

To: Member States of the UN Human Rights Council

3 February 2021

Excellency,

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

We, the undersigned human rights organizations, call on the UN Human Rights Council (HRC or Council) to adopt a resolution during its 46th session, renewing the mandate of the Office of the United Nations High Commissioner for Human Rights (OHCHR or High Commissioner) to monitor and report on the human rights situation in Nicaragua. The mandate remains critical, given Nicaragua's continued refusal to cooperate with the regional and international human rights systems and the High Commissioner's recent assessment that so far "there has been no progress in the human rights situation and no sign that the Government is constructively addressing the tensions and structural problems that triggered the socio-political crisis in April 2018."¹ We urge your delegation to work with others to lead a strong resolution on Nicaragua, which fully renews the mandate of the High Commissioner and sets clear benchmarks for cooperation. The resolution should send a clear message that the international community stands with victims and human rights defenders in the pursuit of justice, truth and reparations.

Despite UN and regional efforts to address the crisis, the human rights situation in Nicaragua remains critical. Reports of serious human rights violations have continued in 2020, including arbitrary detention, torture and ill treatment, harassment, denial of justice, restrictions on freedom of expression, association and peaceful assembly and continued efforts to silence civil society organizations and independent media. As noted by the OHCHR, human rights defenders, women's and feminist organizations, community leaders, Indigenous peoples and independent journalists continue to be targeted, stigmatized, intimidated, threatened and even killed.²

Over the last year, the National Assembly has adopted several laws proposed by the government's party that violate the rights to freedom of expression and association, and to run for office and vote in fair and free elections. These include the Law for the Defense of People's Rights to Independence, Sovereignty, and Self-determination for Peace, enacted in December, as well as the Law for the Regulation of Foreign Agents and the Special Law on Cyber-crimes, enacted in October. In January 2021, the National Assembly approved a constitutional amendment that would allow for lifetime imprisonment for "grave crimes" that are "accompanied by hate, cruel, degrading, humiliating or inhumane treatment, which, because of their impact, provoke commotion, rejection, outrage and disgust to the society." The broadly defined amendment could open the door to further abuses as the government has often baselessly accused critics and political opponents of committing "hate crimes," though they are not defined by law.

¹ OHCHR. Update on the human rights situation in Nicaragua, pursuant to resolution 43/2, 14 September 2020, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26228&LangID=E>.

² See OHCHR 2020 oral updates: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26228&LangID=E>, and <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26027&LangID=E>.

Human rights defenders and other government critics have continued to be the targets of arbitrary detentions, intimidation, online defamation campaigns, harassment, surveillance, and assault. Human rights defenders fear the worst is yet to come. Many believe that, in the run-up to the November 2021 presidential elections, the ongoing human rights violations will intensify as the government seeks to silence any form of opposition and prevent any form of political participation.

As noted by the High Commissioner in her update to the 45th session of the Council (September 2020), Nicaragua's response to the COVID-19 pandemic "has included violations of freedom of expression and the dismissal of medical personnel, and continues to highlight the need for greater transparency and better dissemination of information."³ Despite public health recommendations by international organizations, the Government early on called for mass gatherings instead of ensuring social distancing.⁴ Hundreds of migrant workers and asylum-seekers from Nicaragua seeking to return to the country in the context of the pandemic faced significant obstacles imposed by the government.⁵ The authorities continue to refuse to cooperate with regional and international human rights monitors and have continued to block their access to the country since expelling staff members of the Inter-American Commission on Human Rights (IACHR) and OHCHR in 2018. Two years after the creation of the Special Monitoring Mechanism for Nicaragua (Mecanismo Especial de Seguimiento para Nicaragua - MESENI) the authorities of Nicaragua have consistently "failed to respond to the IACHR's express requests on specific issues or situations," particularly with regard to the implementation of protection measures granted by the Inter-American System.⁶

Given Nicaragua's continued refusal to cooperate with the regional or international system or to take steps to improve the dire human rights situation, the situation continues to meet the "objective criteria for HRC action" (see our overview in this regard in annex). These criteria were elaborated to help identify situations requiring the HRC's attention in a joint statement led by Ireland at the 32nd session,⁷ 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 43rd session of the Council.

Accordingly, we urge the HRC to adopt a resolution when it meets for its 46th session to:

- **Renew the enhanced OHCHR mandate to monitor and report on the human rights situation in Nicaragua, and ensure it is adequately resourced:** Continued enhanced monitoring and reporting by the OHCHR remains essential to challenge the impunity for crimes under international law and grave human rights violations committed during and since the 2018 protests at a national level and to curb possible further violations, including in connection with the 2021 presidential elections. It also remains critical in supporting the work of civil society

³ OHCHR. Update on the human rights situation in Nicaragua pursuant to resolution 43/2, 14 September 2020, available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26228&LangID=E>.

⁴ PAHO. Virtual press briefing on COVID-19, 19 May 2020, available at: <https://www.youtube.com/watch?v=Fozu2c1A5X8>.

⁵ OHCHR. Update on the human rights situation in Nicaragua pursuant to resolution 43/2, 14 September 2020, available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26228&LangID=E>.

⁶ IACHR. Two Years After the Creation of MESENI, IACHR Recalls Nicaragua's Pending Human Rights Obligations, 23 June 2020, Available at: http://www.oas.org/en/iachr/media_center/PReleases/2020/146.asp.

⁷ Joint Statement delivered by Ireland ("Objective Criteria for HRC action"), 32nd session of the UN Human Rights Council, 8 July 2016, available at: <https://www.dfa.ie/our-role/policies/international-priorities/human-rights/ireland-and-the-human-rights-council/irelands-statements-hrc-32nd-session/preventingrespondingtoandaddressinghumanrightsviolations-jointconcludingstatement/>.

and addressing economic, social and cultural rights violations underlying the crisis in Nicaragua.

- **Mandate the High Commissioner to report regularly to the HRC on the situation in Nicaragua the context of interactive dialogues**, including an additional enhanced interactive dialogue around the elections scheduled for November 2021.
- **Establish clear benchmarks for cooperation** by Nicaragua, with which Nicaragua's failure to comply would lead to a more robust approach by the HRC in 2022, including with regard to access by OHCHR, Special Procedures, and other human rights monitors.
- **Urge Nicaragua to implement the recommendations of OHCHR, the precautionary measures and recommendations of the Inter-American Commission on Human Rights (IACHR), and the recommendations of the Interdisciplinary Group of Experts (GIEI),⁸ and allow them access to the country:** the High Commissioner noted in her update to HRC45 that "most of the recommendations [made in her] September 2019 report [...] have not yet been implemented, resulting in continued impunity, and further violations."⁹ She again urged "the Government to implement these recommendations, in particular in view of the elections scheduled for November 2021," and to "resume effective co-operation with [her] Office, including by authorising a mission to the country."¹⁰
- **Respond robustly to the report that the High Commissioner will present to the 46th session:** The resolution should take into consideration the report, condemn the reported ongoing violations of civil, political, economic, social and cultural rights, and urge the Government to take concrete and time-bound measures to implement recommendations.
- **Express support for human rights defenders:** They represent the last front for monitoring and documenting crimes under international law and human rights violations within the country. Explicit mention of the categories of human rights defenders in situations of greatest vulnerability, in particular Indigenous, Afro-descendent, environmental, women's and LGBTI defenders, as well as journalists, formerly incarcerated persons, and their families is also necessary.
- **Address violations of economic, social and cultural rights, particularly in the context of COVID-19.**

We hope that your delegation will play an active role in ensuring such a robust response to Nicaragua's continued failure to take steps to overcome the human rights crisis in the country, and to achieve and engagement with international or regional human rights actors.

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

Amnesty International

Center for Justice and International Law (CEJIL)

Centro Nicaragüense de los Derechos Humanos (CENIDH)

CIVICUS: World Alliance for Citizen Participation

Colectivo de Derechos Humanos Nicaragua Nunca Más

⁸ Grupo Interdisciplinario de Expertos Independientes (Interdisciplinary Group of Experts). For more information, see: <https://gieinicaragua.org/en/#section00>.

⁹ OHCHR. Update on the human rights situation in Nicaragua, pursuant to resolution 43/2, 14 September 2020, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26228&LangID=E>.

