

MONITORING THE HUMAN RIGHTS SITUATION IN NICARAGUA MONTHLY BULLETIN N. 6 - FEBRUARY 2019

Introduction In February, dissenting civil society organizations in Nicaragua continued to be persecuted. Two peasant leaders who had played a prominent role in the 2018 protests were sentenced to one of the longest prison sentences ever imposed in the history of Nicaragua (236 and 210 years, respectively). OHCHR received reports indicating the ill-treatment of several persons deprived of their liberty for their participation in the 2018 protests. At the end of February, talks between the Government and the Civic Alliance for Justice and Democracy (a coalition of representatives from different sectors of society¹) resumed to negotiate a peaceful solution to the political and social crisis².

Context On 4 February, in the context of an informal meeting with Member States ahead of the 40th session of the Human Rights Council, the United Nations High Commissioner for Human Rights referred to the increasing restrictions on civic space in Nicaragua, noting that no international human rights entities remained in the country³. She urged the Human Rights Council to consider all tools available to prevent a further deterioration of the human rights situation.



*On 26 February, the delegation of the Civic Alliance for Justice and Democracy gathered to prepare the forthcoming negotiation with the Government.
<https://www.alianzacivicnicaragua.com>*

On 14 February, two hearings on Nicaragua took place during the 171st session of the Inter-American Commission on Human Rights (IACHR), held in Sucre, Bolivia. The State of Nicaragua did not attend the hearings. In the first hearing,⁴ the Human Rights Permanent Commission of Nicaragua (CPDH by its Spanish acronym) – a non-governmental organization (NGO) – presented an update on the human rights situation in the country, emphasizing the harsh detention conditions and the lack of due process guarantees for persons deprived of their liberty in relation to the protests. IACHR reiterated its concern about the situation, notably about the systematic nature of human rights violations.⁵ The second hearing focused on the situation of

¹ The Civic Alliance for the Justice and Democracy formed a negotiating team composed of six incumbents, six substitutes and six advisors in representation of business, civil society and students sectors. See <https://www.alianzacivicnicaragua.com/es/anunciamos-el-equipo-de-negociacion/> Last accessed on 13 March 2019.

² The National Dialogue between the Government and the Civic Alliance for Justice and Democracy had been interrupted in July 2018.

³ In her statement, the High Commissioner mentioned Nicaragua as well as other countries.

⁴ See <https://www.youtube.com/watch?v=D3AgtVY9CSA&list=PL5QLapyOGhXuSrrN5AMHWWfm36AsMzrq0&index=22> Last accessed on 11 March 2019.

⁵ Ibidem.



THE HUMAN RIGHTS PERMANENT COMMISSION, AMONG OTHER CIVIL SOCIETY ORGANIZATIONS, ATTENDED THE HEARINGS OF THE IACHR IN SUCRE, BOLIVIA. 14/02/2019

women deprived of their liberty, and was held behind closed doors, at the request of the petitioners. OHCHR was present at both hearings and met with the IACHR's Executive Secretary and with the Rapporteur for Nicaragua.

Also on 14 February, a delegation from the General Secretariat of the Organization of American States (OAS), led by the chief of staff of the Secretary-General of the organization, met with representatives of the Government of Nicaragua in Managua. OAS subsequently issued a press release, announcing that the purpose of the visit was to *"hold exploratory talks regarding the situation in the country,"* and indicating that the delegation had recommended *"the release of political prisoners, the need for progress in the electoral political process and the importance of considering the recommendations of the Inter-American System, among other aspects"*⁶. The press release added that the Government had expressed its intention to strengthen the electoral process by 2021 and stated that due process guarantees for all detainees had been respected. The Government and OAS agreed to maintain open communication channels⁷.

