

# Follow-up on the implementation status of recommendations included in the 2019 OHCHR report

Office of United Nations High Commissioner for Human Rights -  
Regional Office for Central America

## 1. Executive Summary

After more than 15 months from the publication of the United Nations High Commissioner for Human Rights' report on the situation in Nicaragua<sup>[1]</sup> and, with less than one year to go before general elections are due in Nicaragua, this bulletin provides a picture of the implementation status of the 14 recommendations included in the above mentioned report. In this respect, OHCHR has observed that the Government has taken few steps without regrettably showing noticeable progress, so far.



208 Interviews with victim and witnesses  
(121 M - 87 W)



232 Meetings, including national authorities, civil society and international community representatives



37 communications sent by the OHCHR Regional Office for Central America to the Government, who replied to 17 of them (since 12 June 2020, the Government has ceased replying)

(1 August 2019 - 31 December 2020)

[1] See: <https://undocs.org/en/A/HRC/42/18>



*Less than a year before the general elections in Nicaragua, the implementation status of the recommendations made by the High Commissioner in September 2019 has been deficient.*

## PARTIALLY IMPLEMENTED



(f) Put an end to arbitrary arrests, and release all persons arbitrarily deprived of their liberty in the context of the protests.

## TO BE IMPLEMENTED



### To the Government of Nicaragua:

(a) Resume a meaningful and inclusive dialogue.



(b) Guarantee the exercise of freedoms of peaceful assembly, expression and association; and publicly condemn and sanction any attack or intimidation against human rights defenders.



(c) Restore the legal personality of civil society organizations and media outlets that were sanctioned.



(d) Establish a comprehensive action plan towards accountability on:

- i. Investigations and prosecutions of human rights violations.
- ii. Reform the judicial sector.
- iii. Following consultation with associations of victims, development and implementation of measures to ensure access to justice and reparation and guarantees of non-recurrence.
- iv. Dismantlement and disarmament of pro-Government armed elements.



(e) Measures to halt and effectively prevent acts of torture.



(g) Amend criminal law to ensure its full compatibility with international norms and standards; in particular, on deprivation of liberty due process.



(h) Implementation of electoral and institutional reforms, aimed at guaranteeing fair and transparent elections.



### To the National Human Rights Institution:

- (i) Fully comply with its mandate to promote and protect human rights.
- (j) Strengthening the institution through technical cooperation from specialized international organizations.

## 2. Status of the implementation of the Recommendations issued by the High Commissioner

### 2.1 Recommendations on preventing torture and arbitrary detentions

(e) Take immediate measures to halt and effectively prevent acts of torture and ill-treatment in custody, including prolonged solitary confinement; carry out prompt, impartial and effective investigations into any allegation of torture and ill-treatment, and into the violent events that followed the protest inside La Modelo prison on 16 May 2019; bring perpetrators to justice and ensure reparation to the victims. **TO BE IMPLEMENTED**

(f) Put an end to arbitrary arrests, and release all persons arbitrarily deprived of their liberty in the context of the protests or for expressing views critical of the Government. **PARTIALLY IMPLEMENTED**

(g) Amend criminal law to ensure its full compatibility with international norms and standards; in particular, to ensure that any deprivation of liberty is authorized by a judicial authority, that pre-trial detention is imposed only if considered necessary and proportionate, taking into account the defendant's individual circumstances, and that arrest, seizure and search warrants are issued by a judicial authority before being enforced. **TO BE IMPLEMENTED**

OHCHR has specifically monitored the situation of persons deprived of their liberty in the context of the socio-political and human rights crisis. Of this group, since 30 December 2019, the Government granted 86 men and 9 women with alternative measures to detention. According to civil society figures, as of December 2020, at least 106 people (103 men and 3 women) who participated in protests or were perceived as opponents, continued arbitrarily deprived of their liberty. In six decisions on Nicaragua taken during the period between June 2019 and October 2020, the very same UN Working Group on Arbitrary Detention, an independent mechanism of the Human Rights Council that investigates cases of deprivation of liberty, has concluded that 21 persons (13 men and eight women) had been arbitrarily detained by law enforcement officers since August 2018, 17 of them after September 2019 (10 men and seven women).[2]

