

To: Member States of the UN Human Rights Council

04 March 2020

Excellency,

UN HUMAN RIGHTS COUNCIL SHOULD ENSURE CONTINUED AND ENHANCED MONITORING OF THE HUMAN RIGHTS SITUATION IN NICARAGUA

We, the undersigned human rights organizations, call on the UN Human Rights Council (HRC) to adopt a resolution during the 43rd session, renewing and further strengthening the mandate of the Office of the United Nations High Commissioner for Human Rights (OHCHR) to monitor and report on the human rights situation in Nicaragua, as specifically requested by the UN High Commissioner for Human Rights.¹ We urge your delegation to actively support the adoption of such a resolution.

Despite UN and regional efforts to address the crisis, the situation in Nicaragua remains dire. The government has refused to allow international human rights monitors to access the country since it expelled staff members of the Inter-American Human Rights Commission and OHCHR in late 2018. The government's crackdown against human rights organizations, women's organizations and feminist organizations, community leaders, and journalists documenting abuses since the 2018 protests continues to dramatically limit space for civil society internally. The government continues to engage in what the OHCHR described as a "systematic prohibition of protests" – including by harassing and intimidating, in November 2019, people who had begun a hunger striking to demand the release of their relatives.² Sixty-one government critics are arbitrarily imprisoned, according to local human rights groups, while impunity for crimes under international law and serious human rights violations by police and pro-government groups is still the rule.

Continued reporting by the OHCHR remains critical to ensure that grave violations committed during the 2018 protests – including murder, torture, rape and other acts of sexual violence – as well as others committed since then do not go unpunished. At the same time, OHCHR monitoring is crucial to curb potential rights violations, including in connection to the 2021 presidential elections.

Given the continued serious violations and the unwillingness of the authorities to cooperate and engage with regional and international mechanisms, the situation continues to meet the "objective criteria for HRC action" (see our overview in this regard in annex), elaborated to help identify situations requiring

¹ UNHRC, Situation of human rights in Nicaragua Report of the United Nations High Commissioner for Human Rights (A/HRC/42/18), 3 September 2019, para. 66.

² <http://www.oacnudh.org/wp-content/uploads/2019/10/nicaragua-monthly-bulletin-n13-octubre-noviembre-2019.pdf>.

the HRC's attention in a joint statement led by Ireland at the 32nd session,³ and further reaffirmed by joint statements led by the Netherlands at the 35th session, Australia at the 37th session, Fiji at the 40th session of the Council, and the Marshall Islands during the current session of the Council.

In this context, it is essential that the HRC adopts a resolution that responds robustly to the findings of the report presented by the High Commissioner in September 2019 (A/HRC/42/18) and follows her recommendation that the HRC request the OHCHR to “enhance its monitoring, documentation, analysis, and public reporting on the human rights situation in Nicaragua.” We urge your delegation to actively support this initiative.

Please accept, Excellency, the assurance of our highest consideration,

Amnesty International

Articulación de Movimientos Sociales y OSC de Nicaragua (AMS)

Centro por la Justicia y el Derecho Internacional (CEJIL)

Centro Nicaragüense de Derechos Humanos (CENIDH)

CIVICUS: World Alliance for Citizen Participation

Fédération Internationale pour les Droits Humains (FIDH)

FAN - Feministas Autoconvocadas de Nicaragua

Fondo de Acción Urgente de América Latina y el Caribe (FAU-AL)

Front Line Defenders

Fundación Popol Na

Fundación del Río

Human Rights Watch

Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos (IM Defensoras)

Iniciativa Nicaragüense de Defensoras de Derechos Humanos (INDDH)

International Service for Human Rights (ISHR)

Just Associates (JASS)

Movimiento Autónomo de Mujeres (MAM)

Oxfam

Plataforma Internacional Contra la Impunidad

Punto Focal de la Campaña 28 de Setiembre por la Despenalización del Aborto en América Latina y el Caribe

Red de Salud de las Mujeres Latinoamericanas y del Caribe - Enlace Nacional Nicaragua

Red Local

The International Institute on Race, Equality and Human Rights

Unión de Presas y Presos Políticos Nicaragüenses (UPPN)

Washington Office on Latin America (WOLA)

³ <https://www.dfa.ie/our-role/policies/international-priorities/human-rights/ireland-and-the-human-rights-council/irelands-statements-hrc-32nd-session/preventingrespondingtoandaddressinghumanrightsviolations-jointconcludingstatement/>.

