

MONITORING THE HUMAN RIGHTS SITUATION IN NICARAGUA MONTHLY BULLETIN N. 8 - APRIL 2019

Introduction Between 17 and 20 April, on the occasion of the first anniversary of the beginning of the social and political protests, several gatherings took place on the streets and protesters joined Easter processions in Managua and other main cities, notwithstanding the ban on demonstrations issued by the National Police and the significant deployment of police officers. In this context, new patterns of human rights violations were reported: protesters were arrested in several cities – some were reportedly beaten and threatened – and released after a few hours without having been brought to any detention centre. The authorities continued to release individuals detained in relation to the 2018 protests, but without following the provisions of the agreement reached on this matter between the Government and the Civic Alliance for Justice and Democracy (hereinafter the Civic Alliance). The latter suspended its participation in the negotiations until the Government would honour its commitments, notably under the two agreements signed in March 2019.¹



Photo: María Gómez / Article 66 *Demonstration held on 19 April in Managua on the occasion of the first anniversary of the beginning of social and political protests*

Context On 3 April, the date when the negotiations between the Government and the Civic Alliance were set to be concluded, the latter announced that it was not possible to reach any agreement with the Government on justice and democracy and that it would therefore focus its efforts on monitoring compliance with the two agreements signed in March.²

On 5 April, the Civic Alliance sent a letter to the President of the Permanent Council of the Organization of American States (OAS) and to the members of the OAS Permanent Council Working Group for Nicaragua, informing them that it would only resume its participation in the discussions when the Government would show serious signs of political will through concrete actions for a prompt peaceful solution.³ On 23 April, the Civic Alliance reiterated its position in a meeting with the

¹ An agreement on the release of persons deprived of their liberty for their participation in the 2018 protests and another on the strengthening of citizens' rights and safeguards. See OHCHR Monthly Bulletin No. 7, available at www.oacnudh.org/wp-content/uploads/2019/04/Nicaragua-Monthly-Bulletin-March-2019.pdf, last accessed on 1 May 2019.

² The Civic Alliance has consistently denounced the Government's non-compliance with these two agreements. See: www.alianzacivicanicaragua.com/es/presentamos-carta-a-testigos-acompanantes-y-garantes-internacionales/, last accessed on 30 April 2019, www.alianzacivicanicaragua.com/es/justicia-y-democracia-sin-acuerdos/ and www.alianzacivicanicaragua.com/es/reiterada-falta-de-cumplimiento-del-gobierno/, last accessed on 27 April 2019.

³ See: www.alianzacivicanicaragua.com/es/presentamos-carta-a-miembros-de-la-oea-sobre-situacion-en-nicaragua/, last accessed on 25 April 2019.

two international observers of the negotiation – the Apostolic Nuncio and the OAS General Secretariat Special Envoy to Nicaragua.⁴

On 5 and 26 April, the OAS Permanent Council held three special meetings on Nicaragua with a view to apply Article 20 of the Inter-American Democratic Charter.⁵ On 5 April,⁶ the OAS General Secretariat Special Envoy to Nicaragua briefed the Permanent Council on the status of the negotiations. He stressed that agreements had only been signed on two issues of the political negotiation agenda and that "*not even a millimeter*" of progress had been achieved on the other aspects due to divergent positions of the parties. In the subsequent special meetings, held on 26 April, the Permanent Council heard, among others,⁷ the accounts of a member of the Civic Alliance delegation at the national dialogue and a Nicaraguan human rights defender.⁸ During these meetings, the State of Nicaragua declared that the Government had been following the agenda of the negotiations and had complied with the agreements adopted therein.