Arbitrary arrests and detentions of perceived Government opponents continued. Currently, the main pattern consists of brief police detentions after which detainees are released within 24 hours without being presented to judicial authorities.[3]

All the alleged cases of torture mentioned in the 2019 High Commissioner's report presented to the Human Rights Council remain in impunity. In none of these cases the perpetrators were identified or sanctioned or the victims granted reparation. In addition, OHCHR continued to receive allegations of torture, ill treatment and denial of timely health care from persons deprived of their liberty in the context of the crisis. State authorities, including the National Human Rights Institution (Procuraduría para la Defensa de los Derechos Humanos) deny the occurrence of such violations, but does not allow national or international human rights organizations to independently evaluate the conditions of detainees. To this end, OHCHR reiterates to the Government the importance of granting the Office access to the country and thus being able to assess their situation in situ.

[2] See: A/HRC/WGAD/2019/16, A/HRC/WGAD/2019/19, A/HRC/WGAD/2019/43, A/HRC/WGAD/2020/17, A/HRC/WGAD/2020/21 and A/HRC/WGAD/2020/39, available at <https://www.ohchr.org/EN/Issues/Detention/Pages/OpinionsadoptedbytheWGAD.aspx>, last accessed on 15 November 2020.

[3] For instance, since 1 September 2020, OHCHR recorded 16 incidents of arbitrary detention of people who gathered at meetings in preparation for the 2021 electoral process. All were released within 24 hours.

## 2.2 Recommendations on the reestablishment of guarantees for the exercise of freedoms of peaceful assembly, expression and association

(b) Guarantee the exercise of freedoms of peaceful assembly, expression and association; and publicly condemn and sanction any attack or intimidation against, inter alia, human rights defenders, community leaders, journalists and media workers, and any individual critical of the Government. **TO BE IMPLEMENTED**

(c) Urgently restore the legal personality of civil society organizations and media outlets that were sanctioned, and return all their seized assets, documents and equipment. **TO BE IMPLEMENTED**

Throughout the last two years, OHCHR has monitored the progressive shrinking of civic space in the country. Frequent and multiple violations of the rights to freedom of expression, peaceful assembly, and association have specifically targeted different forms of dissent in Nicaragua. The spread of COVID-19 has also contributed to exacerbate the undue limitations already in place, as well as the stigmatization and persecution against those who criticized the State response to the pandemic. Citizen concerns and criticism about the management of the pandemic also became an issue of political confrontation between the Government and the opposition.

The National Police has systematically prevented public demonstrations staged by individuals or groups critical of the Government. In at least six cases, OHCHR registered that police officers resorted to unnecessary or disproportionate use of force causing minor injuries on protesters and journalists. Since 1 August 2019, OHCHR documented 83 cases of attacks, threats, harassment and acts of intimidation by police officers and pro-Government elements targeting human rights defenders, including women human rights defenders, as well as social leaders, health and education workers, defense attorneys, former detainees' relatives, members of the Catholic clergy and parishioners, among others. In addition, it registered 30 cases where victims were journalists or media workers. Four media outlets suffered raids, destruction of equipment or administrative sanctions and three others shut down their operations.

The authorities have not restored the legal registration of nine organizations sanctioned at the end of 2018, nor have ruled on judicial remedies that challenged these decisions. Their assets remained seized and, in December 2020, some of them reportedly transferred



Photo by [Artículo 66](#).

to the Ministry of Health. In June 2020, the National Assembly imposed the same penalty to another organization.

