations and abuses, by ensuring that victims are provided with effective remedies and reparations and by amending the Amnesty Law of 2019;

7. *Also urges* the Government of Nicaragua to take effective measures to provide a safe and enabling environment for victims of human rights violations and their families, including political prisoners and opposition members, those with long-term injuries and disabilities, and Indigenous Peoples and Afrodescendants, particularly in the regions of the Caribbean Coast of Nicaragua, including access to physical and mental health services, without discrimination;

8. *Expresses concern* at the increase in the number of femicides and other acts of sexual and gender-based violence in the country, at the lack of effective complaint mechanisms, and at the cancellation of the legal status of civil society organizations that tended to victims of violence, particularly Indigenous and Afrodescendant women and girls, and urges the Government of Nicaragua to take effective measures to prevent, investigate and ensure accountability for sexual and gender-based violence, including gender-related

killings, and to take a survivor-centred approach to sexual and gender-based violence and abuse;

9. *Urges* the Government of Nicaragua to take effective measures, in full and meaningful consultation with Indigenous Peoples and Afrodescendants and in accordance with its legal obligations, to prevent and address the increasing violence committed against them, including by conducting prompt and independent investigations into alleged attacks, killings and land seizures by armed groups;

10. *Also urges* the Government of Nicaragua to adopt effective measures to guarantee the independence, transparency and impartiality of the justice system, the electoral authorities, the National Police, the Attorney General's Office, the Public Defender's Office and the Human Rights Ombudsman's Office, to cease its political interference in the judiciary, including through the arbitrary detention and expulsion of magistrates and other high-ranking judicial officials and the detention and expulsion of the former Supreme Court spokesperson, to uphold its international obligations with respect to fair trial guarantees and to adopt effective measures to guarantee the separation of powers and the re-establishment of the rule of law;

11. *Encourages* 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, the report of the Group of Human Rights Experts on Nicaragua and by the treaty bodies, and the recommendations received during the third cycle of the universal periodic review of Nicaragua,³ in meaningful consultation with civil society and victims;

12. *Calls upon* the Government of Nicaragua to prevent, refrain from and publicly condemn, investigate and punish any acts of intimidation, harassment or reprisal against political leaders, journalists, religious leaders, business people, Indigenous Peoples, Afrodescendants, peasants, student leaders, human rights defenders and any individual critical of the Government, 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 regional mechanisms;

13. *Urges* the Government of Nicaragua to respect all civil and political rights, including the right to a nationality, and to guarantee the conditions for the voluntary, safe return to Nicaragua, without fear of new reprisals, intimidation or attacks, of Ms. Anexa Alfred Cunningham, and all those living in exile;

14. *Also urges* the Government of Nicaragua to adopt electoral and institutional reforms and to engage in a dialogue with all political parties, civil society and other actors in Nicaragua or in exile, with the aim of ensuring genuine elections that are free and fair, carried out in a transparent manner with independent international observers;

15. *Decides* to renew, for a period of two years, the mandate of the Group of Human Rights Experts on Nicaragua as established in its resolution 49/3;

16. *Requests* the Group of Human Rights Experts on Nicaragua to submit a report to the Human Rights Council at its fifty-fifth and fifty-eighth sessions, during an interactive dialogue, and to present oral updates to the Council at its fifty-fourth and fifty-seventh sessions;

17. *Requests* the immediate operationalization of the mandate renewal, taking all administrative and legal measures to guarantee no interruption of its work, and requests the Secretary-General to provide the Group of Human Rights Experts on Nicaragua with full administrative, technical, security, legal, data-processing and logistical support and the resources necessary to enable it to carry out its mandate;

18. *Requests* the High Commissioner to strengthen monitoring and engagement, including by preparing comprehensive and gender-responsive reports on the situation of human rights in Nicaragua, building on previous reports of the High Commissioner and the reports and recommendations of Human Rights Council mechanisms and those of the treaty

³ See A/HRC/42/16.

bodies, including on justice and due process for political dissidents and groups in vulnerable situations, and to present them to the Council at its fifty-fourth and fifty-seventh sessions, to be followed by an interactive dialogue, and to present an oral update to the Council at its fifty-third, fifty-fifth, fifty sixth and fifty-eighth sessions, and an oral update followed by an interactive dialogue before the end of 2023 and 2024;

19. *Requests* the Office of the High Commissioner to strengthen its engagement by continuing to analyse legislation relating to civic and democratic space, the judicial sector and amnesties with a view to providing the support necessary for Nicaragua to fulfil its human rights obligations and commitments, and to continue to seek cooperation with the authorities of Nicaragua;

20. *Calls upon* the Government of Nicaragua to cooperate fully with the Office of the High Commissioner and its Regional Office for Central America, the Human Rights Council and its mechanisms, including the Group of Human Rights Experts on Nicaragua, and with the relevant treaty bodies, and including during its upcoming review by the Committee on the Elimination of Discrimination against Women, by, inter alia, granting them unfettered, full and transparent access throughout the country and facilitating visits, including to detention facilities, and providing necessary information, and to positively consider the recommendations made in their reports and their offers of technical assistance, and the requests for country visits made by the special procedures in accordance with the standing invitation it extended in 2006;

21. *Requests* that the Office of the High Commissioner be provided with the resources necessary to continue to fulfil its technical cooperation and human rights monitoring and reporting mandates;

22. *Decides* to remain actively seized of the matter and to consider all measures available to the Human Rights Council to strengthen the promotion and protection of human rights in Nicaragua and cooperation with the Office of the High Commissioner.