The President of the European Parliament, Mr. Antonio Tajani, sent a letter to President Ortega⁸ on 14 February, referring to the visit of a delegation of Members of the European Parliament (MEPs) to Nicaragua from 24 to 27 January. He expressed regret that the Government had disregarded the three petitions conveyed by the delegation, which demanded the release of political prisoners, the end of repression against civil society and the opposition, and the return of international human rights organizations. He further deplored the reported reprisals against a group of women prisoners whom the delegation had met, despite the Government's assurances that none of the MEPs' interlocutors would be subjected to reprisals. Mr. Tajani announced he would request the European Union to act in accordance with the seriousness of the situation and warned that other measures could be taken if the petitions were not met.

On 16 February, the Government issued a press release announcing it had met with representatives of the business sector *"to address important issues for the common good of the country,"* noting the need to start negotiations through an *"inclusive, serious and frank encounter."* The Government and the business sector invited the Catholic Archbishop of Managua, Cardinal Brenes, and the Apostolic Nuncio, Monsignor Waldermar Sommertag, to participate in the meeting⁹.

Further to this announcement, several civil society and international human rights organizations underlined the need for preconditions for any dialogue, including the release of all political

⁶ Statement by the OAS General Secretariat on Nicaragua. E-007, 15 February 2019. See http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-007/19 Last accessed on 11 March 2019.

⁷ Ibidem.

⁸ See https://twitter.com/EP_President/status/1096044541126365185

⁹ See <https://www.lavozdelsandinismo.com/nicaragua/2019-02-16/nota-de-prensa-del-gobierno-de-reconciliacion-y-unidad-nacional-3/> Last accessed on 13 March 2019.

prisoners, an immediate halt to repression and criminalization of dissident voices, and the end of the ban on domestic NGOs.

On 27 and 28 February, six representatives of the Government and six representatives of the Civic Alliance for Justice and Democracy resumed talks¹⁰.

On 27 February, a few hours before the beginning of the talks, the authorities released individuals who had been deprived of their liberty in connection with the 2018 protests (see section below on the “Situation of individuals deprived of their liberty in relation to the protests”).

On 25 February, in the context of the 40th session of the United Nations Human Rights Council, IACHR issued a statement underscoring the deteriorating human rights situation in Nicaragua. It referred to the repression of 2018 protests as widespread attacks against civilians, which should be considered as crimes against humanity. The Deputy Commissioner of the National Human Rights Institution (*Subprocurador de Derechos Humanos*) took the floor on behalf of the Government, reiterating the official position invoking a failed coup d'état and arguing that the police had “*carried out a difficult work to restore order and safety*”¹¹.

On 28 February, the National Assembly adopted by a large majority a tax reform (amendment to Law 822) aimed at mitigating Nicaragua's fiscal deficit. The reform would reportedly increase tax revenues by more than 300 million of USD in 2019. Previously, on 1 February, a Presidential Decree (No. 06-19) introducing reforms to the Social Security Law Regulations had come into effect. According to the business sector, both reforms are likely to increase the cost of the basic food basket and the unemployment rate, and to reduce purchasing power¹².

Continued repression and criminalization of dissent As in previous months, OHCHR continued to document patterns of repression and criminalization of human rights defenders and social leaders. In some cases, the victims may have been subjected to reprisals for their cooperation with the United Nations.

On 18 February, the Ninth Criminal Court in Managua sentenced two prominent peasants' leaders of the anti-canal movement who had played a leading role during 2018 protests. Mr. Medardo Mairena and Mr. Pedro Mena were sentenced to 236 and 210 years in prison, respectively. Both were found guilty of several crimes, including murder, terrorism, organized crime, kidnapping, aggravated theft, and disruption of public services¹³.

On 14 February, OHCHR received information about the conviction of Jonathan López, a student leader and member of the Civic Alliance in the National Dialogue. The Fifth Criminal Court of Managua found him guilty of disruption of public services, illegal possession and carrying of weapons, kidnapping and threats, based solely on witnesses' accounts presented by police

¹⁰ The Representative of the Holy See and the Cardinal of Nicaragua participated as observers.

