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JOINT OPEN LETTER TO MEMBER AND OBSERVER STATES OF THE UNITED NATIONS HUMAN RIGHTS COUNCIL

12 March 2019

Re: Open Letter to Member and Observer States of the United Nations Human Rights Council to put in place a monitoring and reporting mechanism on the ongoing human rights crisis in Nicaragua

Excellencies,

We write to call on your delegations to actively support the adoption of a resolution on the ongoing human rights crisis in Nicaragua during the current 40th regular session of the United Nations Human Rights Council (“the Council”), to put in place a monitoring and reporting mechanism. This is critical given the lack of access to justice at the national level, the refusal of the Government to engage with existing regional and international human rights mechanisms, and the lack of independent human rights monitoring in the country following the expulsion of the Office of the United Nations High Commissioner for Human Rights (OHCHR), and the fact that the Inter-American Commission for Human Rights (IACHR) is unable to work on the ground due to the refusal of the Nicaraguan government to allow them access.

On 18 April 2018, a series of reforms to the social security system triggered widespread social protests in Nicaragua. In response to these protests, the Nicaraguan government adopted a strategy of violent repression. At least 325 people have been killed, primarily by state security forces and pro-government armed groups; more than 2,000 have been injured, and tens of thousands have been forced to flee to Costa Rica. The human rights situation in Nicaragua continues to deteriorate seriously every day. Our organizations continue to receive reports of arbitrary detentions and the torture of persons deprived of their liberty. It is also important to highlight that civil society organisations whose legal status was cancelled by the government (including the Nicaraguan Centre for Human Rights - CENIDH) remain unable to freely carry out their work in the country, and that the harassment of journalists and human rights defenders continues.

The crimes under international law and other serious human rights violations committed in the country since the start of the human rights crisis in April 2018 have been documented not only by our organisations, but also by regional human rights entities, including the Special Monitoring Mechanism for Nicaragua (MESENI) sent by the IACHR, and the Interdisciplinary Group of Independent Experts on Nicaragua (GIEI). The latter, which was created through an agreement between the IACHR, the Secretary-General of the Organization of American States and the Nicaraguan government in May 2018, concluded that Nicaraguan State agents had perpetrated crimes against humanity, according to international law, including murder, arbitrary deprivation of liberty and persecution in the context of a widespread attack against the civilian population. Clearly, a report of this nature and gravity requires a serious and credible response from the international community, in particular the Council.

It should be noted that in addition to finding similar patterns of human rights violations on the ground, both the GIEI and the OHCHR have highlighted a lack of access to justice at the national level. As the GIEI report makes clear, the criminal justice system is part of the problem. Instead of correctly applying the law in defence of victims of human rights violations, it has been employed as another tool used to criminalise social protest.

As noted by the High Commissioner for Human Rights in her pre-session briefing on 5 February, there is currently no international human rights body remaining in the country, following the Government's expulsion of OHCHR, the suspension of the presence in Nicaragua of the MESENI and the suspension of the mission of the GIEI.

Human rights must be at the heart of any resolution to the current crisis and, given the lack of will on the part of the Government to respect and protect victims' rights to truth and justice, the international community must ensure ongoing monitoring and reporting on the human rights crisis. Despite the actions announced in recent days, the creation of a monitoring and reporting mechanism remains essential to prevent the further deterioration of human rights and in order to build an environment that guarantees compliance by the Nicaraguan government with its international obligations.

As demonstrated in the attached document, the situation meets all of the objective criteria for action by the Council, as set out in the joint statement led by [Ireland at the 32nd session](#), and further reaffirmed by joint statements led by [Netherlands at the 35th session](#), [Australia at the 37th session](#), and Fiji during the current 40th session of the Council.

The former High Commissioner for Human Rights called on the Council to take action in August 2018, underscoring the importance that any such action ensures full accountability for human rights violations and abuses and enables victims to have effective access to justice and appropriate remedies, including reparations and the right to know the truth.¹ Seven months later, we have seen no improvement of the situation and the Nicaraguan people – especially the victims – can no longer wait.

In this context, the role of the international community is clear, in particular the Human Rights Council, if it is to fulfil its mandate to “address situations of violations of human rights, including gross and systematic violations,” and to “respond promptly to human rights emergencies.”² We hope that your delegation will actively support the draft resolution on Nicaragua and uphold the Council's responsibility to address this crisis and to contribute to accountability and justice, in light of the lack of remaining options at national and regional levels, and the failure of the Government to engage in good faith.

Please accept, Excellencies, the assurances of our highest consideration,

Centre for Justice and International Law (CEJIL)

Nicaraguan Centre for Human Rights (CENIDH)

Amnesty International

¹ OHCHR: Nicaragua: Human rights crisis demands action and accountability – UN report, 29 August 2018, available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23481&LangID=E>.

² GA resolution 60/251, OP3 & OP5(f), available at https://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf.