

MONITORING THE HUMAN RIGHTS SITUATION IN NICARAGUA MONTHLY BULLETIN N. 12 - AUGUST-SEPTEMBER 2019

Introduction This bulletin covers a two-month period between 1 August and 30 September 2019. Throughout this period, the enjoyment of the rights to freedom of expression and peaceful assembly continued to be unduly restricted. Individuals who were deprived of their liberty in the context of the 2018 protests and then released under the Amnesty Law, were often subjected to harassment and persecution, especially those with a leading role. On some occasions, these acts of harassment were also directed against their defense lawyers.



The United Nations High Commissioner for Human Rights presented a report on the situation in Nicaragua during the 42nd session of the Human Rights Council. 10 September 2019

International efforts in response to the socio-political crisis In compliance with Human Rights Council resolution 40/2,¹ on 10 September 2019 the United Nations High Commissioner for Human Rights (hereinafter, the High Commissioner) presented a report on the human rights situation in Nicaragua during the 42nd session of the Council, covering the period from 19 August 2018 to 31 July 2019.² She highlighted that Nicaragua's institutional response to the human rights violations occurred after April 2018 had been insufficient. She also stressed that her report offered a series of recommendations on concrete measures that “*should be implemented in the framework of a new context of dialogue between the Government and Nicaraguan*

civil society”. She further reiterated her Office's availability to provide support and technical assistance to the Government. The presentation of the report was followed by an interactive dialogue and the participation of the Inter-American Commission on Human Rights (IACHR) Rapporteur on Nicaragua. In its intervention, Nicaragua³ rejected resolution 40/2 and the report, questioning the methodology and impartiality of the Office of the United Nations High Commissioner for Human Rights (OHCHR). Several States that took the floor welcomed the report and called on Nicaragua to grant access to international and regional human rights mechanisms.

On 11 September, in the margins of the Human Rights Council's session, the High Commissioner met with persons who had been deprived of their liberty in the context of the 2018 protests and released under the Amnesty Law, as well as with a member of the “April's Mothers Association”, which brings together relatives of people killed during the 2018 protests. After the meeting, she urged

¹ See: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/40/2, last accessed on 26 September 2019.

² See: www.oacnudh.org/wp-content/uploads/2019/09/A_HRC_42_18_EN.pdf, last accessed on 28 September 2019.

³ See: <http://webtv.un.org/search/enhanced-id-human-rights-in-nicaragua-4th-meeting-42nd-regular-session-human-rights-council-6084903438001/?term=nicaragua&sort=date&page=2>, last accessed on 30 September 2019.

the State of Nicaragua to ensure that they would not be victims of reprisals upon return to the country.⁴

On 20 September, during the consideration of the outcome of the Universal Periodic Review of Nicaragua,⁵ the Government's representative informed that the State had accepted 135 recommendations, rejected 24 and considered that 100 recommendations "*did not apply due to lack of grounds and distortion of the reality*". He added that the Government continues to uphold human rights, especially in relation to civil and political rights, and that it carries on strengthening the protection and promotion of the right to freedom of expression, association, media, information and the right to peaceful assembly.⁶ He noted that the Government will continue working in identifying the reforms necessary to ensure free, open and transparent elections for 2021 and stressed that each request made by a human rights organ will be analyzed in due course by the Government. The State did not accept recommendations requesting access or return of international and regional human rights mechanisms, including OHCHR, to the country.



Statement of the Ambassador of Nicaragua during the outcome of UPR, 42nd session of the Human Rights Council. 20 September 2019

On 28 September, during the General Debate of the 74th session of the United Nations General Assembly, the representative of Nicaragua indicated that, in order to comply with the 2030 Agenda and reach the objectives of the sustainable development goals, "the unilateral coercive measures should disappear, as they violate international law and human rights". He also indicated that, in the region, Nicaragua continues to be an important factor of regional stability, peace and security.⁷

On 28 August, pursuant to Resolution AG/RES. 2943 (XLIX-O/19) of 28 June 2019,⁸ the Permanent Council of the Organization of American States (OAS) appointed a Commission "*to carry out diplomatic efforts at the highest level to seek a peaceful and effective solution to the political and social crisis in Nicaragua*."⁹ Between 16 and 17 September, the Commission had planned a visit to Nicaragua, however, on 14 September, the Government sent a circular to airline companies

⁴ <https://twitter.com/OACNUDH/status/1172120255340134401> , last accessed on 2 October 2019.