On 12 April, the members of the European Parliament who visited Nicaragua in January 2019 requested the European Union High Representative for Foreign Affairs and Security Policy / Vice-President of the European Commission to begin the process for the imposition of targeted sanctions against some members of the Government of Nicaragua and for the suspension from the Association Agreement between the European Union and Central America, invoking the violation of the democratic clause.⁹

On 17 April, pursuant to Executive Order 13851,¹⁰ the Government of the United States of America (US) imposed financial sanctions against Laureano Ortega, President Ortega's son, and Banco Corporativo SA (Bancorp). The assets of Laureano Ortega in the US and Bancorp have consequently been frozen and it is forbidden for US citizens to carry out transactions with them.¹¹ On 23 April, Bancorp requested permission from the Nicaraguan Bank and the Financial Institutions Superintendence to cease operations, arguing it was unable to do business due to US sanctions.¹²

⁴ See: www.youtube.com/watch?v=LUOqhK0lddc and www.alianzacivicanicaragua.com/es/presentamos-carta-a-testigos-acompanantes-y-garantes-internacionales/, last accessed on 25 April 2019.

⁵ 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 7 May 2019.

⁶ See: www.youtube.com/watch?v=Lnbrd5g2xjU, last accessed on 25 April 2019.

⁷ The OAS Secretary-General, the Deputy Executive Secretary of the Inter-American Commission on Human Rights, the Chair of the OAS Permanent Council Working Group for Nicaragua and three international legal experts briefed the OAS Permanent Council on Nicaragua.

⁸ A member of the National Unity Blue and White.

⁹ See: https://gallery.mailchimp.com/4a8393e7086b3e3ec8cdd1a8e/files/6b22ce04-e686-402d-94e9-5ae4cb6f6a6a/DELEGACION_AD_HOC_AR_VP_MOGHERINI_SOBRE_NICARAGUA.01.pdf, last accessed on 25 April 2019.

¹⁰ Executive Order 13851 was signed by the President of the United States of America on 27 November 2018.

¹¹ See: www.state.gov/r/pa/prs/ps/2019/04/291207.htm, last accessed on 27 April 2019.

¹² See: www.laprensa.com.ni/2019/04/24/economia/2544431-bancorp-solicita-la-superintendencia-de-bancos-su-disolucion-voluntaria-tras-sanciones-de-ee-uu, last accessed on 25 April 2019.

On 18 April, the Global Alliance of National Human Rights Institutions (GANHRI) Sub-Committee on Accreditation (SCA) published the report of a session held from 11 to 15 March 2019, in which it recommended downgrading the status of the national human rights institution of Nicaragua (*Procuraduría para la Defensa de los Derechos Humanos*, PDDH, by its Spanish acronym) from “A” to “B”.¹³ According to the report, SCA remains concerned that “*the actual and perceived independence of the PDDH has not been established*”. Since PDDH challenged the SCA recommendation, GANHRI Bureau members will have to determine whether or not they accept it.¹⁴



During the 40th Session of the Human Rights Council, the Deputy Commissioner for Human Rights (PDDH), Adolfo Jarquín Ortel, delivered a statement on behalf of the Government of Nicaragua 12/03/2019

On 24 April, outside the framework of the negotiations, the Chief of the OAS Department for Electoral Cooperation and Observation held an informative meeting in Managua with the Government, the Civic Alliance and the two international observers, to propose a technical cooperation working plan on electoral reforms and modernization of Nicaragua's Electoral Supreme Council. The Government stated that electoral reforms would not imply early elections.¹⁵

On 15 May 2019, the situation of human rights in Nicaragua will be reviewed, for the third time, under the Universal Periodic Review (UPR) of the Human Rights Council.¹⁶ This will provide an opportunity to the Government to provide information about the measures adopted to fulfil its human rights obligations, and for other States to ask questions and make recommendations through an interactive

dialogue.¹⁷ The previous UPR reviews of Nicaragua took place in February 2010 and May 2014. During the latter review, the State of Nicaragua accepted 161 recommendations, many of which remain particularly relevant in the context of the ongoing social and political crisis. It is worth recalling the following recommendations:

¹³ The report is available at: <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Pages/SCA-Reports.aspx>, last accessed on 28 April 2019.

