



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the fourth periodic report of Nicaragua*

Constitutional and legal framework within which the Covenant is implemented (arts. 1 and 2)

1. With reference to article 46 of the Constitution, which recognizes the full applicability of the provisions of the Covenant in the domestic legal system, please provide information on cases in which these provisions have been cited or used in the country's courts. Please also explain the State party's decision to withdraw the invitation for the Office of the United Nations High Commissioner for Human Rights and regional human rights mechanisms to visit the country and monitor the human rights situation. In addition, please indicate what steps have been taken to ratify the Optional Protocol to the Covenant.
2. Please provide information on the Office of the Human Rights Advocate and indicate the measures taken by the State party in response to the recent decision of the Global Alliance of National Human Rights Institutions to downgrade the Office to B status. In particular, please explain what measures have been taken to ensure that the Office is independent and functions properly; comment on the Alliance's assertion that the Office is acting in a way that seriously compromises its compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

Non-discrimination, equal rights between men and women and violence against women (arts. 2, 3, 6, 7 and 26)

3. Please explain the measures taken to prevent and provide effective protection from violence and discrimination based on sexual orientation or gender identity, particularly in respect of transgender persons in detention, and the impact of those measures. Please also include information on: (a) the number of complaints received regarding acts of violence against lesbian, gay, bisexual or transgender persons; (b) investigations conducted and their outcomes, including the sentences handed down to perpetrators; and (c) the measures of reparation granted to victims. Please provide information on the measures taken to promote equality of opportunities and of access to services for people of African descent. Please report on the measures taken to increase the participation of the indigenous population in politics.
4. In view of the Committee's previous concluding observations (CCPR/C/NIC/CO/3, para. 12), the report for follow-up on the Committee's concluding observations (CCPR/C/104/2) and the State party's fourth periodic report (CCPR/C/NIC/4), please provide information on the steps that have been taken to combat violence against women, in particular femicide, and on the adoption in 2017 of an amendment to the Comprehensive Act to Combat Violence against Women that reduced the scope of the definition of femicide to the private sphere. Please also provide information on the measures taken to:

* Adopted by the Committee at its 127th session (14 October–8 November 2019).



- (a) Ensure that victims and their families have access to protective services, including public shelters and counselling and assistance centres;
 - (b) Develop and provide courses for police officers, prosecutors and judges on women's rights and gender-based violence;
 - (c) Prohibit all forms of compulsory mediation in cases of domestic violence;
 - (d) Ensure that all cases of violence against women are investigated, that perpetrators are prosecuted and punished, and that the victims or their family members obtain compensation.
5. Please indicate what measures the State party has adopted in response to the Committee's previous recommendations (CCPR/C/NIC/CO/3, para. 13) regarding the country's continuing total ban on abortion. Please provide information on the number of women who have been investigated and sentenced for having had abortions in the past five years, and on the current status of the legislative proposals, including constitutional reforms, to revise the ban on abortion. Please comment on reports of women being denied medical care because they are pregnant, even if there is a risk to their life.

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment (arts. 2, 6 and 7)

6. Please describe the steps that have been taken to prevent the excessive use of force by law enforcement officials, particularly during public protests. Please also comment on reports received by the Committee that armed groups aligned with the Government, including those known as shock forces or turbas (mobs), have attacked demonstrators and even carried out unlawful detentions with the acquiescence of high-level State authorities and the National Police.
7. Please comment on reports that attempts to clamp down on the protests, blockades and clashes involving the police, armed groups aligned with the Government and demonstrators that took place between April and August 2018 led to a large number of deaths. Please also provide information on recent murders and attempted murders committed between June and July 2019, mainly in Jinotega Department, and comment on reports received by the Committee that the victims had actively participated in the 2018 protests. Please indicate how many people died or were injured in incidents related to the protests, how many investigations have been conducted and how many people have been prosecuted and convicted.
8. In the light of the Committee's previous recommendations (CCPR/C/NIC/CO/3, para. 14), please comment on information received by the Committee on the practice of torture and ill-treatment at the time of arrest, during custody in police stations and in places of deprivation of liberty. In this respect, please:
- (a) Comment on reports of torture and ill-treatment in relation to the protests in the El Chipote, La Modelo and La Esperanza prisons, including the death of an inmate in La Modelo on 16 May 2019;
 - (b) Comment on information provided to the Committee on cases of sexual and gender-based violence, including groping and threats of rape, against men and women detained in relation to the protests;
 - (c) Provide information on investigations, disciplinary and criminal proceedings, convictions and measures taken to ensure redress for the victims.
9. Please provide information on the State party's laws and regulations on keeping prison records, including records of conjugal visits. Please comment on reports of unjustified and degrading visual inspections of persons detained in relation to the demonstrations. Please also comment on reports that persons arrested in relation to the protests were prohibited from wearing anything but underwear.
10. Please provide information on the use of isolation cells as a disciplinary measure, the steps taken to restrict their use to exceptional circumstances and for strictly limited periods and the measures to ensure that, if they are used, they meet adequate sanitation and hygiene standards. Please comment on information indicating that some of the persons detained in

relation to the protests were placed in solitary confinement, in some cases for months in substandard conditions, especially in the La Modelo and La Esperanza detention centres.