¹⁰ OHCHR. Update on the human rights situation in Nicaragua, pursuant to resolution 43/2, 14 September 2020, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26228&LangID=E>.

Front Line Defenders

Fundación para el Debido Proceso (DPLF)

Human Rights Watch (HRW)

Iniciativa Nicaragüense de Defensoras de Derechos Humanos (IND)

International Institute on Race, Equality and Human Rights (Race & Equality)

International Service for Human Rights (ISHR)

Just Associates (JASS) Mesoamerica

Mesoamerican Initiative of Women Human Rights Defenders (IM-Defensoras)

Movimiento Autónomo de Mujeres (MAM)

Unidad de Defensa Jurídica (UDJ)

Unidad de Protección a Defensoras y Defensores de Derechos Humanos de Guatemala (UDEFEGUA)

Unidad de Registro (UDR)

Washington Office on Latin America (WOLA)

World Organisation Against Torture (OMCT)

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 statement¹¹ 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 High Commissioner has consistently urged the Council to keep the situation on its agenda. Ahead of HRC43, the OHCHR report recommended that the international community and the HRC “reaffirm the commitment of the international community to support Nicaragua to find a solution to the socio-political crisis it faces, including efforts to establish a comprehensive action plan towards accountability,” and to “request OHCHR to enhance its monitoring, documentation, analysis, and public reporting on the human rights situation in Nicaragua, notably as a contribution to ensuring accountability, and to support the rule of law and security sector reforms.”¹²

Since then, she has been clear that the situation has not improved, and Nicaragua continues to refuse to cooperate with her and her Office. At the 45th session in September, she noted that “there has been no progress in the human rights situation and no sign that the Government is constructively addressing the tensions and structural problems that triggered the socio-political crisis in April 2018”.¹³ In the same update, she also noted that the recommendations of her 2019 report “have not yet been implemented, resulting in continued impunity, and further violations,” and she renewed her call for access to the country.

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

Since the beginning of the crisis Special Procedures have consistently raised their concerns publicly and recommended action through joint statements, letters, opinions as well as Urgent Actions, including:

¹¹ Joint Statement delivered by Ireland (“Objective Criteria for HRC action”), 32nd session of the UN Human Rights Council, 8 July 2016, available at: <https://www.dfa.ie/our-role-policies/international-priorities/human-rights/ireland-and-the-human-rights-council/irelands-statements-hrc-32nd-session/preventingrespondingtoandaddressinghumanrightsviolations-jointconcludingstatement/>.

¹² OHCHR. Situation of Human Rights in Nicaragua: Report of the United Nations High Commissioner for Human Rights (A/HRC/42/18), 3 September 2019, available at: <https://undocs.org/en/A/HRC/42/18>.

¹³ OHCHR. Update on the human rights situation in Nicaragua, pursuant to resolution 43/2, 14 September 2020, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26228&LangID=E>.

- Joint letter: Comments on the Law on Anti-Money laundering, Financing of Terrorism and Financing the Proliferation of Weapons of Mass Destruction (OL NIC 4/2020), 4 January 2021.¹⁴
- Joint statement: Nicaragua: UN expert urges to improve protection of environmental rights defenders, 1 February 2021.¹⁵
- Joint letter: *Comments on the Law on the Regulation of Foreign Agents and the Special Law on Cybercrime, recently approved by the National Assembly (OL NIC 3/2020)*, 13 November 2020.¹⁶
- Opinion No. 39/2020, Working Group on Arbitrary Detention, concerning Kevin Roberto Solis, 9 October 2020.¹⁷
- Opinion No. 21/2020, Working Group on Arbitrary Detention, concerning 16 persons, 3 July 2020.¹⁸
- Opinion No. 17/2020, Working Group on Arbitrary Detention, concerning Miguel Mora and Lucia Pineda, 2 July 2020.¹⁹
- Joint statement: *Nicaragua must stop reprisals against journalists, say human rights experts*, 26 August 2019.²⁰
- Joint statement: *Nicaragua must stop repression of human rights – UN experts*, 22 November 2018.²¹
- Joint statement: *Nicaragua must end "witch-hunt" against dissenting voices, say UN experts*, 9 August 2018.²²
- Joint statement: *Nicaragua: Government must end violence and reinstate political dialogue*, say UN, 14 June 2018.²³
- Joint statement: *Nicaragua: Experts say appalled by Government's violent response to peaceful protests*, 27 April 2018.²⁴