⁵ The report of the Working Group on the Universal Periodic Review of Nicaragua is available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/16, last accessed on 27 September 2019.

⁶ See: <http://webtv.un.org/search/nicaragua-upr-report-consideration-27th-meeting-42nd-regular-session-human-rights-council/6088077327001/?term=UPR%20nicaragua&sort=date>, last accessed on 29 September 2019.

⁷ See: <http://webtv.un.org/search/nicaragua-minister-for-foreign-affairs-addresses-general-debate-74th-session/6090304301001/?term=nicaragua&sort=date>, last accessed on 30 September 2019.

⁸ Resolution AG/RES. 2943 (XLIX-O/19), available at: <http://scm.oas.org/ag/documentos/> and OHCHR Monthly Bulletin No. 10, June 2019, available at: www.oacnudh.org/wp-content/uploads/2019/07/Nicaragua-Monthly-BulletinN.10-June2019.pdf, last accessed on 27 September 2019.

⁹ See: www.elnuevodiario.com.ni/nacionales/500016-oea-nicaragua-comision-crisis/, last accessed on 27 September 2019.

informing them that the members of the OAS Commission and of the OAS General Secretariat were not authorized to enter Nicaragua. Consequently, the visit could not take place.¹⁰

On 25 September, during the 173rd session of the IACHR, held in Washington, two thematic hearings on Nicaragua were held. None of them was attended by a representative of the Government. In the first hearing, on the "Implementation of precautionary measures in favor of independent journalists in Nicaragua", the petitioners¹¹ reported that persecution, censorship and repression against media and journalists continue.¹² At the second hearing on "Persecution, repression, criminalization and judicialization of the peasant and forcibly displaced population of Nicaragua", the petitioners¹³ reported, *inter alia*, that during 2019, at least 30 peasants had been selectively executed in Nicaragua, as part of Government's repression directed to dismantle the peasant movement.¹⁴

On 4 September, the Office of Foreign Assets Control (OFAC) of the United States of America (US) issued regulations to implement Executive Order 13851 of 27 November 2018 ("Blocking property of certain persons contributing to the situation in Nicaragua").¹⁵ These regulations include additional interpretive guidance to implement sanctions against the nine Nicaraguan high-ranking officials and other individuals already affected by the American bans.¹⁶

On 25 September, the European Union (EU) approved the creation of a legal framework to impose sanctions on Nicaragua that could later lead to the adoption of targeted sanctions.¹⁷ The initiative has to be confirmed by the EU Council in October, when the European Foreign Affairs Ministers meet in Brussels.¹⁸



Photo: Article 66 **Police deployment in Managua, 21 September 2019**

¹⁰ See: www.oas.org/en/media_center/press_release.asp?sCodigo=E-067/19, last accessed on 27 September 2019.

¹¹ International Institute on Race, Equality and Human Rights; 100% Noticias and journalist Carlos Fernando Chamorro Barrios.

¹² See: www.youtube.com/watch?v=fMMeD-kWteE, last accessed on 27 September 2019.

¹³ Movimiento Campesino, Acción Penal, Colectivo de Derechos Humanos Nicaragua Nunca Más, and the Due Process of Law Foundation.

¹⁴ See: www.youtube.com/watch?v=9jrm7Q1BeUQ, last accessed on 27 September 2019.

¹⁵ See: OHCHR Monthly Bulletin No. 3, November 2018, available at: www.oacnudh.org/wp-content/uploads/2018/12/Nicaragua-Monthly-Bulletin-Mensual-November-2018.pdf, last accessed on 30 September 2019.

¹⁶ See: www.treasury.gov/resource-center/sanctions/Programs/Documents/fr84_46440.pdf, last accessed on 27 September 2019.

¹⁷ See: <https://agenceurope.eu/en/bulletin/article/12335/4>, last accessed on 30 September 2019.

¹⁸ See: <https://es.euronews.com/2019/09/25/sanciones-contra-venezuela-y-nicaragua>, last accessed on 30 September 2019.

Negotiations On 1 August, the Apostolic Nuncio announced that he had received a letter dated 30 July from the Nicaraguan Minister of Foreign Affairs informing that the dialogue with the Civic Alliance for Justice and Democracy (hereinafter, the Civic Alliance) had ended, given the latter's absence from the negotiation table.¹⁹

Rights to peaceful assembly and to freedom of expression The National Police continued restricting fundamental freedoms through the deployment of a large number of police officers in public places and the systematic prohibition of protests. OHCHR documented restrictions to freedom of the media, through threats and acts of vandalism to media equipment caused by individuals, affecting independent media outlets and journalists who had expressed criticism against the Government.

In September, different organizations, including the Nicaraguan Medical Unit,²⁰ the Committee for the Liberation of Political Prisoners,²¹ the Union of Nicaraguan Political Prisoners,²² the peasant movement²³ and the Blue and White National Unity (UNAB for its Spanish acronym),²⁴ among others, attempted to organize different protests in Managua. They also tried to provide documents to the National Police to inform of their initiatives to stage demonstrations, however, the authorities reportedly refused to receive the documentation.



Photo: Article 66 **Protesters in Managua, 21 September 2019**

On 21 September, some hundreds of protesters gathered in four private commercial areas in Managua, after the UNAB called for a protest to commemorate the first anniversary of the killing of a 16-year-old adolescent during the 2018 demonstrations. Although protesters were peaceful and unarmed, the National Police deployed a large number of police officers, including riot police and canine units, in different parts of the city, and used stun grenades to prevent protesters from taking the streets.

According to the information received by OHCHR, a 21-year-old man resulted with minor head injuries, reportedly as a result of being hit by a stun bomb. OHCHR was also informed that pro-Government elements wearing motorcycle helmets took photos of the protesters.

¹⁹ On 16 May 2019, the Civic Alliance withdrew from the negotiation table in protest for the death of prisoner Eddy Montes Praslin at *La Modelo* prison.

²⁰ Video of the public denunciation, available at: www.elnuevodiario.com.ni/nacionales/500403-policia-caminata-medicos-nicaragua-protestas/, last accessed on 30 September 2019.

²¹ Copy of the letter available at: <http://lamesaredonda.net/cenidh-condena-prohibicion-de-la-policia-orteguista-a-marcha-del-comite-pro-liberacion-de-presos-politicos/>, last accessed on 27 September 2019.

²² Video of the request available at: www.facebook.com/421854045288319/videos/804492809949041/?t=5, last accessed on 29 September 2019.

²³ A copy of the letter is available at: www.laprensa.com.ni/2019/09/07/nacionales/2587281-policia-orteguista-niega-cinco-permisos-para-marchar-en-managua, last accessed on 30 September 2019.

²⁴ See: <https://twitter.com/UnidadNic/status/1174364202758266880>, last accessed on 30 September 2019.

On 26 August, four Special Procedures mandate holders²⁵ and the IACHR Special Rapporteur for Freedom of Expression issued a joint press release stating that, in Nicaragua, there are indications of ongoing systematic repression of the media, with journalists being silenced, assaulted and threatened with death.²⁶ They pointed out that Radio Darío workers in León had allegedly been victims of harassment, threats, arbitrary detentions and acts of violence, and that its facilities had been raided and attacked by pro-Government elements. They also expressed concern about the campaigns of intimidation and de-legitimization of the media, in which media workers are labeled as “enemies of the homeland”.

On 7 September, two weeks after the Special procedures’ press release, the owner of Radio Darío, who had recently returned from exile to Nicaragua, reported that threatening graffiti appeared on the walls of his house and on the facilities of Radio Darío. On 26 September, the police reportedly surrounded and attempted to break into the premises of the radio.

