

MONITORING THE HUMAN RIGHTS SITUATION IN NICARAGUA MONTHLY BULLETIN N. 9 - MAY 2019

Introduction In May, the negotiations between the Government of Nicaragua and the Civic Alliance for Justice and Democracy (hereinafter the Civic Alliance) remained stalled, and demonstrations continued to be prohibited. One of the actions undertaken by the Government was the release from prison of 150 individuals who had been detained in relation with the 2018 protests, while the National Assembly expeditiously adopted the Law on Comprehensive Care for Victims, which does not fully comply with international norms and standards.



Photo: Article 66 *Victims and their relatives demand justice in Managua* 30/05/2019

Context On 15 May, the human rights situation in Nicaragua was reviewed under the Universal Periodic Review (UPR) of the Human Rights Council. The Head of the Nicaraguan delegation presented the situation in the country since 2014. With regard to the ongoing socio-political crisis, he indicated that his Government had been respectful of human rights, particularly of the right to peaceful assembly, and that all arrests were carried out in compliance with the domestic legal requirements, procedures and guarantees established. He also stressed there were no political prisoners and that no journalist had been imprisoned for exercising the right to inform.¹ The delegation also informed that the Government had submitted seven State reports to treaty bodies.²

During the interactive dialogue, 90 Member States delivered statements and formulated 259 recommendations to Nicaragua.³ There was a consistent call on the Government to immediately release all "political prisoners"; to conduct prompt and impartial investigations into the widespread human rights violations perpetrated since April 2018; to provide the victims with truth, justice, reparation and guarantees of non-repetition; and to guarantee freedoms of expression, association and peaceful assembly.⁴ Twenty-seven Member States

¹ See: <http://webtv.un.org/search/nicaragua-review-33rd-session-of-universal-periodic-review/6037189397001/?term=nicaragua&sort=date>, last accessed on 24 May 2019.

² The reports were submitted to the following treaty bodies: Committee on the Elimination of Discrimination against Women for the period of 2007 to 2018, the Committee on the Elimination of Racial Discrimination for the period of 2008 to 2019, the Committee on the Rights of Persons with Disabilities for the period of 2007 to 2018, the Committee on Economic, Social and Cultural Rights for the period of 2008 to 2018, the Human Rights Committee for the period of 2008 to 2018, the Committee on the Rights of the Child for the period of 2007 to 2018 and the Committee against Torture for the period of 2008 to 2018.

³ See: *op cit.* note 1.

⁴ Other recurrent recommendations called on the Government to protect human rights defenders, journalists and media workers; to guarantee the independence of legislative, judicial and electoral bodies; to ensure that conditions of detention comply with international human rights obligations, and that independent investigations are carried out into allegations of rape, torture and other ill-treatment committed in detention centers.

recommended that Nicaragua resume its cooperation with international and regional human rights mechanisms. Of these, 18 explicitly called on the Government to cooperate with OHCHR, and to grant it access to the country. The delegation committed to studying all the recommendations with the relevant authorities. The final outcome of the review, which will include the report of the UPR working group and Nicaragua's position on the recommendations put forward, will be adopted during the September 2019 session of the Human Rights Council.

On 21 May, on the occasion of a special session on Nicaragua, the Permanent Council of the Organization of American States (OAS) adopted a resolution (CP/RES. 1128 (2231/19)⁵ calling on the Government to implement various measures, including the unconditional release of all prisoners by 18 June, guaranteeing the rights of freedoms of expression and peaceful assembly, ending the practice of arbitrary detention, guaranteeing the independent work of human rights defenders and organizations, and ensuring the safe return and protection from reprisals of all those forced to leave Nicaragua as a result of the crisis.

Negotiations between the Government and the Civic Alliance remained stalled despite several attempts to resume them since late April. On 16 May, after the killing, inside *La Modelo* prison, of a person deprived of liberty for participating in the 2018 protests (see below section on the *Update on individuals deprived of their liberty in relation to the 2018 protests*), the Civic Alliance decided not to resume negotiations until all persons deprived of liberty in the context of the 2018 protests were released.⁶ The Civic Alliance reinforced this demand by calling for a national strike, which was held on 23 May.⁷

On 22 May, the Government presented a "Work Plan for the Consolidation of Stability and Peace in Nicaragua".⁸ Among the nine points of the plan, the Government committed to granting full freedom by 18 June to all individuals already released under alternative measures to detention ("family cohabitation"⁹ or house arrest), detained or prosecuted in connection with the 2018 protests. It also indicated that it would pursue the electoral strengthening process with OAS and would continue to promote the voluntary return programme for Nicaraguans in exile.¹⁰ The plan also includes tax audits of companies, non-profit organizations and the media, as well as the participation of trade unions in the management of companies. The opposition viewed these last set of measures as a

⁵ The resolution was approved with 20 votes in favour, three against, 10 abstentions and one absence. CP/RES. 1128 (2231/19) – The Situation on Nicaragua, 21 May 2019, available at: www.oas.org/en/council/CP/documentation/res_decs/Default.asp?q=&e=&evento, last accessed on 28 May 2019.