¹¹ See <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=24223&LangID=E> Last accessed on 11 March 2019.

¹² See <https://www.laprensa.com.ni/2019/01/29/economia/2518939-funides-y-cosep-advierten-que-habra-mas-desempleo-y-cierre-de-empresas-por-paquetazo-de-reformas> Last accessed on 14 March 2019.

¹³ According to the ruling, Medardo Mairena was the mastermind behind the murder of four police officers and one civilian in the municipality of Morrito, department of Río San Juan, when a police station was attacked by a crowd on 12 July 2018.

officers, employees of the Managua municipality and security guards at the National Autonomous University of Nicaragua (UNAN) in Managua. Jonathan López was sentenced to five years and three months in prison. In the same ruling, the court convicted seven other individuals (six men and a woman) for the same crimes, allegedly committed during the occupation of the premises of UNAN, from 10 May to 13 July 2018.

In the afternoon of 15 February, in Managua, the police arrested Justina del Carmen Orozco, a student leader and member of the Civic Alliance for Justice and Democracy, for waving the national flag on a public street. She was taken first to the Police District No.7 where she was reportedly beaten, drugged, humiliated and threatened by police officers. She was hours later transferred to the recently inaugurated “*Dirección de Auxilio Judicial*”, where she remained in custody until 17 February, when she was released.

On 13 February, Catholic priest Edwin Román was briefly detained and allegedly threatened by a group of police officers while traveling to the parish of San Miguel, Masaya. Father Román is a public figure reputed for his humanitarian work in Masaya during the June 2018 protests and he has reportedly been regularly harassed and intimidated by Government supporters and police officers, despite precautionary measures issued by IACHR on 5 June 2018 to protect him¹⁴. On 13 February, the Archdiocese of Managua issued a public statement denouncing the persecution of Father Román¹⁵. On 6 June, the police issued a press release stating that he had been stopped for driving while intoxicated¹⁶.

On 7 February, agents of the Ministry of the Interior raided the premises of the Nicaraguan Network for Democracy and Development (*Red Nicaragüense para la Democracia y Desarrollo*, commonly known as “*Red Local*”), allegedly without a warrant. *Red Local* encompasses 22 civil society organizations working across the country. The authorities detained for a few hours two of staff members of Red Local and seized documents and assets of the organization (including a vehicle and a safe). This incident took place six days after a group of civil society representatives, including some members of *Red Local*, had met the United Nations High Commissioner for Human Rights in Geneva to share their concerns about the increasing restrictions on civic space and expression of dissent. On 8 February, the Spokesperson of OHCHR expressed concern on the raid on *Red Local* and called on the authorities to enable civil society to work freely and continue to cooperate with United Nations mechanisms without facing reprisals. He stressed that harassment of civil society organizations was a violation of the rights to freedom of opinion and



MEMBERS OF RED LOCAL MET WITH THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS IN GENEVA 02/02/2019

¹⁴ See <http://www.oas.org/es/cidh/decisiones/pdf/2018/38-18MC660-18-NI.pdf> Last accessed on 14 March 2019.

¹⁵ Archdiocese of Managua. Press release of 13 February 2019.

¹⁶ See <https://www.policia.gob.ni/?p=29097> Last accessed on 11 March 2019.

expression, peaceful assembly and association¹⁷.

On 22 February, in a public statement, the United Nations High Commissioner for Human Rights expressed the need for an independent review of the convictions and sentences of a number of prominent opposition and community leaders to ensure that their cases were properly handled at every stage by the police, prosecutors and judges¹⁸.

Situation of individuals deprived of their liberty in relation to the protests The situation of individuals deprived of their liberty for their involvement in the protests against the Government remained of concern. OHCHR received reports of ill-treatment of several individuals by prison officers in February.