¹⁴ PDDH challenged the recommendation in accordance with Article 12.1 of GANHRI Statute, available at: https://nhri.ohchr.org/EN/AboutUs/Governance/Statute/EN_GANHRI_Statute_adopted_05.03.2019_vf.pdf, last accessed on 28 April 2019. Downgrading to “B” status would imply that PDDH loses its right to take the floor at the United Nations Human Rights Council. See: Human Rights Council resolution 5/1, VII Rules of Procedure, rule 7(b), Commission on Human Rights resolution 2005/74, paragraph 11(a) and OHCHR, National Human Rights institutions, History, Principles, Roles and Responsibilities, Professional Training Series No. 4 (Rev. 1), p. 7, available at: www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI_en.pdf, last accessed on 28 April 2019.

¹⁵ A general election in Nicaragua is scheduled for November 2021. See: www.voanoticias.com/a/oea-coordinara-reformas-electorales-nicaragua/4890078.html, last accessed on 26 April 2019.

¹⁶ The review will be broadcast on: <http://webtv.un.org/>

¹⁷ For more information, see: www.ohchr.org/EN/HRBodies/UPR/Documents/PracticalGuideCivilSociety.pdf, last accessed on 28 April 2019.

- to “take all necessary measures to ensure separations of powers and due independence of the judiciary to secure the right to free and fair judicial processes”;
- to “ensure that members of the political opposition, civil society organizations as well as journalists are free to express their views and opinions, including guarantees for their rights to freedom of assembly”; and
- to “guarantee the right to freedom of assembly and of association in accordance with international obligations”.¹⁸

Repression of dissenting voices Throughout April, the political opposition, especially the Blue and White National Unity (UNAB by its Spanish acronym), strived to organize demonstrations and other initiatives to mark the first anniversary of the beginning of the mass protests against the Government. On 4 and 12 April, UNAB requested authorization to hold public demonstrations (on 6 and 17 April, respectively). On both occasions, the Police issued resolutions denying authorization, arguing that UNAB was not legally registered and that the individuals who submitted the requests had been recently involved in “serious breaches of public order” in Managua.¹⁹

In this regard, it has to be recalled that, since September 2018,²⁰ when the Police issued the first press release announcing that assemblies would be subjected to authorization, all the requests made by civil society organizations critical of the Government, including human rights organizations and the business sector, have been systematically rejected by the Police.

On 16 April, the United Nations High Commissioner for Human Rights (hereinafter the High Commissioner) issued a press release urging the Nicaraguan authorities to allow space for people to assemble and express their views and to avoid further use of excessive force during the protests announced to take place on the occasion of the anniversary of the start of the crisis.²¹ The High Commissioner expressed concern at the continued human rights violations and lack of accountability over the past year, including the criminalization and harassment of persons critical of the Government, media censorship, bans on demonstrations, and use of



Photo: María Gómez /
Article 66 **Police
deployment in Managua
19/04/2019**

¹⁸ See: A/HRC/27/16, paras. 114.64, 114.86 and 114.91, available at: www.ohchr.org/EN/HRBodies/UPR/Pages/Nlindex.aspx, last accessed on 28 April 2019.

¹⁹ See: National Police Resolution No. 02 - 2019 issued on 5 April 2018 <https://www.policia.gob.ni/wp-content/uploads/2019/04/RESOLUCION-No.-02-2019-NO-AUTORIZAR-MOVILIZACION-PUBLICA-QUE-P.pdf> and National Police Resolution No. 03 - 2019 issued on 16 April 2019 <https://www.policia.gob.ni/wp-content/uploads/2019/04/RESOLUCION-No-03-2019-NO-AUTORIZAR-MOVILIZACION-PUBLICA-QUE-PRETENDE-REALIZAR-GRUPO-DE-PERSONAS.pdf>, last accessed on 30 April 2019.

²⁰ OHCHR, Nicaragua Monthly Update N. 1, September 2018, available at: www.oacnudh.org/wp-content/uploads/2018/10/Nicaragua-Monthly-Update-September-2018_Annex.pdf, last accessed on 30 April 2019.

