

MONITORING THE HUMAN RIGHTS SITUATION IN NICARAGUA MONTHLY BULLETIN N. 3 - NOVEMBER 2018

Introduction OHCHR did not observe any improvement in the human rights situation in Nicaragua in November. It continued to receive allegations of harassment and arbitrary detention targeting peasant and student leaders and human rights defenders. Restrictions of the rights to freedoms of expression, association and peaceful assembly persisted, and the rights to a fair trial and to be presumed innocent for persons who participated in demonstrations during the first semester of 2018 continued to be violated.

For the first time since the eruption of the social and political crisis, the Government shared with OHCHR quite detailed information about a significant number of people deprived of their liberty in relation to their alleged involvement of criminal acts in the context of the protests.

Context On 22 November, seven Special Procedures of the United Nations Human Rights Council¹ issued a press release urging the Government of Nicaragua to immediately put an end to the repression and reprisals against those speaking out against the Government, including human rights defenders, journalists and peaceful protesters. They also urged the Government to cooperate with the United Nations². The experts *“condemn[ed] in the strongest possible terms the alleged arbitrary detention of dozens of people, and the fact that some of them appear to be facing trumped-up terrorism charges”*³, and urged the authorities to ensure that the detainees were afforded fair trials, in line with international standards. They also expressed concern at the human rights violations reportedly committed against women human rights defenders, including sexual violence.

On 23 November, the spokesperson for the High Commissioner for Human Rights stated that the High Commissioner remained *“deeply concerned at reports*



¹ Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the rights to peaceful assembly and of association; Working Group on Arbitrary Detention; Special Rapporteur on the right to privacy; Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Working Group on the issue of discrimination against women in law and in practice.

² Nicaragua must stop repression of human rights – UN experts. 22 November 2018. See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23919&LangID=E> Last accessed on 6 December 2018.

³ Ibidem.

that the Nicaraguan authorities are continuing to criminalize the legitimate actions of social leaders and others associated with the protests that erupted in Nicaragua earlier this year”⁴. The spokesperson highlighted that the recent drastic decrease of public protests was not a sign of a return to normality but rather an indication that the Government's actions to curtail fundamental freedoms had dissuaded citizens from exercising their right to peaceful assembly.

On 27 November, in an interview with CNN⁵, the High Commissioner referred to an upcoming meeting between the OHCHR Regional Representative for Central America and the Minister of Foreign Affairs of Nicaragua to explore the possibility for an OHCHR team to return to the country. She noted that the return of OHCHR would depend on the Government's commitment to granting OHCHR personnel adequate conditions to perform their work effectively.

On 14 November, the Interdisciplinary Group of Independent Experts (GIEI, by its Spanish acronym)⁶ sent a communication⁷ to the Government, transmitting comments on the proposal for a reconciliation policy submitted to public consultation on 6 November. Among other observations, GIEI noted that any reconciliation policy should be grounded on truth-seeking and accountability processes that would allow sanctions against those responsible for human rights violations and abuses, reparation for victims, and institutional reforms.

On 27 November, pursuant to an executive order signed by the President of the United States of America, the US Treasury Department imposed sanctions on the Vice-President of Nicaragua, Rosario Murillo, and Néstor Moncada Lau, a close aide to the Ortega administration. The sanctions block their access to any property they might hold in the United States of America and prevent American financial institutions from engaging in any business with them⁸. The Executive Order is introduced as a response to, *inter alia*, “the violent response by the Government of Nicaragua to the protests”⁹.

Also on 27 November, the Senate of the United States of America adopted an amended version of the Nicaraguan Investment Conditionality Act” (commonly referred to as “Nica Act”), establishing that the United States of America would use its influence to oppose any loan to the Government of

⁴ Press briefing notes on Guatemala and Nicaragua. Spokesperson for the United Nations High Commissioner for Human Rights: Liz Throssell. 23 November 2018. See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23922&LangID=E> Last accessed on 6 December 2018.

⁵ See <https://cnnespanol.cnn.com/video/comisionada-onu-michelle-bachelet-nicaragua-intv-conclusiones-fernando-rincon/> Last accessed on 6 December 2018.

⁶ The Interdisciplinary Group of Independent Experts was established on 2 July 2018 upon an agreement among the Inter-American Commission for Human Rights, the Secretariat of the Organization of American States and the Government of Nicaragua. See the Interdisciplinary Group of Independent Experts. http://www.oas.org/en/iachr/media_center/PReleases/2018/145.asp Last accessed on 17 December 2018.

⁷ See https://confidencial.com.ni/wp-content/uploads/2018/11/COMUNICACION_GIEI.pdf Last accessed on 17 December 2018.

⁸ See <https://home.treasury.gov/news/press-releases/sm554> Last accessed on 17 December 2018.

⁹ See Last accessed on 17 December.

Nicaragua by international financial institutions “*unless the Department of State certifies that Nicaragua is taking effective steps*” to hold free elections, strengthen the rule of law and respect the rights to freedom of expression and association, among other conditions.¹⁰

The following highlights some of the main human rights issues of concern in November 2018.

Persecution of human rights defenders. As detailed below, four human rights defenders who played an active role during the protests were arrested in November. Three of them remain in custody while one was deported to Costa Rica.

On 14 November, the National Police arrested the leader and representative of the anti-canal peasant movement in the National Dialogue, Lener Fonseca, even though he was the subject of precautionary measures adopted by the Inter-American Commission for Human Rights (on 15 October)¹¹. Mr. Fonseca was arrested as he was about to board a taxi. According to the information received by OHCHR, the police officers did not exhibit any arrest warrant. Two days later, he was presented before a judge who, according to open sources, formally charged him with financing terrorism and organized crime.



**ANA QUIRÓS, HUMAN
RIGHTS DEFENDER
DEPORTED TO COSTA
RICA**

On 17 November, police officers raided the home of another member of the board of the anti-canal peasant movement, Freddy Navas, without search warrant, and arrested him without any arrest warrant. On 21 November, the Police detained the student leader Ramón González, who had also taken part in the National Dialogue. At the end of November, both were still held at the Chipote detention centre without having been brought before a judge nor informed of criminal charges against them.

Following the pattern observed by OHCHR since the eruption of the social and political crisis in mid-April, these detentions all presented elements of arbitrariness or illegality contravening international human rights norms and standards. This included the absence of arrest warrants, absence of information

about the reasons for the arrest and the place of detention where the victims would be transferred to; the delay to bring the detainees before a judge; and the lack of access, sometimes during several days, to a defence lawyer or their next of kin.

On 26 November, the prominent human rights defender and feminist leader, Ana Quirós, founder and director of the Centre for Information and Health Advisory Services (CISAS, by its Spanish acronym) was arrested and taken to the Chipote detention centre, after having been summoned by the migration authorities. Within six hours following her arrest, she was

¹⁰ See <https://www.congress.gov/bill/115th-congress/house-bill/1918> Last accessed on 17 December 2018.

¹¹ <http://www.oas.org/es/cidh/decisiones/pdf/2018/80-18MC1172-18-NL.pdf>. Last accessed on 17 December 2018.

stripped of her Nicaraguan citizenship and deported to Costa Rica (of which she is also a national). Three days later, the National Assembly issued a decree cancelling the legal registration of CISAS and ordering that the assets and shares of the organization be transferred to the State. Such decisions, solely taken on the ground of information provided by the Ministry of the Interior¹², and without a judicial procedure, violate the right to a fair trial, particularly the right to be presumed innocent until proven guilty, to counsel and to an effective judicial remedy. It also constitutes a violation of the right to freedom of association.

Human rights defenders and other members of civil society continued to be the targets of threats, harassment and smear campaigns, especially on social media. On 6 November, a strong anti-riot police contingent harassed and threatened a small group - convened by the Nicaraguan Centre for Human Rights (CENIDH by its Spanish acronym) - that had staged a protest in front of the Court House in Managua. On 25 November, a day before the deportation of Ana Quirós, the Vice-President, Rosario Murillo, publicly accused feminist leaders whose organizations had received funds from international institutions of being responsible for *"hate crimes (...) committed during the failed coup attempt"*¹³.



**THE NGO CENIDH
HARASSED IN FRONT UP
THE COURT HOUSE IN
MANAGUA**

Violations of the freedom of peaceful assembly As reported in the two previous OHCHR bulletins, in September and October, the Police issued statements warning that any public march or protest would require prior authorization by the Police, which is contrary to international human rights law. On 21 November, the Blue and White National Unity (UNAB, by its Spanish acronym)¹⁴ notified the Police that it would hold a demonstration in Managua on 25 November on the occasion of the International Day for the Elimination of Violence against Women. On 23 November, the Police announced *"it does not authorize, nor will authorize public mobilizations by people, associations or movements that participated, and are being investigated for their actions in the failed attempted coup that has left traumas, mourning, pain to Nicaraguan families."*¹⁵ The Police also indicated that as UNAB lacked legal status, it could not exercise any right under Nicaraguan law.

¹² According to open sources, CISAS would have carried out activities beyond the scope established in its statute to disrupt public order and destabilize the country. See <https://www.el19digital.com/articulos/ver/titulo:84536-asamblea-nacional-cancela-personeria-juridica-de-cisas> Last accessed on 18 December 2018.

¹³ See <https://www.lavozdelsandinismo.com/nicaragua/2018-11-23/declaraciones-de-la-companera-rosario-murillo-vicepresidenta-de-nicaragua-23-11-2018-texto-integro/>. Last accessed on 17 December 2018.

¹⁴ On 4 October 2018, over 40 civil society organizations established a coalition, named Blue and White National Unity, to oppose the Government of President Ortega through democratic means, UNAB includes university students, peasants, human rights activists, representatives of the business sector, feminists, politicians and other actors, including the Civic Alliance for Justice and Democracy (which represented the civil society in the National Dialogue).

