

MONITORING THE HUMAN RIGHTS SITUATION IN NICARAGUA MONTHLY BULLETIN N. 10 - JUNE 2019

Introduction In June, negotiations between the Government and the Civic Alliance for Justice and Democracy (hereinafter the Civic Alliance) remained stalled. A notable development was the adoption of an amnesty law by the National Assembly, which was pushed through within 24 hours, without consultation with victims and other relevant stakeholders. While this law led to the release of 106 individuals who had been detained in relation to the 2018 protests, more than 80 remained in detention, according to civil society, and some of the persons released, as well as members of the opposition and their relatives, were reportedly harassed and attacked. Moreover, the amnesty law may open the door to the possibility that gross human rights violations committed by State actors remain unpunished. Of particular concern was the attack of alleged pro-Government armed elements to members of the Kamla indigenous community.



Photo: Article 66 **Peasant leaders released from prison in June.**

Canada and the United States of America imposed financial sanctions on high-ranking Nicaraguan officials. The General Assembly of the Organization of American States (OAS) adopted a resolution on Nicaragua appointing a commission to find a peaceful and effective solution to the socio-political crisis.

The Amnesty Law On 8 June, the National Assembly adopted an Amnesty Law (Law N. 996) proposed by the Government. As it happened previously, this law was passed within 24 hours, preventing consultations, not least with victims of human rights violations and / or their families.

2019. In that regard, while ordering the release of all persons deprived of their liberty in relation to these events, the law establishes that the authorities will not initiate investigations and will close all criminal and administrative proceedings in progress.

The adoption of the Law was condemned by, *inter alia*, the Civic Alliance, the Blue and White National Unity (UNAB by its Spanish acronym),¹ the Union of Political Prisoners of Nicaragua,² as well as international organizations,³ including OHCHR, and regional human rights mechanisms.⁴ The

¹ See: www.facebook.com/UnidadNic/photos/a.2137704333110300/2290177411196324/?type=3&theater, last accessed on 27 June 2019.

² *Ibidem*.

³ See: https://eeas.europa.eu/delegations/nicaragua/64072/statement-spokesperson-latest-events-nicaragua_en, last accessed on 27 June 2019.

⁴ See: www.oas.org/en/iachr/media_center/PReleases/2019/145.asp, last accessed on 27 June 2019.

day before its approval, the United Nations High Commissioner for Human Rights issued a press statement warning that adoption of the law could prevent the prosecution of individuals who may be responsible for gross human rights violations committed in the context of the 2018 anti-Government protests. She pointed out that the Government had not made the text of the draft law available in advance despite a request made by her Office.⁵

OHCHR considers that the Amnesty Law is vaguely worded and lacks clarity, both with respect to the persons and the crimes to which it would apply, leaving ample discretion of interpretation to the authorities.⁶ The ambiguities in the wording may benefit the perpetrators of gross human rights violations, in contradiction with international law and standards. A major concern highlighted by the High Commissioner in her press statement, is that the law could undermine the right of victims of gross human rights violations to an effective remedy, including reparations and the right to truth.

Article 3 of the Law contains a “non-repetition” clause according to which, if the beneficiaries of the amnesty engage again in crimes listed in the law,⁷ the amnesty would be revoked.⁸ This particular provision could inhibit the exercise of freedom of expression and peaceful assembly, and could be utilized to repress the legitimate and peaceful exercise of such rights.

Update on the situation of individuals deprived of their liberty in relation to the 2018 protests

On 18 June, on the occasion of the deadline it had agreed upon with the Civic Alliance to release all persons detained in the context of the protests under the Agreement “*to facilitate the release of persons deprived of liberty in accordance with the national legal system and international obligations of the State of Nicaragua*”,⁹ the Government issued a statement indicating it had released all such individuals pursuant to the Amnesty Law.¹⁰

⁵ See: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24684&LangID=E, last accessed on 27 June 2019. On 2 June 2019, OHCHR Regional Office for Central America sent a letter to the Government of Nicaragua requesting the text of a potential Amnesty Bill that could be proposed to the National Assembly. On 4 June, the Government of Nicaragua replied that “*there is no prior constitutional control of laws in Nicaragua*”, neither confirming nor sharing the text of the Bill.

