

MONITORING THE HUMAN RIGHTS SITUATION IN NICARAGUA MONTHLY BULLETIN N. 5 - JANUARY 2019

Introduction In January, national authorities pursued their efforts to prevent the opposition from demonstrating. The crackdown on press freedom continued to increase, with threats, harassment, intimidation and arbitrary detentions of journalists and other media workers. The adoption of a reconciliation law that does not acknowledge victims of human rights violations nor their rights to truth, justice and reparation affirms the State denial of any responsibility for human rights violations and abuses committed since the start of the crisis in April 2018.

Context On 11 January, upon request of the Secretary-General of the Organization of American States (OAS), the Permanent Council of OAS held a special meeting to consider the situation in Nicaragua, in accordance with the proceedings established in Article 20 of the Inter-American Democratic Charter¹. Various member States² supported the initiative of the Secretary-General. The Minister of Foreign Affairs of Nicaragua, who attended the meeting, rejected the application of the proceedings and questioned the legality of the session convened by the Permanent Council of OAS.

On 21 January, the Foreign Affairs Council of the European Union adopted its conclusions on Nicaragua³, condemning the repression of the press and civil society and the use of anti-terrorist laws to repress dissenting opinions. It recommended “*a genuine dialogue and negotiation including the adoption of electoral reforms*” as the only way to address the ongoing social and political crisis. It also called on the Government of Nicaragua to cooperate constructively with the Inter-American Commission on Human Rights and to allow the return of the Office of the United Nations High Commissioner for Human Rights (OHCHR). The Foreign Affairs Council of the European Union stressed that “*there cannot be reconciliation without a transparent, inclusive and constructive national dialogue among all the parties involved and justice for all victims*”⁴.



According to non governmental sources, more than 700 persons have reportedly been deprived of their liberty in connection with the participation in the protests since April 2018

¹ Article 20 of the Inter-American Democratic Charter provides *inter alia* that: “In the event of an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a Member State”, the Secretary-General of OAS may request the immediate convocation of the Permanent Council to assess the situation and, if appropriate, to undertake as a first step, diplomatic initiatives, including good offices. See http://www.oas.org/charter/docs/resolution1_en_p4.htm. Last accessed on 6 February 2019.

² Argentina, Canada, Chile, Costa Rica, Panama, Peru and the United States of America took the floor to support the request of the OAS Secretary-General, while Bolivia and Venezuela expressed their opposition to the initiative. See <https://www.youtube.com/watch?v=j3lBhHsdYY>. Last accessed on 6 February 2019.

³ See <https://data.consilium.europa.eu/doc/document/ST-5110-2019-INIT/en/pdf> Last accessed on 9 February 2019.

⁴ *Ibidem*

From 23 to 26 January, a European Parliament delegation composed of 11 members, visited Nicaragua and met with State authorities, including President Ortega, and civil society representatives. Despite an initial refusal to receive the delegation, the Government eventually did not impose limitations. For instance, the delegation was granted access to detention centres and was able to interview some inmates. The leader of the delegation, Ramón Jauregui, publicly expressed his concern⁵ about the conditions of detention affecting, among others, journalist Miguel Mora, who has been deprived of liberty since 21 December 2018, alongside with his colleague Lucia Pineda Ubau. During a press release issued at the end of their visit⁶, the delegation urged the Government and the opposition to resume dialogue. They called on the Government to facilitate such dialogue by granting alternative



**WOMEN HELD IN LA
ESPERANZA PRISON MET
WITH THE EUROPEAN
PARLIAMENT DELEGATION
25/01/2019**

measures to pre-trial detention (including house arrest) for those deprived of their liberty in connection with the protests; putting an immediate end to harassment against social leaders; and permitting the return of international human rights organizations, including OHCHR, to Nicaragua.

On 24 January, the National Assembly adopted Law 985 directed to implement a State policy for "*a culture of dialogue, reconciliation, security, work and peace*". Although the title of the law and several of its provisions refer to reconciliation, it does not address the multiple human rights violations suffered by thousands of victims since mid-April 2018⁷.

The following highlights some of the main human rights issues of concern identified by OHCHR in January 2019.