Moreover, between October and December 2020, the National Assembly, where the ruling party has a large parliamentary majority, passed three laws on foreign agents, cybercrimes and defense of the rights of the people. Before its adoption, OHCHR offered technical assistance to the Government and the Legislative Body to promote compliance with international human rights norms and standards, but it did not receive response. In this respect, OHCHR considers that these laws may further affect the rights to freedom of expression, association and political participation, and may have a negative impact particularly in the pre-electoral period [4]

The Office is also concerned by the amendment to the Constitution, adopted in January 2021, that increases the severity of the punishment to hate motivated crimes from 30 years of deprivation of liberty to life imprisonment. There is a risk that this provision could be used to selectively repress dissenting voices.

[4] On 13 November 2020, United Nations Experts also raised their concern and called the Government to amend both laws. See: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25691>, last accessed on 20 November 2020.

## 2.3 Recommendations on accountability

(d) With OHCHR's support through technical cooperation, as well as the assistance of regional human rights institutions, establish a comprehensive action plan towards accountability that is inclusive and victim-centered, which would include the following:

(i) Prompt, thorough and transparent criminal investigations and prosecutions into all allegations of human rights violations and abuses that have occurred since 18 April 2018, especially gross human rights violations, such as extrajudicial killings, torture, and sexual violence, in particular through the establishment of a Special Unit within the Prosecutor's Office. **TO BE IMPLEMENTED**

(ii) Participative and inclusive consultations to reform the judicial sector, including re-appointments in line with international standards, such as the Basic Principles on the Independence of the Judiciary and the Guidelines on the Role of Prosecutors. **TO BE IMPLEMENTED**

(iii) Following consultation with associations of victims of human rights violations in the context of the protests, development and implementation of a comprehensive package of measures that ensure access to justice and reparation (restitution, compensation, rehabilitation, satisfaction and guarantees of non-recurrence) to all victims of human rights violations that have occurred since 18 April 2018, including the repeal of Laws 994 and 996. **TO BE IMPLEMENTED**

(iv) Dismantlement and disarmament of pro-Government armed elements and comprehensive reform of the security sector, including human rights vetting, civilian supervision and oversight, and revision of Law 872 in conformity with human rights norms and standards. **TO BE IMPLEMENTED**



Photo by [Artículo 66](#)

Amnesty granted by Law 996 paved the way to impunity for those responsible of gross human rights violations. In this regard, the Government informed that this law benefited all those who took part in the events occurred in Nicaragua from 18 April 2018 to 10 June 2019, without exceptions.[5] Likewise, the National Assembly passed two laws on culture of dialogue, reconciliation, security, work and peace and on comprehensive care for victims,[6] and recently extended the Truth, Justice and Peace Commission's

mandate. Nevertheless, the official narrative grounded on the attempted "coup d'état" in 2018 has not recognized the occurrence of any human rights violation, often labeling the victims as criminals, terrorists or coup mongers. This approach continues to deny the majority of victims the enjoyment of their rights to truth, justice, reparation and guarantees of non-recurrence.

In relation to the recommendation to hold participatory and inclusive consultations to reform the judicial sector, OHCHR has not observed progress.

This reform should include reappointments of members of the judiciary in line with international norms and standards, including the United Nations Basic Principles on the Independence of the Judiciary and the Guidelines on the Role of Prosecutors.

[5] For instance, it was used for closing the criminal investigation against a police officer who reportedly killed an inmate arbitrarily during a protest in La Modelo male prison in May 2019, as well as for the release of a man sentenced for the killing of a Brazilian female student in July 2018.

[6] Law 985 and Law 994 adopted on 24 January and 29 May 2019, respectively.



The Government continues to deny the existence of pro-Government armed elements, as well as of violent mobs ("turbas"). Since 1 August 2019, OHCHR has documented at least 11 cases (including one killing), in which Government's supporters physically attacked and/or threatened persons perceived as opponents. In most of these cases, perpetrators wore colors or carried flags of the ruling party and violations took place with the tolerance of police officers, who did not prevent nor stopped the attacks.