⁶ See: www.alianzacivicanicaragua.com/es/nos-retiramos-de-la-mesa-hasta-la-liberacion-de-presos-politicos-y-llamamos-a-paro-nacional/, last accessed on 24 May 2019.

⁷ See: www.alianzacivicanicaragua.com/es/vamos-al-paro-por-la-libertad-de-todos/, last accessed on 24 May 2019.

⁸ See: www.youtube.com/watch?v=DINBSZ-bEAM and www.el19digital.com/articulos/ver/titulo:90399-programa-de-trabajo-del-gobierno-de-reconciliacion-y-unidad-nacional-para-consolidar-estabilidad-y-paz-en-nicaragua, last accessed on 24 May 2019.

⁹ Under this legal regime, sentences can be completed at home, in accordance with the provisions of article 60 of Law N. 473, 21 November 2003.

¹⁰ On 15 April, the Government announced the implementation of this program, excluding from it individuals with an open legal case or formal accusation for the events that occurred after 18 April 2018. See: www.el19digital.com/articulos/ver/titulo:89237-comunicado-del-gobierno-de-nicaragua-y-programa-sobre-el-retorno-voluntario-asistido-de-los-nicaraguenses-en-el-exterior, last accessed on 14 June 2019.

reprisal against the business sector and civil society organizations opposed to the Government. The Civic Alliance rejected the plan.

Update on individuals deprived of their liberty in relation to the 2018 protests On 16 May, a group of individuals detained at *La Modelo* prison in connection with the 2018 demonstrations initiated a protest on the roof of one of the cells, requesting their immediate release and improvements to their conditions of detention. After the riot police was allegedly given the order to enter the prison premises, using teargas and firearms, a police officer reportedly shot and killed a Nicaraguan-American detainee, Eddy Montes Praslin.¹¹ In addition, at least 26 other detainees and six prison staff were allegedly injured.

On 20 May, one day before the OAS special meeting on Nicaragua was scheduled to take place, the Government released 100 persons (93 men, six women and one transgender woman) who had been detained in relation to the 2018 protests, and placed them under alternatives measures to detention.¹²

On 21 May, the Inter-American Court of Human Rights issued a resolution adopting urgent measures,¹³ requesting the State of Nicaragua to prevent irreparable damage to 17 individuals (11 men and six women), and to protect their rights to health, life, and personal integrity. Twelve of these persons remained in prison when the resolution was adopted, and five had been released under house arrest the day before. The urgent measures requested the State of Nicaragua to consider granting alternative measures to detention to the prisoners and allowing the Inter-American Court of Human Rights to visit *La Esperanza* and *La Modelo* prisons to interview the beneficiaries and the relevant authorities. The State of Nicaragua was requested to report, no later than 1 June, on the urgent measures adopted to comply with the resolution.

On 27 May, the Government announced that it had released 336 persons deprived of their liberty in connection with the 2018 protests and that 142 remained to be released.¹⁴ On the other hand, the



Photo: Article 66 *Prison officers deployment outside of the prison of La Modelo 16/05/2019*

¹¹ In a press release issued on 16 May 2019, the Government indicated that during a struggle in which the detainees tried to take away the weapon of a prison guard, a gunshot hit Mr. Montes Praslin. In a second press release issued the same day, the Government indicated that the prison guard had fired only one shot in self-defense. See: www.migob.gob.ni/nota-de-prensa-15/ and www.migob.gob.ni/segunda-nota-de-prensa/, last accessed on 28 May 2019.

¹² See: www.migob.gob.ni/nota-de-prensa-17/, last accessed on 29 May 2019.

¹³ See: www.corteidh.or.cr/docs/medidas/diecisiete_personas_se_01.pdf, last accessed on 27 May 2019.

¹⁴ See: <https://barricada.com.ni/grun-compromiso-conciencia/>, last accessed on 29 May 2019.

Committee for the Release of Political Prisoners, a civil society organization, indicated ¹⁵ that, as of 21 May, it had registered a total number of 730 “political prisoners”. Of these, 227 were still in prison, 401 had been released under alternative measures to detention, while the whereabouts of the remaining 102 individuals were to be determined.

On 30 May, the Government released 50 additional prisoners (49 men and one woman) under alternative measures to detention.¹⁶ The International Committee of the Red Cross acted as an observer of the releases and has been following up on the situation of these persons following their liberation.¹⁷ OHCHR received reports that pro-Government elements carried out surveillance around the houses of some of those released, and threatening graffiti appeared on the walls of some of their houses. OHCHR received information that from April to June 2019, the police arrested at least two persons who were released within 48 hours.

Repression of dissenting voices In May, the Police continued to restrict civic space, including the right to freedom of peaceful assembly, through the massive deployment of police officers, the continued prohibition of protests, and arbitrary detentions of people attempting to demonstrate.