Violations of the right to freedom of peaceful assembly and related arbitrary detentions

National authorities, in particular the National Police, continued to systematically restrict the right to peaceful assembly. The latest major demonstration took place in Managua on 23 September 2018. Since then, any intent to stage public protests has been quelled by massive Police deployment, denying permission to and declaring illegal any demonstrations by groups considered critical of the Government, and arbitrary arrests of people engaged in demonstrations. In addition to the violent repression of protests by Police and pro-Government armed elements between April and September 2018, which resulted in 325 people killed and more than 2,000 injured, these measures have had a general deterrent impact, effectively preventing the exercise of the right to freedom of peaceful assembly.

⁵ See <https://www.youtube.com/watch?v=93D88XwXBHs>. Last accessed on 8 February 2019

⁶ See https://www.youtube.com/watch?v=ALY_C3bmAjs Last accessed on 9 February 2019.

⁷ See also http://www.oas.org/en/iachr/media_center/PReleases/2019/021.asp Last accessed on 9 February 2019.

At the beginning of 2019, Cardinal Leopoldo Brenes⁸ announced the decision of the Catholic Church in Nicaragua to suspend the traditional procession of 1 January⁹ in Managua in order to prevent “*tensions*”. On 21 January, different organizations representing the private business sector¹⁰ officially requested authorization for a peaceful demonstration planned for 24 January. On 23 January, the National Police issued a resolution denying permission to organize this march, stating, *inter alia*, that “*it does not authorize nor will authorize demonstrations or rallies staged by persons, associations or foundations that promoted, called, collaborated to and/or participated in the failed coup attempt*”¹¹.



**POLICE ROADBLOCK
MOUNTED OUTSIDE THE
PREMISES OF CANAL 12
25/01/2019**

In this context, OHCHR received allegations about the arrest and detention of 36 individuals throughout January across the country,¹² mainly in Masaya, León, Managua and Nueva Segovia. In the absence of official information from the authorities and due to lack of access to the country, OHCHR could not verify all these allegations. The Office was able to verify the cases of seven people (four men and three women) who were released after being held for a few hours up to one week without being brought before any judicial authority nor formally indicted. In the other cases, OHCHR sent a communication to the Nicaraguan authorities in order to receive more detailed information.

Violations of the right to freedom of expression OHCHR continued to receive information about arbitrary arrests, detentions and harassment of journalists, as well as undue restrictions of activities of independent media.

On 10 January, the newspapers *La Prensa* and *El Nuevo Diario* publicly denounced¹³ that for over four months, printer paper and other basic supplies had been retained by the Nicaraguan custom authorities, noting this would soon impede the publishing of its print edition. From 23 to 26 January, police officers mounted roadblocks around and kept under surveillance the premises of *Canal 12*, intimidating journalists and press workers. On 27 January, notwithstanding the statement by the

⁸ See <https://www.youtube.com/watch?v=Q8rdautwUbs> Last accessed on 7 February 2019

⁹ Processions nevertheless took place in Matagalpa and Granada.

¹⁰ High Council of Private Enterprise (COSEP), Nicaraguan Foundation for Social and Economic Development (FUNIDES), American Chamber of Commerce (AMCHAM).

¹¹ See <https://www.policia.gob.ni/wp-content/uploads/2019/01/Resolucion-No-001-2019.pdf> Last accessed on 7 February 2019.

¹² As of 8 January, the Committee of Relatives for the Release of Political Prisoners had registered 740 persons deprived of their liberty for political reasons (667 men, 70 women and three transgender persons). See http://presospoliticosnicaragua.com/wp-content/uploads/2019/01/1_5023768227600138368.pdf Last accessed on 7 February 2019.

¹³ See <https://www.laprensa.com.ni/2019/01/10/nacionales/2512352-aduana-retiene-tinta-y-papel-al-grupo-editorial-la-prensa> and <https://www.elnuevodiario.com.ni/nacionales/483359-aduana-retiene-material-nuevo-diario/> Last accessed on 7 February.

Nicaraguan Institute for Telecommunications and Mail (TELCOR by its Spanish acronym) denying media censorship, the programmes *Esta Noche* and *Esta Semana* produced by the media outlet *Confidencial* - whose stances are known for being very critical of the Government - were broadcasted through Youtube and Facebook live, as “*a way for fighting against the attacks to freedom of press*”¹⁴.

On 26 January, a journalist from the newspaper *La Prensa*, William Aragón Rodríguez, publicly reported having being victim of death threats by a State official in the city of Estelí. On 29 January, the police arbitrarily detained for a few hours the journalist of *Radio Dario*, Catalino Leo Carcamo. Carlos Fernando Chamorro¹⁵, the director of *Confidencial* (the premises of which were raided by the police in December 2018) went into exile to Costa Rica to protect his life and integrity and to continue exercising independent journalism.