During the night of 14-15 September, unidentified individuals reportedly broke the lock, forced the access door and entered the transmission tower of radio *Camoapa Estereo*, a community radio located in the municipality of Camoapa, department of Boaco, causing minor damages to the transmission equipment.²⁷ On 16 September, at least two unidentified individuals reportedly attempted to cause damages to the transmission tower.²⁸ The radio workers, including the director, had allegedly received death threats in the past, in the context of the 2018 protests. Acts of vandalism against radios critical of the Government, when ignored by the authorities, may result in violations of the duty to protect the rights of freedom of opinion and expression.

On 27 September, the newspapers *El Nuevo Diario*²⁹ and *Metro*,³⁰ as well as *Maje*, a digital media outlet, announced the suspension of operations “due to the economic, technical and adverse logistical circumstances they faced”. Since September 2018, these newspapers, as well as *La Prensa* and *Hoy*, all critical of the Government, had their printing paper and other printing material retained by the customs authorities. In July 2019, *El Nuevo Diario* claimed the printing material back and only obtained part of it. When *La Prensa* filed a similar petition, it did not receive any response. On 30 August 2019, an administrative court of Nicaragua condemned the undue delay of the customs authorities’ response. The retention of printing material by the authorities could amount to a violation of freedom of expression.

Harassment and persecution of human rights defenders and dissenting voices During the period covered, OHCHR observed a pattern of harassment and persecution by the authorities

²⁵ The Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right to peaceful assembly and association, and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

²⁶ See: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24920&LangID=E, last accessed on 29 September 2019.

²⁷ See: www.facebook.com/270189416463965/posts/1402660336550195/?sfnsn=mo and www.facebook.com/radiocamoapa/videos/516493412447694/UzpfSTI3MDE4OTQxNjQ2Mzk2NToxNDAYNzA2NDQ2NTQ1NTg0/, last accessed on 29 September 2019.

²⁸ See: www.facebook.com/radiocamoapa/videos/1005803346422955/?sfnsn=mo, last accessed on 30 September 2019.

²⁹ See: www.elnuevodiario.com.ni/editorial/502114-nuevo-diario-suspende-publicacion/, last accessed on 30 September 2019.

³⁰ See: <http://diariometro.com.ni/nacionales/228632-metro-suspende-publicacion-en-nicaragua/>, last accessed on 30 September 2019.

against individuals that were deprived of their liberty in the context of the 2018 protests, especially those considered as leaders.

Between 12 August and 21 September, OHCHR collected five concurrent testimonies from human rights defenders and social leaders reporting that they were subjected to excessive controls by Migration authorities and Police, when they were crossing the border between Nicaragua and Costa Rica, in the locality of Peñas Blancas. Unlike the rest of passengers, the affected persons were ordered to get off the buses with their luggage and had to go through prolonged interrogation and searches that lasted up to three hours. The Police also took several photos of them.

The situation of lawyers who provide legal assistance to people that were detained in the context of the protests and, in more recent cases, to people who participated in the protests charged with common crimes, is also of concern. Two members of the *Comisión Permanente de Derechos Humanos* (CPDH by its Spanish acronym), reported having been victims of threats and judicial harassment. On 19 August, following a complaint filed by a police officer, the Supreme Court of Justice ordered a disciplinary sanction against one of these lawyers, María Oviedo, suspending her for six months from exercising legal practice. On 2 September, she had also been sentenced by a criminal court to one month of prison for obstructing a police officer's functions, which was not implemented. She appealed against both decisions. Moreover, another lawyer of CPDH, Leila Prado, fled Nicaragua after having received threats from pro-Government elements against her and her sons.



Photo: Manuel Esquivel *Police deployment around the church of San Miguel in Masaya, 28 August 2019*

On 9 August, Apolonio Fargas Gomez, former mayor of Mulukukú (North Caribbean Coast Autonomous Region) and former detainee in the context of the protests, released in application of the Amnesty Law, went to exile, after his house and the town hall of Mulukukú were raided by the police. According to official sources, a court issued the search warrant upon request from the Office of the General Comptroller of the Republic, that has been investigating alleged misappropriation of funds from municipality projects.³¹ During the raid, some material was confiscated.