ANNEX: ASSESSMENT OF NICARAGUA AGAINST THE OBJECTIVE CRITERIA FOR HRC ACTION

During the thirty-second session (HRC32) of the UN Human Rights Council in June 2016, Ireland delivered a statement⁴ on behalf of a cross-regional group of States (building upon a previous joint statement by the Maldives) proposing objective criteria – or “guiding principles” – to “help [the Human Rights Council] decide, in an objective and non-selective manner, when the Council should usefully engage with a concerned State, to prevent, respond to, or address violations and to assist in de-escalation of a situation of concern.” Application of these objective criteria has been further reaffirmed in cross-regional joint statements delivered by the Netherlands at the 35th session of the Council on behalf of 49 States, a joint statement delivered by Australia on behalf of 11 incoming members of the Council from all regional groups at the 37th session, and similar joint statements delivered by Fiji on behalf of 10 incoming members at the 40th session; and by the Marshall Islands on behalf of nine incoming members at the 43rd session.

Analysis by our organisations, set out below, shows that all of the criteria identified in the joint statement have been partially or fully met in the case of Nicaragua.

✓ **Call for action by the UN SG, HC or another relevant UN organ, body or agency?**

The UN High Commissioner for Human Rights expressed deep concerns and explicitly called on the HRC to renew and strengthen her Office’s monitoring and reporting mandate in the report presented to the HRC in September 2019.⁵

✓ **Recommendation for action by a group of Special Procedures?**

Since the beginning of the crisis Special Procedures have consistently raised their concerns publicly through joint statements, as well as Urgent Actions,⁶ including:

- Joint statement: *Nicaragua must stop reprisals against journalists, say human rights experts*, 26 August 2019.⁷
- Joint statement: *Nicaragua must stop repression of human rights – UN experts*, 22 November 2018.⁸
- Joint statement: *Nicaragua must end "witch-hunt" against dissenting voices, say UN experts*, 9 August 2018.⁹
- Joint statement: *Nicaragua: Government must end violence and reinstate political dialogue, say UN*, 14 June 2018.¹⁰
- Joint statement: *Nicaragua: Experts say appalled by Government’s violent response to peaceful protests*, 27 April 2018.¹¹

⁴ <https://www.dfa.ie/our-role/policies/international-priorities/human-rights/ireland-and-the-human-rights-council/irelands-statements-hrc-32nd-session/preventingrespondingtoandaddressinghumanrightsviolations-jointconcludingstatement/>.

⁵ Report of the United Nations High Commissioner for Human rights, Situation of Human Rights in Nicaragua, UN doc. A/HRC/42/18, 3 September 2019, paragraph 67.

⁶ For 2019 alone, see communications NIC 5/2019, NIC 4/2019, NIC 3/2019, NIC 2/2019, NIC 1/2019.

⁷ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24920&LangID=E>.

⁸ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23919&LangID=E>.

⁹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23434&LangID=E>.

¹⁰ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23201&LangID=E>.

¹¹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23005&LangID=E>.

- ✓ **Does the State concerned have an “A status” NHRI? If so, has that institution drawn the attention of the international community to an emerging situation and called for action?**

Nicaragua’s NHRI has been downgraded to B status following a recommendation by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI), based on its failure “to adequately speak out [...] in response to credible allegations of serious human rights violations.”¹²

- ✓ **Has the State concerned been willing to recognise that it faces particular human rights challenges and laid down a set of credible actions, including a time-table and benchmarks to measure progress, to respond to the situation? Is the State concerned engaging in a meaningful, constructive way with the Council on the situation?**

The OHCHR report to the HRC in September 2019 noted the authorities’ continued denial of responsibility for the serious violations and abuses, reporting that they “have instead blamed social and opposition leaders, human rights defenders and demonstrators for what they call the ‘coup-related violence’ and the negative impact on the country’s economy.”¹³