⁶ Article 1 of Law N. 996 provides that the broad amnesty benefits all persons (without specification) who have participated in the events that have occurred in Nicaragua since 18 April 2018, and who have not yet been investigated; those who are being investigated or criminally prosecuted and those whose judgments are in the execution phase. The law establishes that the authorities will not initiate investigations and will close criminal and administrative proceedings in progress. Article 2 indicates that the law applies to “all political crimes” (which are not defined as such in the Criminal Code) and to “connected common crimes”, except those (crimes) regulated in international treaties to which Nicaragua is a party.

⁷ i.e. “political crimes” and “connected common crimes”.

⁸ Article 3 of Law N. 996 states “The individuals benefiting from this Law must refrain from committing new acts that result in repetitive behaviors that are conducive to the crimes referred to herein. Non-compliance with the principle of non-repetition entails the revocation of the benefit established by this Law”.

⁹ On 27 March, the negotiating parties reached the first agreement on the release of persons deprived of their liberty for their participation in the 2018 protests. In the agreement, the Government committed to the definitive release of persons deprived of their liberty within 90 days as of 20 March (i.e. 18 June). See Monthly bulletin no. 7, March 2019, available at: www.oacnudh.org/wp-content/uploads/2019/04/Nicaragua-Monthly-Bulletin-March-2019.pdf, last accessed on 1 July 2019.

¹⁰ See: www.el19digital.com/articulos/ver/titulo:91258-nota-de-prensa-del-gobierno-de-reconciliacion-y-unidad-nacional, last accessed on 27 June 2019.

Between 10 and 11 June, in application of the Amnesty Law, the Government released 106 persons (100 men, five women and a transgender woman) deprived of their liberty in the context of the protests, including prominent social leaders and two journalists.¹¹ As during previous releases, the International Committee of the Red Cross acted as an observer.

According to the Civic Alliance and the Committee for the Liberation of Political Prisoners, as of 11 June, at least “89 political prisoners”, including one woman, remained deprived of their liberty, accused of committing “common crimes”.¹²

On 17 June, in Miami, the Inter-American Commission on Human Rights organized a panel on the human rights situation of Nicaragua. On that occasion, the Vice-President of the Commission and rapporteur on Nicaragua acknowledged the release of “political prisoners” while underscoring that at least “88 political prisoners” remained to be released. She also reminded that arbitrary detention, harassment, persecution and repression continued to occur. She added that the Government had to ensure the restoration of rights, including to freedom of expression, and of the legal personality of the nine NGOs whose registration was cancelled,¹³ as well as the return of assets confiscated to the media.



Photo: Article 66 *Other persons released from*

On 20 June, the OAS Secretariat General, in its capacity as international observer of the national dialogue, welcomed “the release of political prisoners”. It however pointed out that the closure of the legal proceedings brought against them, and against those who had to leave Nicaragua as a result of the events that began on 18 April 2018, was imperative. It also requested “the release of every person imprisoned for political reasons”, regardless of the time of his/her arrest or “the cover of their case file”.¹⁴

On 27 and 28 June, OHCHR was informed of the first seven cases in which judicial authorities applied the Amnesty Law to order the closure of criminal prosecutions, the cancellation of criminal

¹¹ Press releases of the Ministry of the Interior, issued on 10 and 11 June, respectively, available at: www.el19digital.com/articulos/ver/titulo:91017-nota-de-prensa-del-ministerio-de-gobernacion-, www.migob.gob.ni/nota-de-prensa-22/, and www.laprensa.com.ni/2019/06/11/nacionales/2558640-al-menos-80-presos-politicos-aun-permanecen-en-las-carceles-de-nicaragua, last accessed on 1 July 2019. According to the Committee for the Liberation of Political Prisoners, from the 50 detainees released on 10 June, only 48 of them were detained in the context of the 2018 protests. See: www.laprensa.com.ni/2019/06/10/nacionales/2558092-gobernacion-suelta-reo-acusado-de-narcotrafico-entre-lista-de-presos-politicos?fbclid=IwAR1PDWRLTpmptR91zQyq-y6bzxTKwOP9p_thx1T3-jXPPBMXKhBSRSiatg, last accessed on 1 July 2019.