Nicaraguan human rights defenders met with the United Nations High Commissioner for Human Rights in Panama City. 22/04/2019

On 24 May, the Blue and White National Unity (UNAB by its Spanish acronym) requested authorization to hold on 26 May a public demonstration in memory of Eddy Montes Praslin and to demand the release of all “political prisoners” (see previous section on the *Update on individuals deprived of their liberty in relation to the 2018 protests*). On 25 May, the Police issued a resolution denying authorization for the protest, arguing that the written request did not comply with the requirements established by legislation.¹⁸

On 24 May, the main Chambers of Commerce called for a 24-hour national strike to demand a negotiated solution to the crisis. On 26 May, notwithstanding the prohibition of the demonstration and the significant police deployment in Managua and other cities, several pickets and sit-ins took place in various urban areas. OHCHR was not informed of any violent incidents, with

the exception of three demonstrators allegedly hit by rubber bullets in the head outside the Catholic cathedral in Managua. According to non-governmental sources, 10 individuals were deprived of their liberty in relation to these gatherings and were released after a few hours.

¹⁵ See: <http://presospoliticosnicaragua.com/informe-y-listas-de-personas-presas-politicas-lista-preliminar-al-21-de-mayo-de-2019/>, last accessed on 30 May 2019.

¹⁶ See: www.migob.gob.ni/nota-de-prensa-19/, last accessed on 30 May 2019.

¹⁷ See: www.icrc.org/es/document/en-seguimiento-la-liberacion-por-parte-del-gobierno-nicaragua-de-100-personas-privadas-de y <https://www.icrc.org/es/document/nicaragua-un-equipo-del-comite-internacional-de-la-cruz-roja-observo-el-proceso-de>, last accessed on 31 May 2019.

¹⁸ National Police, Resolution 04-2019 of 25 May 2019, available at: <https://www.policia.gob.ni/wp-content/uploads/2019/05/RESOLUCION-No-04-2019.pdf>, last accessed on 28 May 2019.

OHCHR also received allegations of threats and harassment against social leaders and a human rights defender. On 24 May, UNAIDS issued a press statement condemning social media threats against human rights defender Arely Cano, after she publicly reported HIV/AIDS drug shortage in Nicaragua.

In May, the Government and its supporters discredited, including through social media, members of the Civic Alliance for their refusal to promote the lifting of international sanctions.¹⁹ On 27 May, a warehouse owned by the son of one Civic Alliance delegate was raided by the police who later reported that it had found and seized four firearms and ammunition that were allegedly used in the 2018 protests.²⁰ The Civic Alliance described the police operation as an act of intimidation and retaliation.²¹

The rights of victims of human rights violations and abuses On 28 May, the Government submitted to the National Assembly, for "urgent adoption", a Bill on Comprehensive Care for Victims, which was passed 24 hours later. This urgent procedure prevented broad consultations with civil society on the proposal, particularly with victims of human rights violations and abuses that occurred in the context of the 2018 protests.

Although the purpose of the law may appear as *prima facie* positive, it focuses on granting victims priority access to healthcare, education, employment, housing, and leisure but does not foresee full reparation, which should include appropriate and proportionate measures of restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.²²



Photo: Article 66 *Mass to commemorate victims of 2018 protests. Managua 30/05/2019*

OHCHR is also concerned that the introduction of the law specifically refers to the willingness of the authorities to respond to the damage caused by the “failed coup d’état” to victims, which could imply that those who opposed the Government during the 2018 protests are considered as perpetrators of the “coup d’état”.

¹⁹ See: www.elnuevodiario.com.ni/nacionales/491256-daniel-ortega-dialogo-crisis-nicaragua/, www.alianzacivicanicaragua.com/es/el-ejercicio-y-la-defensa-de-los-derechos-humanos-nos-diferencia/ and www.alianzacivicanicaragua.com/es/rechazamos-los-adicionales-senalamientos/, last accessed on 29 May 2019.

²⁰ See: <https://www.policia.gob.ni/?p=33264> and <https://www.policia.gob.ni/?p=33271>, last accessed on 29 May 2019.

²¹ See: www.alianzacivicanicaragua.com/es/asedio-e-intimidacion-no-nos-detendran/, last accessed on 29 May 2019.

²² See Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. A/RES/60/147, 21 March 2006, at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>, last accessed on 30 May 2019.

OHCHR reminds the authorities that reparation measures must emerge from a broad social discussion that should place victims and their families at the centre, and they must include sufficient safeguards to prevent the impunity²³ of those responsible of gross human rights violations.

Conclusions and recommendations

While welcoming the release of 150 persons who had been detained in the context of the demonstrations, OHCHR urges the authorities to ensure the unconditional release of all persons who have been arbitrarily detained, and to protect them against acts of intimidation and reprisals.

It also reminds the authorities the commitments reached at the negotiating table on the guarantees for the reestablishment of the freedom to peaceful assembly, freedom of expression and of the media.

OHCHR also urges the State of Nicaragua to review the Law on Comprehensive Care for Victims to make it fully inclusive and compatible with applicable human rights norms and standards regarding measures of reparation, including compensation and guarantees of non-repetition.

²³ Among others, statutes of limitation, amnesty, due obedience, and official immunities foster or contribute to impunity and are contrary to international law norms and standards on accountability for gross violations of human rights. See Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity. E/CN.4/2005/102/Add.1, 8 February 2005, at: http://ap.ohchr.org/documents/dpage_e.aspx?m=138, last accessed on 14 June 2019.