✓ **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?**

Since 2019, Nicaragua’s National Human Rights Institution has been downgraded to B status²⁵ following a recommendation by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI) in May

¹⁴ Comentarios sobre la Ley Contra el Lavado de Activos, el Financiamiento al Terrorismo y el Financiamiento a la Proliferación de Armas de Destrucción Masiva (Ley n° 977), aprobada por el Parlamento nicaragüense el 16 de julio de 2018 (Spanish only), available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25778>.

¹⁵ Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26701&LangID=E>.

¹⁶ Comentarios sobre la Ley de Regulación de Agentes Extranjeros y la Ley Especial de Ciberdelitos, aprobadas recientemente por la Asamblea Nacional (Comments on the Law on the Regulation of Foreign Agents and the Special Law on Cybercrime, recently approved by the National Assembly) (Spanish only), 13 November 2020, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25691>.

¹⁷ Available at:

https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_39_Advance_Edition_Version.pdf.

¹⁸ Available at:

https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session87/A_HRC_WGAD_2020_21_Advance_Edition_Version.pdf.

¹⁹ Available at:

https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session87/A_HRC_WGAD_2020_17_Advance_Edition_Version.pdf.

²⁰ Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24920&LangID=E>.

²¹ Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23919&LangID=E>.

²² Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23434&LangID=E>.

²³ Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23201&LangID=E>.

²⁴ Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23005&LangID=E>.

²⁵ GANHRI. Chart of the status of National Human Rights Institutions, November and March 2019, available at: [https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20-%20Chart%20\(%2027%20November%202019\).pdf](https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20-%20Chart%20(%2027%20November%202019).pdf), and <https://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart%20%2804%20March%202019.pdf>.

2018 and March 2019, based on its failure “to adequately speak out [...] in response to credible allegations of serious human rights violations.”²⁶

- ✓ **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?**

In her update to the Council in September 2020, the High Commissioner clearly offered her assessment that “there has been no progress in the human rights situation and no sign that the Government is constructively addressing the tensions and structural problems that triggered the socio-political crisis in April 2018.”²⁷ Nicaraguan authorities have consistently denied allegations of human rights violations. For instance, at the HRC in September 2020, Nicaragua refused to accept the assessment of the situation presented by the High Commissioner, accusing the OHCHR of a lack of objectivity and interference in internal affairs.²⁸

- ✓ **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, despite a number of outstanding visit requests, including by the Working Group on Enforced Disappearances, the Working Group on Arbitrary Detention and the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association.²⁹ Nicaragua has failed to respond to most communications sent by the Special Procedures.³⁰

- ✓ **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.³¹ As of January 2021, the OHCHR continues to be barred from monitoring the human rights situation from the ground.³² The OHCHR Regional Office for Central America has therefore had to continue their monitoring of the human rights situation remotely.

²⁶ GANHRI Subcommittee on Accreditation. Report-May 2018, 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), 11-15 March 2019, available at:

<https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20March%202019%20-%20EN%20.pdf>.

²⁷ OHCHR. Update on the human rights situation in Nicaragua, pursuant to resolution 43/2, 14 September 2020, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26228&LangID=E>.

²⁸ HRC. General debate on the oral update by the High Commissioner for Human Rights and oral updates of the High Commissioner on the situation of human rights in Nicaragua and the Bolivarian Republic of Venezuela - 3rd Meeting, 45th Regular Session, 15 September 2020, available at: <http://webtv.un.org/search/item2-general-debate-3rd-meeting-45th-regular-session-human-rights-council/6190918624001/?term=nicaragua&lan=English&cat=Human%20Rights%20Council&sort=date&page=1#player>.

²⁹ 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>.

³⁰ More information at: OHCHR, Communication report and search, <https://spcommreports.ohchr.org/TmSearch/Results?page=2>.

³¹ OHCHR. Press briefing note on Libya, Nicaragua, Malawi and Guatemala, 4 September 2018, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23497&LangID=E>.