Treatment of persons deprived of their liberty (arts. 6, 7 and 10)

11. In the light of the Committee's previous recommendations (CCPR/C/NIC/CO/3, para. 17) and the report for follow-up on its concluding observations, please indicate what steps the State party has taken to improve conditions of detention, in accordance with article 10 of the Covenant. Please respond to allegations that conditions of detention are inadequate, especially with regard to accommodation, hygiene, sanitation, food quality and access to health care, and particularly in the La Modelo and La Esperanza detention centres.

Fair hearings, due process and efforts to combat impunity (arts. 2, 6, 7 and 14)

12. Please provide information on the independence of the Truth, Justice and Peace Commission (National Assembly resolution No. 01-2018) and comment on information received by the Committee to the effect that the Commission has taken a biased view of the events that have occurred since April 2018. Please also provide information on Act No. 996, the Amnesty Act, adopted on 8 June 2019, under which an amnesty is granted to all persons who took part in the events that occurred from 18 April 2018 to the date of the entry into force of the Act. Please comment on how the Act is compatible with the Covenant. In that regard, please provide information on the appeals brought by civil society organizations before the Supreme Court to challenge the constitutionality of the Act.

13. Please provide information on Act No. 994 on Comprehensive Care for Victims and explain how that Act or the legislation in force ensures the right of victims to effective remedies and reparation, including compensation and guarantees of non-repetition. Please also explain what is meant by the reference in the Act to the "determination to take into account the harm done to the Nicaraguan people and the other consequences they have borne as a result of the failed coup d'état attempt" and how that wording, which suggests that the victims were the perpetrators of a coup d'état, is compatible with the protection of victims' rights.

14. Please state what measures have been taken to guarantee the independence and impartiality of the justice system and the Public Prosecution Service. Please comment on reports of serious irregularities in investigations of the violations that were committed during the public protests, including in connection with data collection, fact-finding and the preservation of evidence by various State institutions. Please also provide information on the system of assigning cases to particular courts and comment on reports received by the Committee that, in practice, cases involving criminal proceedings instituted for acts of public protest are heard in a small number of courts.

15. Please indicate the extent to which the judicial guarantees laid out in article 14 of the Covenant are observed. In particular, please provide information on:

- (a) Safeguards to ensure that lawyers have access to judicial hearings, particularly hearings concerning persons arrested in relation to the protests;
- (b) Measures to ensure that all persons, including those who took part in the protests, have adequate time and facilities for the preparation of their defence and are able to communicate with counsel of their own choosing;
- (c) Measures to ensure that all detained persons, including those who took part in the protests, are informed promptly and in detail of the nature of the charges against them and the reasons for those charges;
- (d) Cases in which witnesses for the defence of persons detained in relation to the demonstrations have allegedly been subjected to threats and harassment by the State party;
- (e) Allegations that, contrary to the provisions of national legislation, public officials or police officers testify with their faces covered and do not identify themselves.

Right to liberty and security of person, rights of persons deprived of their liberty (arts. 6, 7, 9, 10, 14 and 24)

16. Please provide information on the legal safeguards that exist to ensure the right of assembly pursuant to article 21 of the Covenant. Please also indicate how many persons were detained in relation to the demonstrations in 2018 and 2019, how long those persons were held and how many of them were under 18 years of age. Please comment on information received by the Committee to the effect that many of the arrests that took place in relation to the demonstrations were carried out in order to punish the individuals who took part in those protests.

17. In the light of the Committee's previous recommendations (CCPR/C/NIC/CO/3, para. 16), please comment on complaints received by the Committee concerning: (a) cases of arrest or detention without warrants or by order of a non-competent authority, at night in people's homes, including information on which of those cases related to persons who participated in the 2018 protests; (b) cases where persons detained in relation to the demonstrations were held for weeks or months without being brought before a judge or given access to a lawyer; (c) cases where the police have not indicated why an arrest was made or where persons arrested in relation to the demonstrations have been held; and (d) cases of persons who were held in police stations, detention centres and police vehicles to prevent them from participating in the 2018 demonstrations. Please also indicate whether there is a system for keeping records of detained persons and whether such records were kept during the demonstrations. Please comment on information received by the Committee that, because of the lack of official information on the number and identity of the persons who were detained and where they were being held, many relatives of persons detained during the 2018 and 2019 demonstrations camped outside the El Chipote detention centre for days or even weeks to obtain that information.

18. Please provide information on the effectiveness of applications for habeas corpus and comment on information received by the Committee according to which, in several instances, this recourse in law was not effective to remedy cases of arbitrary detention of persons who participated in the demonstrations that took place in 2018 and 2019.