²¹ Press release, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24494&LangID=E>, last accessed on 30 April 2019.

excessive force and large-scale arbitrary arrests by the police. She also stressed the fact that the Government is not honoring the agreements reached so far, undermining the possibility of establishing a genuine inclusive dialogue, and that a solution to the crisis must address the institutional flaws and ensure justice, truth and reparations, as well as a clear guarantee of non-repetition, in line with international norms and standards.

On 17 April, notwithstanding the public statements of the police reiterating the prohibition of demonstrations and the significant police deployment in Managua and other cities, several assemblies took place in different areas of Managua, with protesters waving the national flag, shouting slogans and blowing the horn of their vehicle. During the following days, members of the political opposition joined Easter processions and celebrations throughout the country. OHCHR was not informed of violent incidents in that context, except on 19 April, when anti-riot police reportedly threw tear gas and flash grenades to dissolve a group of protesters outside the Catholic cathedral in Managua. According to non-governmental sources, two men were consequently lightly wounded and a woman was intoxicated due to tear gas.

On 19 and 22 April, the police released two press statements indicating that, as of 22 April, no protesters were injured nor were any held in detention centres.²² On the other hand, non-governmental sources reported that, between 15 and 21 April, 171 individuals were arrested, including some minors, while participating in events related to the anniversary of the 2018 protests. Among the individuals reportedly arrested, at least 10 remained held in police stations, since 30 April – in Managua, Jinotega, Masaya and León, and in the *Dirección de Auxilios Judiciales* (DAJ), a detention centre in Managua. These include a 17-year-old adolescent arrested on 19 April and detained until 30 April. His due process guarantees as a minor were not respected, as he was unable to see his family and was initially prosecuted before regular tribunals and according to general criminal legislation. His case has since been transferred before a Juvenile Court.

OHCHR received information indicating that most of the persons arrested in relation to public assemblies were deprived of their liberty by police officers and released after spending a few hours in custody. According to open sources, some of them were beaten and threatened, and some were requested to testify against other protesters. The Inter-American Commission on Human Rights (IACHR) reported that four women “*were also allegedly subjected to acts of sexual violence involving inappropriate touching (...) inside a police van*”.²³

Between 16 and 23 April, media outlets supportive of the Government published two videos on social media. The first one relates to the burning of a residence in the Carlos Marx neighbourhood, on 16 June 2018, where six members of a family perished, including a three-year-old child and an infant. The video contains allegations against prominent human rights defenders from the NGO *Centro Nicaragüense de Derechos Humanos* for having reportedly manipulated the victims’ relatives into blaming police officers dressed in civilian for burning the residence.²⁴ The second video relates to the killing of Angel Gahona, a journalist who was covering incidents that occurred on 21 April 2018 in Bluefields. It implies that afro-descendant leaders fuelled violent incidents that led to his

²² National Police, press statements No. 015 – 2019, available at: <https://www.policia.gob.ni/?p=31567> and No. 016 – 2019, available at: <https://www.policia.gob.ni/wp-content/uploads/2019/04/Nota-de-Prensa-No-016-2019-referida-a-informaciones-falsas-y-calumniosas-sobre-la-supuesta-detención-de-160-personas.-1.pdf>, last accessed on 30 April 2019.

²³ Press release, available at: www.oas.org/en/iachr/media_center/PReleases/2019/108.asp, last accessed on 1 May 2019.

²⁴ See: www.youtube.com/watch?v=PBCy9rukNYk, last accessed on 29 April 2019.

killing.²⁵ These practices reinforce the pattern of denigration, stigmatization and threats against human rights defenders and social leaders regularly observed and documented by OHCHR and other organizations.