For instance, OHCHR received information that on 7 February, at noon, around 20-30 prison guards reportedly beat eight women at La Esperanza prison as they were seeking to prevent that three of them be transferred to a different location within the prison. As a consequence of the beating, one woman was reportedly unable to leave her bed for at least one day.

On 19 February, a group of male detainees in gallery 16 of La Modelo prison was allegedly subjected to violence by riot police for singing the national anthem and waving a Nicaraguan flag. Dozens of detainees were allegedly transferred to gallery 300, which is the high-security section in the prison (known as "*the little hell*").

OHCHR sent a communication to the Government requesting more information on these allegations but has not received any response to date. On 27 February, the Deputy Commissioner of the National Human Rights Institution (*Subprocurador de Derechos Humanos*) stated before the United Nations Human Rights Council that his institution had visited detention centres and did not find any evidence that detainees were subjected to acts of torture.



**DETAINEES RELEASED FROM PRISON BEFORE
STARTING THE NEGOTIATIONS 27/02/2019**

OHCHR received information about hunger strikes initiated in February by women and men held at different detention centres in the Managua province; (i) from a group of male inmates of La Modelo, demanding medical assistance for one of their fellow-detainees (9 February); (ii) from another group of male prisoners at the new "*Dirección de Auxilio Judicial*", where some detainees were transferred from *El Chipote* detention centre (14 February); (iii) from journalist Miguel Mora who, alongside his colleague Lucía Pineda Ubau, has been detained since 21 December 2018 (19 February); and (iv) from eight women detained in La Esperanza complaining about their conditions and denouncing continuing repression, humiliation, and cruel, inhuman and degrading treatment (27 February).

¹⁷ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24148&LangID=E> Last accessed on 11 March 2019.

¹⁸ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24193&LangID=E> Last accessed on 11 March 2019.



On 27 February, just before negotiations between the Government and the Civic Alliance for Justice and Democracy began, the judiciary ordered the release from prison of 88 men and 12 women deprived of their liberty in connection with their involvement in the protests. Their identities and home addresses were simultaneously made public through a press statement by the Ministry of the Interior¹⁹. Reportedly, the authorities did not provide all of them with information regarding their legal status.

OHCHR is concerned that in the current highly polarized context, the public disclosure of the home addresses of the individuals released from prison may expose them and their families to threats and reprisals.

Conclusions and recommendations

In February, the repression and criminalization of dissent continued. The resumption of the negotiations between the Government and the Civic Alliance for Justice and Democracy constitutes an opportunity to address the political and social unrest and its underlying causes, which include *“the systematic erosion of human rights over the years and the fragility of institutions and the rule of law”*²⁰. However, as stated by the United Nations High Commissioner for Human Rights²¹, if arrests and convictions of people expressing dissenting opinions continue, the efforts to hold a dialogue could be seriously undermined. As recommended in the OHCHR report published on 29 August 2018, it is critical to resume the dialogue *“in a meaningful and inclusive way to reach agreements based on human rights and democratic principles.”*²²

¹⁹ See <https://www.migob.gob.ni/nota-de-prensa-11/> Last accessed 14 March 2019.

²⁰ See https://www.ohchr.org/Documents/Countries/NI/HumanRightsViolationsNicaraguaApr_Aug2018_EN.pdf p. 7. Last accessed on 11 March 2019.

²¹ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24193&LangID=E> Last accessed on 12 March 2019.

²² See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24193&LangID=E> p. 39. Last accessed on 11 March 2019.

ANNEX: STATUS OF RECOMMENDATIONS ISSUED BY OHCHR AS OF 28 FEBRUARY 2019

On 29 August 2018, OHCHR published the report “Human rights violations and abuses in the context of protests in Nicaragua. 18 April-18 August 2018”. In its final section, the report contains 16 recommendations of the High Commissioner addressed to the Government, the National Human Rights Institution, the Human Rights Council and the broader international community.

Six months later, this Annex provides information on the implementation status of the recommendations by referring to measures adopted (or their lack thereof) for each of them. It also provides a specific reference to any outstanding concerns or persistent issues that could negatively impact the full implementation of the recommendations.

RECOMMENDATIONS	MEASURES ADOPTED	PERSISTING ISSUES	IMPLEMENTATION
To the Government of Nicaragua: 1. Put an immediate end to harassment, intimidation, stigmatization, criminalization (including through the use of counter-terrorism legislation) and other types of reprisals in relation to participation in the protests, including against demonstrators, human rights defenders, political opponents, journalists and others.		<ul style="list-style-type: none"> - Reports on threats and harassment against human rights defenders, journalists, persons associated to the protests - According to non-governmental sources, more than 700 individuals are deprived of their liberty in relation to their involvement in the protests - Persecution against civil society organizations perceived as opposed to the Government (cancellation of legal status of prominent NGOs) - Systematic restriction on the right of peaceful assembly 	Not Implemented
2. Immediately dismantle and disarm pro-Government armed elements and protect the population from attacks and other illegal and violent actions from such groups.		<ul style="list-style-type: none"> - Reports of pro-Government armed elements operating in both rural and urban areas and conducting surveillance on neighborhoods/private homes 	Not Implemented

RECOMMENDATIONS	MEASURES ADOPTED	PERSISTING ISSUES	IMPLEMENTATION
3. Ensure that independent, impartial, effective, thorough and transparent investigations be promptly conducted into all allegations of serious human rights violations and abuses that have occurred since 18 April, especially extrajudicial killings, torture, enforced disappearances and arbitrary or unlawful arrests and detentions; ensure that criminal investigations comprise all those who perpetrated, directly or indirectly, ordered, supported or tolerated such acts, including the chain of command of relevant authorities. These acts should not remain without sanction.		<ul style="list-style-type: none"> - No official information received about the opening of criminal investigations against State agents and pro-Government armed elements allegedly responsible for serious human rights violations or abuses - According to open sources, a pro-Government armed element was convicted for the killing of a Brazilian woman 	Not Implemented
4. Halt all unlawful arrests and release all persons who have been arbitrarily detained; ensure that the due process rights of all persons being prosecuted are respected and that any criminal charges brought against them are in line with the principles of legality, proportionality and individual liability.		<ul style="list-style-type: none"> - Most arrests carried out without warrants - Detainees brought before a judge well beyond the legal 48 hours limit - Ineffective Habeas Corpus - 100 detainees granted with home arrest but still facing criminal investigations/trials/ prison sentences 	Not Implemented
5. Ensure that accurate and up-to-date information on individuals deprived of their liberty and on the location of detention is publicly available; that people are promptly informed of the reasons for their arrest, have access to a lawyer of their choice, are brought promptly before a judge and are guaranteed their right to a fair trial.		<ul style="list-style-type: none"> - The Government only disclosed figures of detainees in two prison facilities without further details in November 2018 - Widespread reports of violations of due process guarantees 	Not Implemented
6. Ensure the right to freedoms of peaceful assembly is fully respected through the proper management of public gatherings, in line with applicable international human rights norms and standards.		<ul style="list-style-type: none"> - Systematic restrictions on the right of peaceful assembly - Police resorted to excessive use of force to quell demonstrations - Individuals arrested for waving the national flag in public streets 	Not Implemented