The Government should take all the necessary measures to dismantle and disarm these individuals, in order to avoid a possible escalation of violent incidents, especially in the context of the upcoming electoral process. The lack of non-recurrence measures, including institutional and legal reforms, coupled with the persistent impunity, may contribute to a favorable environment for the continuous perpetration of human rights violations.

## 2.4 Recommendations on dialogue and electoral reforms

(a) Urgently resume a meaningful and inclusive dialogue, in line with its international human rights obligations, and fully implement the agreements reached with the Civic Alliance in March 2019. **TO BE IMPLEMENTED**

(h) Promptly ensure the implementation of electoral and institutional reforms, aimed at guaranteeing fair and transparent elections. **TO BE IMPLEMENTED**

Since the Civic Alliance for Justice and Democracy left the negotiation table with the Government, in May 2019, no attempts to resume the dialogue have taken place. This stalemate has also impeded progress towards the implementation of the agreements reached in March 2019.[7]

Article 25 of the International Covenant on Civil and Political Rights recognizes and protects the right of every citizen to take part in the conduct of public affairs, the right to vote and to be elected and the right to have access to public service.

According to the Human Rights Committee, "the Covenant requires States to adopt such legislative and other measures as may be necessary to ensure that citizens have an effective opportunity to enjoy the rights [that Article 25] protects." [8] OHCHR remains concerned by the lack of legal and institutional reforms aimed at guaranteeing fair and transparent elections. Although the Government announced in January 2020 that the Legislative Assembly had included electoral reforms in the 2020 agenda, so far no concrete steps have been taken to address such reforms.

## 2.5 Recommendations to the National Human Rights Institution (NHRI)

(i) Fully comply with its mandate, including as National Mechanism for the Prevention of Torture, in line with the Paris Principles and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to effectively and independently promote and protect human rights, in accordance with Nicaragua's international obligations. **TO BE IMPLEMENTED**

(j) Seek cooperation from OHCHR, the Global Alliance of National Human Rights Institutions and the Subcommittee for the Prevention of Torture to address issues that led to the downgrading of its status and to reinforce its mandate, including as National Mechanism for the Prevention of Torture. **TO BE IMPLEMENTED**

[7] In these two agreements, the Government pledged, inter alia, to release all the persons deprived of their liberty "in relation to facts happened since 18 April 2018", to respect due process guarantees, not to carry out arrests or searches without complying with legal requirements, and to disarm individuals and groups carrying weapons without proper authorization. It also committed to respecting the right to peaceful assembly, in accordance with the legal requirements, without subjecting it to prior authorization, and to freedom of expression, without restrictions.

[8] See CCPR/C/21/Rev.1/Add.7, para. 1.



Photo by Artículo 66

The National Human Rights Institution (Procuraduría para la Defensa de los Derechos Humanos, hereinafter

NHRI) should still make all the necessary efforts to reinforce its mandate, in particular as national mechanism for the prevention of torture. In order to fully comply with its mandate, it should thoroughly investigate the reports of torture and ill-treatment of persons in detention, particularly those committed since April 2018.[9]

On various occasions, OHCHR has offered to provide technical assistance to this national institution, both at headquarters and regional levels. By reiterating this offer, OHCHR also invites the NHRI to continue seeking collaboration with its regional counterparts.

## 2.6 Recommendations to the Human Rights Council and the international community

(l) Urge Nicaragua to promptly resume cooperation with OHCHR and regional human rights mechanisms, and to grant them access to the country. **PARTIALLY IMPLEMENTED**

(m) Reaffirm the commitment of the international community to support Nicaragua to find a solution to the socio-political crisis it faces, including efforts to establish a comprehensive action plan towards accountability. **PARTIALLY IMPLEMENTED**

(n) Request OHCHR to enhance its monitoring, documentation, analysis, and public reporting on the human rights situation in Nicaragua, notably as a contribution to ensuring accountability, and to support the rule of law and security sector reforms. **PARTIALLY IMPLEMENTED**

The Government has not yet answered the offers made by OHCHR to provide technical assistance on international human rights norms and standards nor has accepted any visit by the thematic mandates of the Special Procedures since 2009.[10] The standing invitation that Nicaragua extended to these mechanisms in 2006 was a positive step that should be consolidated with the materialization of country visits. It is also paramount that constructive cooperation be reestablished between Nicaragua and OHCHR.