¹² See: www.alianzacivicanicaragua.com/fueron-liberados-no-cometieron-ningun-delito/?fbclid=IwAR1Ri08DU9u5-6IM1IYMHmodf3t1zQgaU1EibLkY4GaHJKbr4AWjBqXp7pl and www.facebook.com/CPLPPNicaragua/photos/a.315126842366100/454830791729037/?type=3&theater, last accessed on 1 July 2019. According to UNAB, as of 25 June, “102 political prisoners” were still deprived of their liberty. See: <https://twitter.com/UnidadNic/status/1145860296868868097>, last accessed on 4 July 2019.

¹³ See: OHCHR, monthly bulletin No. 4, December 2018, available at: www.oacnudh.org/wp-content/uploads/2019/01/Nicaragua-Monthly-Bulletin-December-2018.pdf, last accessed on 30 June 2019.

¹⁴ www.oas.org/en/media_center/press_release.asp?sCodigo=E-042/19, last accessed on 28 June 2019.

records, and the dismissal of precautionary measures imposed on 20 defendants who had been previously released.

National dialogue Negotiations between the Government and the Civic Alliance have remained stalled since 4 April. Following the release of 106 persons in application of the Amnesty Law, the Civic Alliance indicated that it would not resume negotiations until the Government would release the remaining 89 prisoners¹⁵ and fully complies with the two agreements signed in March 2019.¹⁶ The Government has stated that it had complied with the relevant agreement by releasing 106 prisoners in June.¹⁷

On 19 June, the Civic Alliance sent a letter to the international observers of the negotiations informing them about the Government's non-compliance with the agreements and requesting them to take the necessary steps so that the pending issues of the negotiation, namely justice and democracy, could be addressed.¹⁸ The following day, the OAS General Secretariat, in its capacity as observer in the said political dialogue, issued a press release expressing "*the urgent need to fully restore freedoms in Nicaragua, including the right to life, freedom, free expression, the right of association and demonstration, among others.*"¹⁹

Repression of dissenting and critical voices and human rights defenders OHCHR was informed that some of the persons released in application of the Amnesty Law, and/or their family members, had been attacked by pro-Government elements and harassed by police officers.

For example, in the morning of 11 June, in Managua, just before the release of Irlanda Jerez, her husband was reportedly attacked and beaten by armed pro-Government elements who allegedly entered his house and stole his two cell phones and wallet. On 13 and 29 June, respectively, two men, Jeffrey Jarquín, from the city of Bluefields, and Byron Estrada, from the city of León, publicly stated they had been constantly harassed by the police since their release on 11 June.²⁰ Another woman released on 11 June, Olesia Muñoz, publicly declared she did not dare to go back to her house, in the municipality of Niquinohomo, as she had been informed that pro-Government elements were waiting for her with bags of stones.²¹

¹⁵ See: <https://confidencial.com.ni/los-ultimos-89-rehenes-del-regimen-orteguista/> and www.alianzacivicanicaragua.com/es/fueron-liberados-no-cometieron-ningun-delito/, last accessed on 27 June 2019. On 27 June, the Civic Alliance updated the list of the remaining detainees: 97 men and five women. See: www.alianzacivicanicaragua.com/wp-content/uploads/2019/06/Lista-preliminar-de-presos-y-presas-politicas-al-25-de-junio-de-2019.pdf, last accessed on 27 June 2019.