RECOMMENDATIONS	MEASURES ADOPTED	PERSISTING ISSUES	IMPLEMENTATION
7. Take urgent measures to guarantee the independence and impartiality of the judiciary, refraining from any undue interference, pressure or influence.		<ul style="list-style-type: none"> - Reports of violations of due process guarantees - Unprecedented long prison sentences against peasant leaders 	Not Implemented
8. Resume the National Dialogue in a meaningful and inclusive way to reach agreements based on human rights and democratic principles.		<ul style="list-style-type: none"> - Negotiations between the Government and the Civic Alliance for Justice and Democracy restarted at the end of February 	Implementation on going
9. End and penalize public stigmatizing of those critical of the Government's policies and actions.		<ul style="list-style-type: none"> - Stigmatization persists: those who dissent are publicly labeled as coup mongers and terrorists 	Not Implemented
10. Grant OHCHR direct and unfettered access to the whole country, including to places of detention, in accordance with the High Commissioner's mandate and standard practices of engagement and technical cooperation with authorities and civil society.	<ul style="list-style-type: none"> - The Government considered that the invitation extended to OHCHR had concluded on 30 August 2018. OHCHR's team left the country on 1 September - On 14 December 2018, OHCHR Regional Representative for Central America met with the Minister of Foreign Affairs in Managua. The Government maintains open channels of communication but as of the end of February of 2019, has not granted unfettered access to the country nor has answered to the offer of technical assistance made by OHCHR 		Not Implemented

RECOMMENDATIONS	MEASURES ADOPTED	PERSISTING ISSUES	IMPLEMENTATION
11. Ensure effective cooperation with the Inter-America Commission on Human Rights' Special Monitoring Mechanism for Nicaragua and the Interdisciplinary Group of Independent Experts.		- On 19 December 2019, the Government communicated the temporary suspension of the visits of the IACHR and of the presence in Nicaragua of its Special Follow-up Mechanism for Nicaragua (MESENI). It also terminated the mission of the Inter-Disciplinary Group of Experts (GIEI)	Not Implemented
12. Allow access to the country to the Special Procedures of the Human Rights Council that have requested to conduct an official visit, in line with Nicaragua's standing invitation extended in 2006.			Not Implemented
To the National Human Rights Institution: 13. Implement its mandate, including as national preventive mechanism for the prevention of torture, in full compliance with the Paris Principles reinforcing the rule of law and human rights, including by monitoring the human rights situation, publicly reporting on its findings, and making recommendations to authorities.	-In May 2018, the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions (SCA) recommended that the Procuraduría para los Derechos Humanos be downgraded to B status. The SCA stated that the Procuraduría was not prepared to adequately speak out in a manner that promotes respect of all human rights, including in response to credible allegations of serious human rights violations having been committed by government authorities	- No information shared on visits to places of detention	Not Implemented
14. Cooperate fully with the Global Alliance for National Human Rights Institutions; seek technical assistance from OHCHR, with a view to strengthening its operating practices and institutional framework to promote and protect human rights independently from the Government.			Not Implemented



RECOMMENDATIONS	MEASURES ADOPTED	PERSISTING ISSUES	IMPLEMENTATION
<p>To the Human Rights Council and the broader international community</p> <p>15. Monitor the developments in Nicaragua, consider taking measures to prevent a further deterioration of the human rights situation and encourage the General Assembly to do the same. Such measures could include the creation of an International Commission of Inquiry or a hybrid (national – international) Truth Commission to ensure access to truth, justice and reparation for victims.</p>	<ul style="list-style-type: none"> - Project of a resolution on Nicaragua presented by a group of nine States during the 40 session of the Human Rights Council calling the UN High Commissioner for Human Rights to present a written report on the human rights situation followed by an interactive dialogue in September 2019, as well as oral updates in June 2019 and March 2020 - In January 2019, 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 Charter 		Implementation Ongoing
<p>16. Call on Nicaragua to abide by its international human rights obligations and to fulfil its voluntary commitments and pledges, including in the context of the Universal Periodic Review mechanism of the Human Rights Council, and to fully cooperate with human rights bodies and mechanisms.</p> <p>OHCHR stands ready to provide additional information in a regular manner to the Human Rights Council as appropriate.</p>	<ul style="list-style-type: none"> - Universal Periodic Review on Nicaragua will start in May 2019; both the State and civil society organizations submitted their reports. 		Implementation Ongoing