³² OHCHR. Update on the human rights situation in Nicaragua, pursuant to resolution 43/2, 14 September 2020, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26228&LangID=E>.

- ✓ **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 MESENI and the GIEI. In December 2018, Nicaraguan authorities 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.³³ Following a resolution adopted by the General Assembly of the Organization of American States (OAS) in June 2019,³⁴ the Permanent Council appointed, in August 2019, a Commission to address the political and social crisis in Nicaragua.³⁵ In September 2019, the government denied the Commission on Nicaragua access to the country.³⁶ Despite the refusal of the government of Nicaragua to meet the Commission, the Commission was able to submit a report as mandated. The report 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."³⁷

The government of Nicaragua has not yet allowed any of the regional mechanisms to access the country. However, the MESENI has continued its mandate, receiving numerous statements from impacted people and reporting ongoing harassment and intimidation suffered by those perceived as government opponents, arbitrary detentions, lack of protection for Nicaraguans returning to their country, and restrictions to the exercise of political rights and freedom of expression.³⁸ Two years after the creation of MESENI, in June 2020, the IACHR noted that Nicaragua has not complied with the recommendations included in the MESENI and GIEI reports or the precautionary measures, "nor has the IACHR observed any steps toward doing so". The IACHR further "urged the state to facilitate visits from the IACHR and MESENI and other international bodies, such as the OHCHR."³⁹

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

Our organizations have continued to document censorship, attacks and threats against the media, journalists, health workers, Indigenous people, human rights defenders and their families in Nicaragua in 2020.⁴⁰

³³ GIEI-Nicaragua. Report on the violent events that took place between April 18th and May 30th, 2018, December 2018.

³⁴ OAS GA. The Situation in Nicaragua AG/RES.2943 (XLIX-O/19), 28 June 2019.

³⁵ OAS Permanent Council. Resolution on the Appointment of a Commission on Nicaragua (CP/RES. 1135/19), 28 August 2019, available at: http://scm.oas.org/doc_public/english/hist_19/cp41406e03.doc.

³⁶ Amnesty International. Nicaragua: OAS member states must continue to work tenaciously against repression, 1 October 2019, available at: <https://www.amnesty.org/en/latest/news/2019/10/nicaragua-oea-debe-continuar-trabajando-contra-represion/#:~:text=Nicaragua%3A%20OAS%20member%20states%20must%20continue%20to%20work%20tenaciously%20against%20repression,-1%20October%202019&text=It%20is%20unreasonable%20that%20the,refusal%20to%20let%20them%20in>.

³⁷ OAS High Level Commission on Nicaragua. Report of the OAS High-Level Commission on Nicaragua, 19 November 2019, available at: [https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-105/19#:~:text=1135%20\(2244%2F19\)%2C,of%2075%20days%20of%20its](https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-105/19#:~:text=1135%20(2244%2F19)%2C,of%2075%20days%20of%20its).

³⁸ For more information visit: <http://www.oas.org/en/iachr/jsForm/?File=/en/iachr/meseni/default.asp>.

³⁹ IACHR. Two Years After the Creation of MESENI, IACHR Recalls Nicaragua's Pending Human Rights Obligations, 23 June 2020, available at: http://www.oas.org/en/iachr/media_center/PReleases/2020/146.asp.

⁴⁰ E.g. see <https://www.amnesty.org/en/latest/news/2020/04/nicaragua-gobierno-aumenta-riesgo-contagio-covid-19/>, <https://www.amnesty.org/en/latest/news/2020/05/nicaragua-personas-privadas-de-libertad-tienen-sintomas-covid-19/>, <https://www.amnesty.org/en/latest/news/2020/09/nicaragua-gobierno-pareciera-preparar-nueva-fase-represion/>, <https://www.amnesty.org/en/documents/amr43/2535/2020/en/>, <https://www.amnesty.org/en/latest/news/2020/06/nicaragua-president-ortega-stop-arbitrary-dismissals-health->

Concerns in this regard have been highlighted by the UN and regional human rights systems throughout the year:

- In April, the IACHR warned that “a fifth phase of State repression is consolidating in the country,” noting “more intense surveillance, harassment, and selective repression against individuals who are believed to oppose the government, as well as acts of violence in rural areas and against indigenous communities.”⁴¹
- In July 2020, the High Commissioner expressed concern that “persistent human rights violations continue to be documented against those who the Government perceives as opponents, including human rights defenders, journalists, social leaders, and former political detainees.”⁴²
- In October 2020, the IACHR reported having received information about the intensification of a government strategy consisting of attacks on the media and independent press through direct and indirect censorship, as well as acts of siege and threats against social and political leaders and human rights defenders and urged the State of Nicaragua to cease the persecution of dissident or opposition voices.⁴³

In a sign of more to come, the National Assembly has in recent months approved several laws that infringe the rights to freedom of expression and association in Nicaragua, and to run for office and vote in fair and free elections.

The *Foreign Agents Law*, passed in October, requires entities and people who receive funding from abroad to register as a “foreign agent” with the Ministry of Interior. In turn, “foreign agents” are barred from intervening in “issues, activities or matters of internal or external politics,” and would face undetermined criminal penalties if they did so. Those failing to register within a 60-day period could face fines and a cancellation of their legal recognition and could be subject to the confiscation of property.

Additionally, the *Law on Cyber-crimes*, which also passed in October, establishes criminal sentences of up to four years in prison for anyone who uses communications technology to “publish” or “disseminate” “false or distorted information, likely to spread anxiety, anguish or fear.” It also punishes with up to five years in prison anyone who publishes “false or distorted information” that “promotes hate and violence, [or] endangers economic stability, public order or health, or national security,” terms that are vague, ambiguous and not defined under the law.

Likewise, in December, the National Assembly approved the *Law for the Defense of People's Rights to Independence, Sovereignty, and Self-determination for Peace*, that bans so-called “traitors” from running for or holding public office. It defines “traitors” in sweeping terms to include, for example, people who

[workers/; https://www.hrw.org/world-report/2021/country-chapters/nicaragua#](https://www.hrw.org/world-report/2021/country-chapters/nicaragua#).

⁴¹ IACHR. Two Years After the Creation of MESENI, IACHR Recalls Nicaragua’s Pending Human Rights Obligations, 23 June 2020, available at: http://www.oas.org/en/iachr/media_center/PReleases/2020/146.asp

⁴² OHCHR. Human Rights in Crimea, Nicaragua and Venezuela, 2 July 2020, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26027&LangID=E>.

⁴³ IACHR. La CIDH llama a cesar de inmediato los actos de persecución contra las personas identificadas como opositoras al gobierno y al restablecimiento de garantías democráticas en Nicaragua (The IACHR calls for the immediate ceasing of acts of persecution against persons identified as opponents of the government and for the reestablishment of democratic guarantees in Nicaragua) (Spanish only), 10 October 2020, available at: <http://www.oas.org/es/cidh/prensa/comunicados/2020/249.asp>.

“undermine independence, sovereignty and self-determination” or “damage the supreme interests of the nation.”

More recently, in January, the National Assembly approved a constitutional amendment that would allow for lifetime imprisonment for “grave crimes” that are “accompanied by hate, cruel, degrading, humiliating or inhumane treatment, which, because of their impact, provoke commotion, rejection, outrage and disgust to the society.”

In the current context, there is a well-founded fear that these laws will be used to target human rights defenders, journalists, opposition politicians and others who raise their voices to speak out against repressive policies and call for the respect for human rights. UN Special Procedures,⁴⁴ the IACHR and its Office of the Special Rapporteur for Freedom of Expression⁴⁵ have expressed their concern in this regard.

⁴⁴ Comentarios sobre la Ley de Regulación de Agentes Extranjeros y la Ley Especial de Ciberdelitos, aprobadas recientemente por la Asamblea Nacional (Comments on the Law on the Regulation of Foreign Agents and the Special Law on Cybercrime, recently approved by the National Assembly) (OL NIC 3/2020) (Spanish only), 13 November 2020, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?glId=25691>.

⁴⁵ IACHR. The IACHR and its Office of the Special Rapporteur for Freedom of Expression express concern about new legal threats to freedom of expression and indirect measures against the media and journalists in Nicaragua, 7 October 2020, available at: <http://www.oas.org/en/iachr/expression/showarticle.asp?IID=1&artID=1187>.