As of 31 January, non-governmental sources had registered that at least 66 journalists had left Nicaragua to seek protection.

Situation of people deprived of their liberty in connection with the protests OHCHR received information about alleged ill-treatment of people held in La Modelo prison for charges linked to their participation in the protests that took place in 2018. In particular, according to open sources, during the night of New Year’s eve, some inmates would have been attacked by anti-riot police officers while singing the national anthem. On 11 January, an inmate was reportedly subjected to beatings by corrections officers. The health condition of Ruth Matute¹⁶, who was hospitalized on 4 January going through a bypass surgery, is also of concern after the Ninth Criminal Court in Managua did not grant her house arrest and confirmed pre - trial detention on 21 January.

Violations of the right to a fair trial in connection with participation in the protests On 8 January, the magistrate of the Supreme Court of Justice, Rafael Solís¹⁷, resigned from his position after having fled Nicaragua. In a letter published by several media outlets¹⁸, he stated that the handling of the crisis by both the President and the Vice-President had motivated his decision. He also stated that “*there is no longer any right that is respected [in Nicaragua...they have] made all the*

¹⁴ See <https://www.laprensa.com.ni/2019/01/27/nacionales/2518233-programa-esta-semana-solo-en-youtube-y-facebook-ante-presion-del-regimen> Last accessed on 9 February 2019.

¹⁵ See <https://confidencial.com.ni/periodismo-independiente-desde-el-exilio/> Last accessed on 7 February. It must be noted that the Inter-American Commission on Human Rights granted precautionary measures to Carlos Fernando Chamorro on 21 December 2018. See <http://www.oas.org/es/cidh/decisiones/pdf/2018/91-18MC1060-18-NI.pdf> Last accessed on 7 February 2019.

¹⁶ See <http://im-defensoras.org/wp-content/uploads/2019/01/jEXIGIMOS-LIBERTAD-INMEDIATA-PARA-RUTH-MATUTE-ok-31012019.pdf> Last accessed on 9 February 2019.

¹⁷ Rafael Solís was widely considered as one of the most loyal collaborators of President Ortega; in 2009, along with five other magistrates of the Supreme Court, he ruled in favour of President Ortega’s reelection.

¹⁸ See <https://www.elnuevodiario.com.ni/nacionales/483132-rafael-solis-renuncia-corte-suprema-justicia/> Last accessed on 7 February 2019.

*powers of the State disappear, reducing the Judicial Branch, to which I belong, to its minimal expression*¹⁹. He further stated that charges against protesters were politically motivated and that judges issued rulings following the official narrative of the crisis for fear of being dismissed.

These statements point to recurring practices and patterns constituting breaches of due process of law guarantees, as established in article 14 of the International Covenant on Civil and Political Rights that OHCHR has identified over the past months, based on information, including extracts from judicial files, collected from different open and non-governmental sources.

Throughout January, OHCHR received reports about the conviction of individuals who played an active role during the first four months of protests, namely peasant leader Victor Manuel Diaz, leaders of the 19 April Movement in Masaya (Christian Fajardo and his wife María Adilia Peralta), student leader of the National Autonomous University of Nicaragua, Jonathan López, and former Army general Carlos Brenes and former Army major Tomas Maldonado. The sentences were to be determined. According to the information OHCHR has gathered so far, guilty sentences are mostly grounded on testimonies rendered by police officers, State or municipality workers, while the judges usually dismissed or gave less weight to evidence and witnesses presented by defense lawyers.



THE STUDENT LEADER, JONATHAN LOPEZ IN GENEVA WITH THE THEN UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS 26/06/2018

Conclusions and recommendations

In a context of persistent impunity for those responsible of human rights violations that have occurred since April 2018, the Government of Nicaragua has continued to repress dissenting voices. Despite multiple initiatives by the international community to support a peaceful solution, the political, social and human rights crisis persists. In the light of the fortieth regular session of the Human Rights Council, which will take place from 25 February to 22 March 2019, it is crucial that Member States strengthen their efforts to foster a peaceful resolution of the ongoing crisis, making victims' rights and accountability a priority.

¹⁹ See <https://www.infobae.com/america/america-latina/2019/01/10/renuncio-un-magistrado-del-supremo-que-era-cercano-a-ortega-y-murillo-y-los-acuso-de-imponer-un-estado-de-terror-en-nicaragua/> Last accessed on 19 February 2019.