¹⁶ Agreement on the release of persons deprived of their liberty for their participation in the 2018 protests, signed on 27 March 2019, and agreement on strengthening citizens' rights and safeguards, signed on 29 March 2019. See: OHCHR Monthly Bulletin No. 7, March 2019, available at www.oacnudh.org/wp-content/uploads/2019/04/Nicaragua-Monthly-Bulletin-March-2019.pdf, last accessed on 1 July 2019.

¹⁷ See: www.el19digital.com/articulos/ver/titulo:91258-nota-de-prensa-del-gobierno-de-reconciliacion-y-unidad-nacional, last accessed on 27 June 2019.

¹⁸ See: www.alianzacivicanicaragua.com/es/presentamos-carta-a-testigos-y-garantes-sobre-el-incumplimiento-de-los-acuerdos/, last accessed on 27 June 2019.

¹⁹ See: www.oas.org/en/media_center/press_release.asp?sCodigo=E-042/19, last accessed on 28 June 2019.

²⁰ See: www.youtube.com/watch?v=BuOsjd1qROQ, www.facebook.com/watch/?v=454378472029278, and www.youtube.com/watch?v=2E193zPylVc, last accessed on 1 July 2019.

²¹ See: www.youtube.com/watch?v=j2TDiGVQIBQ, last accessed on 1 July 2019.

On 15 June, in Managua, while UNAB was holding a general assembly with its member organizations in a convention centre, the police reportedly deployed dozens of officers in the surrounding area which intimidated the participants.²² On 19 June, in Managua, after UNAB and the Union of Political Prisoners held a press conference about the situation of the remaining prisoners, around 80 police officers were deployed in front of the hotel where they were meeting and prevented the participants from leaving. They reportedly took photographs of the participants who were eventually able to leave the place after holding a brief protest.²³

On 15 June, pro-Government groups surrounded the cathedral of León and threw stones and bottles inside the cathedral, where a mass was being celebrated to commemorate the first anniversary of the death of a 15-year-old altar boy killed in the context of the demonstrations. According to the information gathered by OHCHR, the police did not prevent the attack. When the mass ended, persons attending the ceremony were prevented from leaving the cathedral, until Bishop Bosco Vivas mediated with the police. Once people were outside the cathedral, pro-Government supporters reportedly attacked them without the police taking preventive or protection measures.²⁴ Some individuals were reportedly beaten and five of them were allegedly hit by stones and other objects.²⁵

On 16 June, the police quashed an attempt to stage a peaceful protest by a large group of people, following a mass for the release of prisoners in the cathedral of Managua. When protesters started demanding the release of persons still detained in the context of the 2018 protests, the police deployed in the surrounding area fired tear gas and rubber bullets against the demonstrators, who replied by throwing stones to security forces.²⁶ Two protesters were wounded by rubber bullets reportedly fired by the police.²⁷ On 30 June, the police quashed a picket line in the courtyard of the cathedral of Managua. Some protesters fired firecrackers and threw stones at police officers, while the latter threw stun grenades and stones at the protesters and fired rubber bullets and, allegedly, marbles. At least two demonstrators were hit by projectiles thrown by the police, and a 14-year-old girl was allegedly arrested for a few hours.²⁸

On 26 June, in the Kamla indigenous community (in the North Caribbean Coast Autonomous Region), a group of approximately 80 pro-Government elements, in some cases armed with machetes, allegedly attacked members of the community, reportedly in the presence of police officers, who did not react to prevent the attacks. On 24 June, members of the community had initiated a peaceful protest in reaction to the communal elections for the term 2019-2021 which,

²² See: www.facebook.com/UnidadNic/photos/a.2137704333110300/2287692621444803/?type=3&theater, last accessed on 30 June 2019.

²³ See: www.youtube.com/watch?v=pEncnppPF4, last accessed on 28 June 2019.

²⁴ See: www.youtube.com/watch?v=mXwzAvWy724, www.youtube.com/watch?v=GVkjgnFkVWY, www.youtube.com/watch?v=WXwDfPQfSbc and www.youtube.com/watch?v=RhtUUVz9tc, last accessed on 28 June 2019.