The government’s continued refusal to accept, or engage in dialogue and cooperation to address, the human rights crisis was clearly evidenced in their claims that the report, conclusions and recommendations of the OHCHR were intended to continue a smear campaign against the government and to facilitate “political convictions and action against the Nicaraguan people.”¹⁴

- ✓ **Is the State concerned effectively cooperating with HRC Special Procedures, including by allowing country visits?**

Nicaragua has not allowed access to the Special Procedures since a visit by the Special Rapporteur on the right to food in 2009. Six Special Procedure mandates have requested access since 2016, including the Working Group on arbitrary detention and the Special Rapporteur on the rights to freedom of peaceful assembly, but have been unable to carry out visits.¹⁵ Nicaragua has also failed to respond to the vast majority of communications sent by the Special Procedures.¹⁶

- ✓ **Is the State concerned engaging with OHCHR, including in the field of technical assistance and effective engagement with the UN Human Rights Treaty Bodies?**

In August 2018, the OHCHR team on the ground was expelled from Nicaragua the day after they published a report on the patterns of human rights violations and abuses committed in the country.¹⁷ In 2020, the OHCHR continues to be barred

¹² GANHRI Subcommittee on Accreditation Report-May 2018 p. 28, available at <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20May%202018-Eng.pdf>; GANHRI, Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA), Geneva, 11-15 March 2019, p.30-35, available at: <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20March%202019%20-%20EN%20.pdf>.

¹³ UNHRC, Situation of human rights in Nicaragua Report of the United Nations High Commissioner for Human Rights (A/HRC/42/18), 3 September 2019, para. 60.

¹⁴ UNHRC, Note verbale dated 2 September 2019 from the Permanent Mission of Nicaragua to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights (A/HRC/42/G/2), 17 September 2019, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/275/03/PDF/G1927503.pdf?OpenElement>.

¹⁵ OHCHR, View Country visits of Special Procedures of the Human Rights Council since 1998, available at: <https://spinternet.ohchr.org/ViewCountryvisits.aspx?visitType=pending&lang=en>

¹⁶ More information at: OHCHR, Communication report and search, <https://spcommreports.ohchr.org/TmSearch/Results?page=2>

¹⁷ OHCHR, Press briefing note on Libya, Nicaragua, Malawi and Guatemala, 4 September 2018, available at:

from monitoring the human rights situation from the ground.¹⁸ The OHCHR Regional Office for Central America has therefore had to continue their monitoring of the human rights situation remotely.

Nicaragua is overdue with its reporting obligations to the majority of the treaty bodies (CCPR 6 years, CAT 5 years, CEDAW 8 years, CERD 7 years, CESC 5 years, CRC 3 years).

✓ **Has a relevant regional mechanism or institution identified the situation as requiring the attention of the international community? Is the State concerned cooperating with relevant regional organisations?**

In 2018, the IACHR formally established two mechanisms to monitor and investigate the human rights situation in agreement with the Nicaraguan government: The Special Monitoring Mechanism for Nicaragua (MESENI) and the GIEI. In December 2018, Nicaragua expelled both the MESENI and GIEI from Nicaragua, a day before GIEI's report was due to be released. Following their expulsion from the country GIEI released their report concluding that abuses in the country, including murder, arbitrary detentions, and persecution, amounted to crimes against humanity.¹⁹ Following a resolution adopted by the General Assembly of the Organization of American States (OAS) in June 2019,²⁰ the Permanent Council appointed, in August 2019, a Commission to address the political and social crisis in Nicaragua.²¹ In September 2019, the government denied the Commission on Nicaragua access to the country.²² Despite the refusal of the government of Nicaragua to meet the Commission, the Commission was able to submit a report as mandated. After receiving numerous testimonies that reported ongoing harassment and intimidation suffered by those perceived as government opponents, arbitrary detentions, inhuman treatment and restrictions to the exercise of political rights and freedom of expression; the Commission concluded that "Nicaragua is experiencing a critical human rights situation that urgently demands the attention of the Inter-American community and the world at large."²³

✓ **Is the State concerned facilitating or obstructing access and work on the part of humanitarian actors, human rights defenders and the media?**

Our organisations have documented the repeated censorship, attacks and threats against the media, journalists, and human rights defenders and their families by police and pro-government armed groups during the protests.²⁴ The government has raided the offices of independent media outlets, filed criminal charges against journalists, cancelled the legal registration of nine civil society organizations, and

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23497&LangID=E>.

¹⁸ UNHRC, Situation of human rights in Nicaragua Report of the United Nations High Commissioner for Human Rights (A/HRC/42/18), 3 September 2019, para. 2.

¹⁹ GIEI-Nicaragua, "Report on the violent events that took place between April 18th and May 30th 2018," December 2018.

²⁰ OAS GA, The Situation in Nicaragua AG/RES.2943 (XLIX-O/19), June 28, 2019, pp. 169-173.

²¹ OAS Permanent Council, Resolution on the Appointment of a Commission on Nicaragua (CP/RES. 1135/19), August 28, 2019, available at: http://scm.oas.org/doc_public/english/hist_19/cp41406e03.doc

²² Amnesty International, 'Nicaragua: OAS member states must continue to work tenaciously against repression', 1 October 2019.

²³ OAS High Level Commission on Nicaragua, Report of the OAS High-Level Commission on Nicaragua, November 19, 2019.

²⁴ E.g. see <https://www.amnesty.org/en/documents/amr43/8470/2018/en/>;
<https://www.hrw.org/report/2019/06/19/crackdown-nicaragua/torture-ill-treatment-and-prosecutions-protesters-and>;
<https://www.hrw.org/news/2018/12/20/nicaragua-zero-tolerance-scrutiny>;
<https://www.hrw.org/news/2018/12/14/nicaragua-government-crackdown-media-activists>;
<https://www.hrw.org/news/2018/08/07/nicaragua-doctors-health-workers-arbitrarily-fired>

expelled foreign journalists and international human rights monitors from the country.

These concerns have been expressed by the regional and international mechanisms. On 26 August 2019, a group of Special Procedures issued a statement calling on Nicaragua to stop reprisals against journalists,²⁵ in follow up to an earlier statement issued in November 2018 “urging the Government of Nicaragua to immediately put an end to the repression and reprisals against those who speak out against the Government and cooperate with the UN, including human rights defenders, journalists and peaceful protesters.”²⁶ In November 2019, in a press statement, OHCHR called on the government to “end the persistent repression of dissent and the ongoing pattern of arbitrary arrests and refrain from criminalizing and attacking human rights defenders, political opponents and any other dissenting voices.”²⁷

The Inter-American Commission on Human Rights (IACHR) has expressed concern over the “new stage of repression in Nicaragua aimed at silencing, intimidating and criminalizing those opposed to the Government, human rights organizations and the independent media in the country.”²⁸ In December 2019, the IACHR granted precautionary measures to 17 women human rights defenders who had been subjected to harassment, intimidation, death threats and attacks in this context.²⁹ The Inter-American Court of Human Rights has also had to grant provisional measures to protect members of two local NGOs, because of the serious risks to their lives and physical integrity.³⁰

²⁵ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24920&LangID=E>.

²⁶ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23919&LangID=E>.

²⁷ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25313&LangID=E>.

²⁸ IACHR, “IACHR denounces aggravation of the repression and the closure of democratic spaces in Nicaragua” (December 19, 2018), available at: https://www.oas.org/en/iachr/media_center/PReleases/2018/273.asp; IACHR, IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison, 6 September 2019, available at http://www.oas.org/en/iachr/media_center/PReleases/2019/220.asp.

²⁹ <http://www.oas.org/es/cidh/decisiones/pdf/2019/60-19MC1067-18-NI-Ampliacion.pdf>

³⁰ Inter-American Court Human Rights, Matter of the Nicaraguan Centre for Human Rights and the Permanent Commission of Human Rights (CENIDH-CPDH) regarding Nicaragua, Provisional Measures, Order of the Inter-American Court of Human Rights, 14 October 2019.