On 28 August, a mass for the release of the last prisoners in connection with the 2018 protests was to be held in the church of San Miguel, Masaya. Released prisoners and family members of current prisoners were to attend the ceremony. The day before, the church was surrounded for several hours by police officers and pro-Government elements. The day of the religious celebration, 12 police patrols and some 200 police officers, including riot police, as well as pro-Government elements, returned to the church.³² After the mass ended, pro-Government elements allegedly threw bags of urine and excrement at a group of people who had initiated a small anti-Government protest in the atrium of the church. Reportedly, the police did not act to prevent this aggression.

³¹ Communication from the Ministry of Foreign Affairs of Nicaragua, 25 October 2019.

³² See: www.aciprensa.com/noticias/nicaragua-fuerzas-policiales-de-ortega-asedian-iglesia-durante-misa-46641, last accessed on 27 September 2019.

On 2 September, on the occasion of the 40th anniversary of the Nicaraguan Army, its chief, General Julio César Avilés Castillo, publicly referred to the crisis that the country is going through and accused non-governmental organizations of having incited the Army to participate in a coup d'état.³³

OHCHR collected testimonies, also corroborated by videos and photos, on attacks and acts of intimidation perpetrated by groups of pro-Government elements against opposition leaders. On 7 September, the police stopped a vehicle at a checkpoint in León, in which three leaders of the Civic Alliance and a journalist, recently returned from exile, were travelling. While police officers were checking their documents, a mob of pro-Government elements attacked the vehicle with stones and sticks, with the acquiescence of the police.³⁴ On 14 September, two men wearing motorcycle helmets and another with a handkerchief on his face damaged two security cameras outside the house of Nahiroby Olivas, one of the student leaders who had been deprived of his liberty in the context of the protests.



Pro-Government elements outside the house of a student leader in León, 14 September 2019

Pattern of brief arbitrary or illegal detentions Between August and September, the pattern of brief arrests by the police, lasting less than 48 hours, continued against people who protested or intended to carry out anti-Government demonstrations. Non-Governmental sources indicated that more than 70 individuals were deprived of their liberty³⁵. Most of these arrests occurred without an arrest warrant or being caught in *flagrante delicto* and people were released after few hours without charges. Individuals who had participated in the 2018 demonstrations, including some of those who left Nicaragua and recently decided to return from exile, were also arrested for short time periods.

On 19 August, two groups of three and two women human rights defenders respectively were allegedly detained by the police and pro-Government elements in Managua, after hanging banners in public places with a message to release all political prisoners. The five women were reportedly brought to the Police District N°1, before being transferred to the Direction of Judicial Assistance and were released.³⁶ According to the information received by OHCHR, three of them had to wear the inmates' uniform while deprived of their liberty and in at least one case, the cell phone of one of them was confiscated by the police and not returned after the release.

³³ See: www.voanoticias.com/a/jefe-del-ejercito-de-nicaragua-acusa-a-organizaciones-sociales-de-incitar-un-golpe-de-estado/5068909.html and www.laprensa.com.ni/2019/09/02/politica/2585425-jefe-del-ejercito-de-nicaragua-arremete-contra-los-ong, last accessed on 27 September 2019.

³⁴ See: https://www.youtube.com/watch?time_continue=18&v=nf7z9Xpry2c, last accessed on 30 September 2019.

³⁵ According to weekly reports issued by the Civic Alliance for Justice and Democracy together with the Blue and White National Unity.

³⁶ See: www.facebook.com/RadioCorporacion/videos/2392945904306855/, last accessed on 30 September 2019.