The international community has maintained its interest in the situation in Nicaragua. On 19 June 2020, the United Nations Human Rights Council requested OHCHR to enhance monitoring and continue reporting on the human rights situation in Nicaragua.

At the regional level, in October 2020, the human rights and political bodies of the OAS and the EU adopted resolutions to address the ongoing crisis.[11] On 4 May 2020, the Council of the European Union also included six Government officers in the list of persons, bodies and entities subjected to restrictive measures.[12] At the national level, different States[13] adopted financial sanctions against individuals, institutions and private companies allegedly responsible for human rights violations or abuses, or acts of corruption.

[9] In its report published in 2019, the NHRI indicated that it did not find any evidence of torture or ill-treatment against people deprived of their liberty in the context of the protests and that it had verified that prison facilities guarantee minimum conditions, in conformity with international human rights standards.

[10] See <https://spinternet.ohchr.org/ViewCountryvisits.aspx?visitType=completed&lang=En>, last accessed on 13 November 2020.

[11] See [https://www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=S-019/20](https://www.oas.org/en/media_center/press_release.asp?sCodigo=S-019/20) and [https://www.europarl.europa.eu/doceo/document/RC-9-2020-0317\\_EN.html](https://www.europarl.europa.eu/doceo/document/RC-9-2020-0317_EN.html), last accessed on 14 November 2020.

[12] See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.LI.2020.139.01.0001.01.ENG&toc=OJ.L.2020.139:TOC#ntr1-LI2020139EN.01000101-E0001>, last accessed on 16 November 2020.

[13] Canada, Switzerland, United Kingdom and United States.

### 3. Conclusions

The overall progress on the implementation of the recommendations formulated by the High Commissioner in her 2019 Report to the Human Rights Council continues to be extremely limited.

The regular monitoring of the human rights situation in Nicaragua by regional and international human rights bodies has allowed maintaining updated the international community, while contributing to support the work of human rights defenders at the national level. In this context, OHCHR has noted that violence against those participating in protests or other political events seems to be less prevalent than in the 2018-2019 period. Nevertheless, frequent violations to the rights to liberty, to freedom of expression, peaceful assembly, association and to participation persist.

The socio-political and human rights crisis that has been affecting Nicaragua since April 2018, was aggravated by the devastation caused by hurricanes in November 2020 and the negative impacts of the COVID-19 pandemic, which prompted an overall increase of poverty, unemployment and inequality in Nicaragua and its wider region.<sup>[14]</sup>

In such a complex scenario, there is broad consensus that the resolution of the socio-political crisis, also

through the implementation of electoral reforms arising from an inclusive and meaningful dialogue with the opposition, constitutes a crucial requirement to support the economic recovery and restore confidence. Human rights need to be placed at the center of the agenda with the view of reducing poverty without leaving no one behind. To this end, the Government should promptly resume a constructive cooperation with OHCHR and regional human rights institutions.

As flagged by the High Commissioner in September 2020, the authorization of a mission by her Office before the presentation of a new comprehensive report to the Human Rights Council at its forty-sixth session, would constitute a positive and encouraging sign. This would allow conducting a more in-depth assessment of the progress and challenges regarding the human rights situation in Nicaragua. It would also lay the foundations of future technical cooperation aimed at contributing more effectively to the State's response to the various human rights challenges it faces. The High Commissioner hopes for a positive reply by the Government to this initiative and calls on the international community to support it.

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<sup>[14]</sup> The report that the United Nations High Commissioner for Human Rights will present before the United Nations Human Rights Council during its 46 session will include further analysis on these topics.