²⁵ See: www.elnuevodiario.com.ni/nacionales/494513-detenidos-ataque-catedral-leon-crisis-nicaragua/, last accessed on 28 June 2019.

²⁶ See: www.youtube.com/watch?v=A47vIBzfdm0, last accessed on 28 June 2019.

²⁷ See: www.youtube.com/watch?v=gdb-Pa1yJPA, www.diariolasamericas.com/america-latina/dos-heridos-deja-un-enfrentamiento-opositores-y-policias-nicaragua-n4179333 and www.youtube.com/watch?v=A47vIBzfdm0, last accessed on 1 July 2019.

²⁸ See: www.elnuevodiario.com.ni/nacionales/495336-policia-reprime-protesta-catedral-managua/ and www.youtube.com/watch?v=kYZDFUwjkc, last accessed on 1 July 2019.

according to them, did not follow the indigenous laws. As a result of the attacks, the municipal counsellor in Bilwi, Marcela Ines Posta Simons, who is a member of the Kamla community and a human rights defender of indigenous peoples, was reportedly beaten by three pro-Government elements. She consequently had her left arm broken and lost the view of her left eye. According to the information received, at least three other members of the community were injured.²⁹

On 27 June, the Inter-American Commission on Human Rights requested the Inter-American Court of Human Rights to adopt provisional measures to protect the rights of the members of the Nicaraguan Centre for Human Rights (CENIDH by its Spanish acronym) and the Permanent Commission on Human Rights (CPDH by its Spanish acronym). The Commission referred to defamation campaigns through open and social media, calls for acts of violence against them and continuous surveillance by the police and unidentified individuals close to workplaces and in other sites, such as courthouses, police stations and prisons.³⁰

International and regional initiatives regarding Nicaragua

On 21 June, pursuant to Executive Order 13851 signed by President Trump on 27 November 2018, the US Department of the Treasury's Office of Foreign Assets Control (OFAC) sanctioned the President of the Nicaraguan National Assembly, Gustavo Eduardo Porras, the General Director of the Institute for Telecommunications and Mail (TELCOR by its Spanish acronym), Orlando Jose Castillo, the Minister of Health, Sonia Castro, and the Minister of Transportation and Infrastructure, Oscar Salvador Mojica.³¹ Both Gustavo Eduardo Porras and Sonia Castro were also sanctioned pursuant to the Nicaragua Human Rights and Anticorruption Act, adopted on 20 December 2018 (commonly referred to as the "Nica Act"), which was applied for the first time.³² According to the US Government, these four high-ranking officials were sanctioned because they "[have] persecute[d] Nicaraguan citizens exercising their fundamental freedoms, enact[ed] repressive laws, silence[d] news media, and den[ied] medical care to the Nicaraguan people".³³ Under these sanctions, their US assets were blocked and it is prohibited for US citizens to engage in transactions with them.



Photo: Fresly Coleman Indigenous leader injured in the North Caribbean Coast Autonomous Region 26/06/2019

²⁹ See: www.elnuevodiario.com.ni/nacionales/495433-crisis-nicaragua-caribe-norte-represion/, last accessed on 3 July 2019.

³⁰ See: www.oas.org/es/cidh/prensa/comunicados/2019/162.asp, last accessed on 28 June 2019.

³¹ See: <https://home.treasury.gov/news/press-releases/sm715> and 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 1 July 2019.

³² See: OHCHR, monthly bulletin No. 4, December 2018, available at: www.oacnudh.org/wp-content/uploads/2019/01/Nicaragua-Monthly-Bulletin-December-2018.pdf, last accessed on 30 June 2019.

³³ See: <https://home.treasury.gov/news/press-releases/sm715> and 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 1 July 2019.