19. Please provide information on the use of pretrial detention and efforts to promote the use of alternatives to such detention. Please comment on information provided to the Committee on the heightened use of pretrial detention, including in relation to the demonstrations. Please also indicate the measures that have been taken to ensure that convicted prisoners are held separately from persons in pretrial detention and that adults are held separately from minors.

Freedom of expression and association, and arbitrary or unlawful interference with privacy (arts. 6, 7, 9, 17, 19, 21 and 22)

20. Please provide information on how Act No. 872 on the Organization, Functions, Profession and Special Social Security Regime of the National Police (2014) is applied in connection with granting licences and permits for special events or activities; please comment on reports that the Act is applied restrictively and that applications for licences and permits have been repeatedly denied, in violation of the Covenant.

21. Please provide information on the safeguards that exist to ensure the right to freedom of expression pursuant to article 19 of the Covenant. Please respond to reports that, in relation to the incidents that took place between April 2018 and August 2019, journalists, other media workers and human rights defenders were subjected to arbitrary restrictions of their freedom of expression. In particular, please provide information on the arrests of Miguel Mora and Lucía Pineda, owner/director and director, respectively, of the television station 100% Noticias, who were charged with incitement to hatred and terrorism-related offences. Please also provide information on the alleged flight from the State party of journalists – approximately 100 of them in total, according to some sources – as a result of the threats and restrictions on freedom of expression that they faced.

22. Please comment on reports that the State authorities unlawfully monitor the telephone calls and Internet content of civil society and journalists, and that media websites have been subjected to repeated cyberattacks.

23. In the light of the Committee's previous recommendations (CCPR/C/NIC/CO/3, para. 19) and the report for follow-up on the Committee's concluding observations, please provide up-to-date information on the measures that have been adopted to prevent the harassment, intimidation, threats and violent attacks to which human rights defenders have been subjected. Please comment on reports that, between 2018 and 2019, 299 human rights defenders were subjected to attacks, intimidation, defamation campaigns, illegal detention, torture and ill-treatment and that many of the victims represented civil society organizations established in connection with the sociopolitical crisis. Please also indicate the number of complaints received and criminal proceedings instituted as a result and the outcome of the proceedings; please include information on convictions of perpetrators and measures of reparation for victims.

24. In relation to the recent sociopolitical crisis and the events that took place between 2018 and 2019, please provide information on the cancellation of the legal registration of nine civil society organizations in November and December 2018 and on the legal safeguards that exist for the civil society organizations whose legal registration was thus cancelled. Please also provide information on Act No. 976 and its implementing regulations established through Executive Decree No. 14-2018, which, according to information provided to the Committee, grant the State the power to adopt discretionary and arbitrary measures that may restrict civil society organizations' access to international funds and criminalize or cancel the legal standing of such organizations as a result of the source of their funding.

25. Please describe how the offence of terrorism is defined in the Criminal Code and in Act No. 977 on Combating Money-Laundering, Terrorist Financing and the Financing of the Proliferation of Weapons of Mass Destruction. Please comment on complaints received by the Committee that charges of terrorism, as it is defined in law, have been used to punish dissident voices and journalists in violation of the Covenant, including the rights enshrined in articles 19, 21 and 22 thereof.

Rights of indigenous peoples and other minorities (arts. 2, 26 and 27)

26. In the light of the Committee's previous recommendations (CCPR/C/NIC/CO/3, para. 21), please provide information on the regulation of the consultation mechanisms or processes that are meant to ensure that the prior, free and informed consent of indigenous peoples is obtained for legislative or administrative measures that may affect them directly. Please also provide examples of consultations carried out during the period under review. In particular, please provide information on the consultation procedure for the Grand Interoceanic Canal project. In addition, please provide information on the measures taken to protect indigenous and Afrodescendent territories by implementing the saneamiento (restructuring) phase in which settlers are evicted or agreements to allow their presence are negotiated; please comment on reports that the failure to complete this phase has led to community violence in response to the invasion and large-scale settlement of territories by mestizo settlers.

27. Please provide information on the steps that have been taken to increase the representation of indigenous persons in decision-making positions. In this respect, and in view of the Committee's previous recommendations (CCPR/C/NIC/CO/3, para. 20), please also provide updated information on the measures taken to comply with the judgment of the Inter-American Court of Human Rights in the case *YATAMA v. Nicaragua*, which requires the State party to ensure that indigenous and ethnic communities in the autonomous regions can take effective part in elections with due regard for their traditions, conventions and customs.

Corruption (arts. 14 and 25)

28. Please provide information on the specific measures that have been adopted to fight corruption in politics and the judiciary; please also report on the investigation of corruption cases and the disciplinary measures and judicial penalties imposed over the past five years. Please provide information on measures taken to strengthen the Office of the Human Rights Advocate.

Participation in public affairs (art. 25)

29. Please comment on reports that the Government has control over the electoral authority and provide information on the measures that have been taken to ensure free and transparent elections. Please include information on the bodies responsible for overseeing the electoral process and ensuring that elections are fair and impartial, as well as information on the measures taken to investigate the fraudulent practices reported in past elections.