Situation of individuals deprived of their liberty in relation to the 2018 protests As of 1 April a non governmental source²⁶ reported that 779 persons had been detained in connection with the protests that began in April 2018. On the other hand, the Ministry of the Interior indicated in different press releases²⁷ that as of 16 April, a total of 236 persons (201 men and 35 women) accused, sentenced or under investigation in relation to the 2018 protests had been released from prison. According to these figures, more than 500 persons allegedly continue deprived of their liberty.



Release of detainees in Managua on 16 April 2019. Source: <https://www.migob.gob.ni/fotografias/>

On 5 April, the General Directorate of the Penitentiary System released 50 persons (47 men and three women), who reportedly benefited from the regime of "family cohabitation"²⁸ or other alternative measures of detention.²⁹ The Penitentiary System was not explicit in pointing out the legal status of the released persons, by clarifying whether they were already sentenced, prosecuted but not yet convicted, or simply detained.

On 16 April, the Government released 636 individuals from prison under the regime of "family cohabitation". The Ministry of the Interior reported that these included 36 persons (35 men and a woman) figuring on "the list submitted at the negotiation table", as well as on the list that IACHR sent to the Ministry of Foreign Affairs on 19 March 2019.³⁰

After the conclusion of the agreement on the release of persons deprived of their liberty for their participation in the 2018 protests, the legal status of all the people released by the Government has not been clarified, and the releases did not follow the procedure agreed upon by the parties, nor did they count with facilitation by the International Committee of the Red Cross, which is key to ensure transparency of the process and the protection of the released people.

²⁵ See: www.youtube.com/watch?v=FJr2f4pGeow, last accessed on 1 May 2019.

²⁶ See list published by the Committee for the Liberation of Political Prisoners <http://presospoliticosnicaragua.com/lista-preliminar-de-presas-y-presos-politicos-al-1ero-de-abril-de-2019/>, last accessed on 30 April 2019.

²⁷ See press releases issued by the Ministry of the Interior on 27 February 2019 <https://www.migob.gob.ni/nota-de-prensa-13-2-2/>, on 15 March 2019 <https://www.migob.gob.ni/nota-de-prensa-13-2-2/>, on 5 April 2019 <https://www.migob.gob.ni/nota-de-prensa-13-2-2/>, and on 16 April 2019 <https://www.migob.gob.ni/nota-de-prensa-14/>, last accessed on 30 April 2019.

²⁸ Under this legal regime, sentences can be completed at home in accordance with the provisions of art. 60, Law N. 473, 21 November 2003.

²⁹ See: www.migob.gob.ni/nota-de-prensa-13-2/, last accessed on 25 April 2019.

³⁰ See: www.migob.gob.ni/nota-de-prensa-14/, last accessed on 30 April 2019.



Conclusions and Recommendations

One year after the beginning of the political and social crisis, the continued ban on demonstrations, the persistent repression of dissent, the ongoing pattern of arbitrary arrests of protesters, and the failure of the authorities to fully respect the agreements it has signed with the Civil Alliance in March 2019, continue to raise questions about the Government's commitment to finding a political solution to the crisis.

Sustained efforts at the national and international levels, including during the UPR of Nicaragua on 15 May 2019, are critical for Nicaragua to overcome the ongoing crisis and to fulfil its human rights obligations. To that end, States taking part in the UPR process are encouraged to consider the recommendations included in the OHCHR report published in August 2018,³¹ as well as those made by IACHR and the Interdisciplinary Group of Independent Experts³² (GIEI by its Spanish acronym) to raise key questions and formulate recommendations.

³¹ OHCHR, Human rights violations and abuses in the context of protests in Nicaragua. 18 April – 18 August 2018. available at: www.ohchr.org/Documents/Countries/NI/HumanRightsViolationsNicaraguaApr_Aug2018_EN.pdf, last accessed on 7 May 2019.

³² GIEI, Report on the violent events that took place in Nicaragua between April 18th and May 30th. Available at: www.oas.org/es/cidh/actividades/giei-nicaragua/GIEI_INFORME-en.pdf, last accessed on 7 May 2019.