According to civil society organizations, as of 23 September, 139 people remained deprived of their liberty in connection to the protests.³⁷ Of these, 55 were detained after the application of the Amnesty Law, including at least eight individuals who had been previously detained in the context of the protests and then released in compliance with this law. According to the information received by OHCHR, these individuals have been accused of common crimes, including possession of drugs and aggravated robbery, among others. In this respect, the Government reiterated to OHCHR that all the individuals, investigated, prosecuted or serving sentences in relation to the events occurred between 18 April 2018 and 10 June 2019, had been released.³⁸

One of the 139 persons deprived of liberty is María Guadalupe Ruiz Briceño, a 22-year-old university student who was arrested on 13 July 2019, while participating in an anti-Government protest near Managua's cathedral. In this case, the police allegedly provided wrong information to the detainee's mother, indicating that she was not detained, while the student's name appeared as an indicted person in the judiciary's database. Furthermore, the Public Defence Office's lawyer, who represented her at the preliminary hearing, did not challenge the accusations and her current lawyer has reportedly not been allowed to meet her client at *La Esperanza* prison, despite having requested it twice to the judge. On 26 August, 57 women's organizations publicly demanded the release of Ruiz Briceño.³⁹

Another case documented by OHCHR is the one of Ulises Josué Rivas Pérez, an environmental human rights defender, who participated in the 2018 protests. On 1 September, he was detained in the municipality of Comalapa, Department of Chontales, based on a detention order for aggravated robbery and injuries against a woman reportedly occurred in April 2018. Rivas Pérez had previously remained for nine months in exile in Costa Rica and returned to Nicaragua in July 2019, to visit his dying father. His preliminary hearing⁴⁰ took place on 3 September and was accused of aggravated robbery and injuries.



Photo: Article 66 *Victims' relatives keep demanding justice for people killed during 2018 protests.*

Possible violations of the right to life and personal integrity OHCHR gathered reports of cases that could amount to violations of the right to life and personal integrity. On 26 August, Francisco Hernández Morales, previously detained in the context of the 2018 protests and released on 10 June 2019 in application of the Amnesty Law, was detained by police officers, who reportedly responded to a call related to domestic violence. According to different sources, between 20 and 40 police officers surrounded his house and he was handcuffed and then injured by two gun shots when was allegedly trying to escape, which may amount to an excessive use of force by the police. OHCHR also received allegations indicating that on 30

³⁷ See : www.alianzacivicanicaragua.com/informe-y-listas-de-personas-presas-politicas-y-desaparecidas-al-23-de-septiembre-de-2019/, last accessed on 30 September 2019.

³⁸ Communication from the Ministry of Foreign Affairs of Nicaragua, 25 October 2019.

³⁹ See: www.mujeresdelsur-afm.org/exigimos-liberacion-maria-guadalupe-ruiz-briseno-presa-politica-nicaragua/ and www.elconfidencial.com/ultima-hora-en-vivo/2019-09-23/suspenden-juicio-a-la-unica-mujer-considerada-presa-politica-en-nicaragua_2577291/, last accessed on 30 September 2019.

⁴⁰ See: www.youtube.com/watch?v=rZQy1uj28i4&feature=youtu.be, last accessed on 3 October 2019.

September, Hernández Morales was attacked and stabbed by other inmates.

On 29 August, Francisco Blandón Herrera was killed by gunshot in the rural area of the municipality of Wiwilí, department of Jinotega. The victim was the brother in law of Oliver and Edgar Montenegro, who were also killed on 23 January and on 27 June 2019, respectively (see also OHCHR July Monthly Bulletin N. 11).⁴¹

Conclusions and Recommendations

OHCHR continued registering arbitrary or illegal detentions and undue restrictions to the right of peaceful assembly and of freedom of expression. Human rights defenders, defense lawyers, social leaders opposed to the Government, journalists and media workers continued to be victims of attacks, harassment and acts of intimidation by both State agents and pro-Government elements, who in some cases appeared to act in a coordinated manner and with the acquiescence of security forces. OHCHR has not been aware of any criminal investigation opened against police officers or pro-Government elements for these violations. The same has been occurring with gross human rights violations perpetrated since mid-April 2018, in the context of the protests. It is urgent that competent authorities undertake effective measures, in order to dismantle and disarm pro-Government elements, as well as to investigate and hold accountable those responsible for human rights violations.

OHCHR urges the Government of Nicaragua to resume a meaningful and inclusive dialogue, in line with its international human rights obligations, in order to resolve the ongoing socio-political crisis.

⁴¹ Available at <http://www.oacnudh.org/wp-content/uploads/2019/08/Nicaragua-Monthly-Bulletin-N11-July-2019.pdf>