On 21 June, Canada also imposed financial sanctions on these four officials and on five others, including Vice-President Rosario Murillo and her son, Laureano Ortega, the Police Chief, Francisco Javier Díaz, the Secretary of the Municipality of Managua, Fidel Antonio Moreno, and a close aide to the Ortega administration, Nestor Moncada Lau. The latter five persons have also been under US sanctions since 2018.³⁴ The Canadian sanctions "*have been enacted under the Special Economic Measures Act in response to the gross and systematic human rights violations that have been committed in Nicaragua*".³⁵ Besides financial sanctions,³⁶ the above-mentioned individuals officials are declared inadmissible to Canada under the Canadian Immigration and Refugee Protection Act.³⁷

On 28 June, during its 49th ordinary session the OAS General Assembly adopted a resolution on "the situation in Nicaragua" (resolution AG/CG/doc.6/19),³⁸ reiterating "*the concern of the inter-*



Photo: Juan Manuel Herrera OAS **OAS 49th General Assembly in Medellín 28/06/2019** available at <http://www.oas.org/en/49ga/photos.asp>

American community at the deterioration of democratic institutions and human rights in Nicaragua". The resolution calls on the Government of Nicaragua to allow the entry of the Inter-American Commission on Human Rights and other international human rights mechanisms to the country. It observes that the human rights situation and the lack of progress in electoral reforms constitute an alteration of the democratic order under the terms of the Inter-American Democratic Charter. On this basis, the resolution instructs the OAS Permanent Council to appoint a commission responsible for diplomatic efforts at the highest level to find a peaceful and effective solution to the socio-political crisis and to submit a report within 75 days. The resolution also requests the Permanent Council to convene the General Assembly, if necessary, after receiving the report of the commission.

Conclusions and Recommendations

While welcoming the release of 106 persons who had been detained in the context of the 2018 protests, OHCHR calls on the authorities to ensure the unconditional release of all other individuals

³⁴ 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 1 July 2019.

³⁵ See: www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/nicaragua.aspx?lang=eng, last accessed on 27 June 2019.

³⁶ Financial sanctions include the prohibition for any person in Canada and any Canadian outside Canada to deal in property, wherever situated, that is owned, held or controlled by listed persons; enter into or facilitate any transaction with such persons; provide any financial or related services to or for the benefit of listed person; or make available any goods, wherever situated, to listed persons.

³⁷ See: <https://laws.justice.gc.ca/eng/acts/i-2.5/>, last accessed on 1 July 2019.

³⁸ The resolution was approved with 20 votes in favour, five against, eight abstentions and one absence. The resolution is available at: <http://scm.oas.org/ag/documentos/>, last accessed on 1 July 2019.

still detained in that connection, to accelerate the closure of legal proceedings against them and the cancellation of their criminal records, and to protect all those released and their families. OHCHR also calls on the Government to protect all people and organizations expressing dissent or criticism against attacks of pro-Government armed elements and any act of intimidation and reprisals, including by preventing and investigating those attacks, publicly and systematically denouncing such acts and ensuring the effective exercise of freedom of expression, peaceful assembly and the individual and collective rights of indigenous peoples.

OHCHR calls on the urgent review the Amnesty Law and of the Law on Comprehensive Care for Victims through a genuinely participatory process and to ensure that they are fully compatible with applicable human rights norms and standards. The impunity of those responsible for gross human rights violations and abuses at the expense of the right to truth, justice and reparation will not allow reconciliation. OHCHR stands ready to provide technical assistance to review this legislation.

OHCHR urges the Government of Nicaragua to engage in a genuine, meaningful and inclusive dialogue and to implement the agreements it has signed, including to strengthen the promotion and protection of human rights and freedoms.

On 10 July, during the 41st session of the Human Rights Council, the Deputy High Commissioner, on behalf of the High Commissioner, will be presenting the first oral update on the human rights situation in Nicaragua to the Human Rights Council,³⁹ as mandated by resolution 42/2.⁴⁰ This presentation will provide an opportunity to the Government of Nicaragua to provide information about the measures adopted to fulfil its human rights obligations.

³⁹ The second oral update will take place during the 43rd session of the Council, in March 2020. Both oral updates will be broadcast at the following link: <http://webtv.un.org/>.

⁴⁰ Resolution available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/40/2, last accessed on 30 June 2019.