¹⁵ See <https://www.policia.gob.ni/?p=25519> Last accessed on 17 December 2018.

Not to expose participants to repressive actions by the Police, UNAB decided to cancel the march. Other civil society organizations that had planned hold smaller demonstrations outside Managua decided to suspend them, not only because of the police decision of 23 November, but also due to acts of harassment and surveillance by the Police some of which had been subjected to during the previous days.

OHCHR received information of massive deployment of anti-riot police elements in certain areas of some cities, including shopping malls, courthouses and the perimeter of some media outlets and civil society organization facilities, apparently aimed at dissuading the exercise of the right to peaceful assembly. The intimidating effect of such deployments also inhibited the enjoyment of other rights, notably freedoms of movement and expression. OHCHR reiterates that *"the exercise of fundamental freedoms should not be subject to previous authorization by the authorities"*¹⁶.

Violations of the right to freedom of expression In November, undue restrictions of freedom of expression continued, with some journalists and media outlets subjected to harassment. On 30 November, the Nicaraguan Institute for Telecommunications and Mail (TELCOR by its Spanish acronym) issued a new administrative measure against the television channel *100% Noticias*. TELCOR instructed the satellite television operators not to broadcast the signal of this media outlet, arguing that no authorization had been granted to that effect. TELCOR announced that the suspension would last until technical studies on frequency bands would be completed and 100% Noticias be granted a broadcast authorization.

In addition, the Police surrounded the premises of *100% Noticias*, in particular before and after 25 November (namely the date on which UNAB had foreseen a march in Managua). OHCHR received information indicating that Miguel Mora, the director of this media outlet, was harassed by the Police between 24 and 30 November. On six occasions, he was reportedly intercepted while driving from his house to his office. On 24 November, as he was driving with his wife, a police officer wearing a balaclava threatened him death, while another officer pointed a firearm at his spouse.

Workers of Radio Mi Voz, in the city of León, were also subject to harassment. On 30 November, Alvaro Montalván, the owner and director of the radio, decided to suspend temporarily the on-air programmes due to constant police surveillance and the consequent fear among employees. Moreover, Mr. Montalván and his family left their home after armed police officers allegedly tried to break into the radio station by force, on 29 November.

Situation of people deprived of their liberty for participating in protests OHCHR continued to receive information about the arrest and detention of individuals for their participation in the protests. In November, according to the National Police, 26 men and four women were arrested and detained for crimes allegedly committed in relation to roadblocks (*"tranques"*) or during attacks against public facilities. Non-governmental sources have indicated higher numbers but it is possible that some people were released within 24 to 48 hours of detention. For instance, an observatory that gathers information from different non-governmental sources reported the release of 63 individuals in November. However, in absence of comprehensive official numbers this could not be corroborated.

¹⁶ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai. A/HRC/17/20/27, 21 May 2012, para. 28.

The exact number of individuals currently in custody remains unknown. On 6 November, for the first time since the beginning of the ongoing social and political crisis, the Government shared with OHCHR detailed information about 272 detainees (255 men and 17 women; 7 older persons) detained in La Modelo and La Esperanza. According to this information, only 26 individuals have been convicted under charges related to the protests so far¹⁷, which means that over 90 per cent are held in pre-trial detention, in some cases for more than five months. About one third are facing charges for terrorism (79 people) or financing terrorism (six detainees).



At the end of November, the Nicaraguan Centre for Human Rights (CENIDH by its Spanish acronym) reported that 546 individuals were held in prison facilities throughout the country; of these, 477 were undergoing criminal trials while 85 had been sentenced.

OHCHR documented the systematic denial of access to judicial hearings to defendants' next of kin, national human rights NGOs, media perceived as not aligned with the Government, and the Follow-up Mechanism for Nicaragua of the Inter-American Commission for Human Rights (MESENI, by its Spanish acronym). In addition, OHCHR received various allegations of threats and harassment against defence witnesses and defence attorneys linked to human rights NGOs, including the Human Rights Permanent Commission (CPDH, by its Spanish acronym).

As in previous months, OHCHR has not received any information about the existence of criminal investigations of State agents or pro-Government armed elements for human rights violations or abuses committed since April 2018.

Conclusions/Recommendations

OHCHR remains deeply concerned about the persistent and illegitimate restrictions of human rights and freedoms, the continuous shrinking of democratic space, and the lack of accountability for human rights violations.. OHCHR urges the authorities to put an immediate end to measures creating a "de facto" state of exception, notably those limiting the rights to freedoms of expression, peaceful assembly and association without upholding the principles of legality, necessity and proportionality. OHCHR reiterates its call on the Government of Nicaragua to immediately cease repression of people voicing dissenting opinions, and to acknowledge and ensure prompt, independent, impartial and thorough investigations into the numerous and serious human rights violations and abuses that have taken place since 18 April 2018.

¹⁷ The social leader Irlanda Jérez had been sentenced to five years for fraud in November 2016; however, she was detained on 18 June 2018 after having participated in a press conference together with other leaders of the protest.