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Situation of human rights in Nicaragua

Report of the United Nations High Commissioner for Human Rights*

Summary

The present report, submitted pursuant to Human Rights Council resolution 43/2, provides an overview of the human rights situation in Nicaragua from 1 August 2019 to 31 December 2020. It focuses on increasing restrictions of civic space and persistent impunity for human rights violations committed in relation to the 2018 protests. It also highlights the impact of the coronavirus disease (COVID-19) pandemic and hurricanes on human rights. The report includes recommendations complementing those made in the previous report of the United Nations High Commissioner for Human Rights on the situation of human rights in Nicaragua (A/HRC/42/18).

* The present report was submitted after the deadline to reflect the most recent developments.



I. Introduction

1. The present report, submitted pursuant to Human Rights Council resolution 43/2, provides an overview of the human rights situation in Nicaragua from 1 August 2019 to 31 December 2020.
2. The report is based on information collected by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Nicaragua, as well as in Costa Rica, Panama and other countries, including through in-person and remote interviews. During the reporting period, OHCHR conducted 208 interviews with victims and witnesses of human rights violations and other sources, including lawyers, journalists and health professionals (121 men and 87 women). It also held 232 meetings with a wide range of stakeholders, including the Minister for Foreign Affairs of Nicaragua, members of civil society and international community representatives. OHCHR analysed documents, videos, photographs and open-source reports from both governmental and non-governmental sources.
3. OHCHR sent 37 communications to the Ministry of Foreign Affairs of Nicaragua, requesting detailed information about allegations of human rights violations. The Government replied to 17 of them, including to a questionnaire sent by the Office with a view to preparing the High Commissioner's oral update to the Human Rights Council, presented on 27 February 2020. OHCHR took into account these replies in its analysis of the situation. Regrettably, since 12 June 2020, the Government has ceased replying to OHCHR communications. On several occasions, OHCHR continued to request access to the country and reiterated its availability to provide technical assistance, but did not receive any response.
4. In line with its monitoring methodology, OHCHR cross-checked the information gathered with different sources, evaluating its credibility by applying due diligence, and assessed the information in the light of international human rights law applicable to Nicaragua and relevant domestic legislation. The information analysed and verified by OHCHR continues to provide reasonable grounds to believe that the events documented took place and point to consistent patterns of human rights violations, as described in the present report.

II. Context

5. Almost three years have passed since the eruption of the sociopolitical and human rights crisis in April 2018. OHCHR, the Inter-American Commission on Human Rights and the Interdisciplinary Group of Independent Experts¹ documented multiple forms of repression and violence that left over 300 people killed and 2,000 injured in the context of protests, while at least 1,614 people were arbitrarily deprived of their liberty.² Over 100,000 Nicaraguans have since sought asylum in third countries, including about 25,000 during the reporting period.³ The crisis has taken on economic and humanitarian dimensions, exacerbated by the coronavirus disease (COVID-19) pandemic and, in November 2020, by hurricanes.
6. Fundamentally, the persistence of the crisis remains rooted in the fragility of institutions and the rule of law, which have been progressively eroded over the years while

¹ Established through an agreement between the General Secretariat of the Organization of American States, the Inter-American Commission on Human Rights and the Government of Nicaragua, the Interdisciplinary Group of Independent Experts started its work in July 2018.

² Number of arbitrary detentions documented by the Inter-American Commission on Human Rights from April 2018 and December 2019 available at www.oas.org/es/cidh/informes/pdfs/Nicaragua-PPL-es.pdf.

³ Office of the United Nations High Commissioner for Refugees, based on data provided by Governments. See www.oacnudh.org/wp-content/uploads/2020/02/Nicaragua-Bimonthly-Bulletin-N14-December2019-January2020.pdf and www.unhcr.org/news/briefing/2020/3/5e6759934/years-political-social-crisis-nicaragua-force-100000-flee.html#_ga=2.265339407.1047830798.1608001082-545631427.1608001082.

human rights violations perpetrated in 2018 remain unpunished and civic space has been further restricted.

7. The dialogue between the Government and the opposition has been stalled since May 2019, impeding further progress in the implementation of the agreements reached in March of that year, notably on the release of persons deprived of their liberty and the strengthening of citizens' rights and safeguards.⁴

8. On 13 July 2020, the Supreme Electoral Council established the date for the presidential elections (7 November 2021) and extended the period for legal registration of political parties to June 2021. By December 2020, the authorities had not taken any steps to initiate reforms aimed at guaranteeing free, fair and transparent elections. In September 2020, part of the opposition launched a joint proposal for reforms.

9. As at 16 November, the Ministry of Health had recorded 5,661 COVID-19 cases and 158 deaths.⁵ However, a civil society observatory on COVID-19 reported that the number of suspected cases and deaths far exceeded official figures.⁶ The Pan American Health Organization (PAHO) called on the Government to disclose transparent information on the number of cases and deaths and tests undertaken, among other data. The impact of the pandemic on the economies of Central American countries led Nicaraguan migrant workers and asylum seekers to return to Nicaragua. As of 26 November, 71,702 Nicaraguans (43,950 men and 27,752 women) had thus returned from different countries in the region, mainly from Panama.⁷

10. Moreover, according to official estimates, as of November 2020, Hurricanes Eta and Iota had left at least 21 people dead and 160,597 persons displaced while causing \$738.6 million in structural damage and economic losses (6.2 per cent of gross domestic product (GDP)).⁸

11. Canada, Switzerland, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the European Union adopted targeted financial sanctions against individuals, the National Police and public and private companies allegedly responsible for human rights violations or acts of corruption. On 17 September 2020, the Government reiterated its call to lift those sanctions, arguing that they hampered the eradication of poverty and sustainable development, especially in the context of the COVID-19 pandemic.⁹

12. On 9 March 2020, Nicaragua ratified the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement),¹⁰ the first environmental treaty adopted in the Latin America and Caribbean region, which ensures the rights to information, participation and

⁴ Agreements available at www.alianzacivicanicaragua.com/acuerdo-para-la-facilitacion-del-proceso-de-liberacion-de-personas-privadas-de-libertad-de-conformidad-al-ordenamiento-juridico-del-pais-y-las-respectivas-obligaciones-internacionales-de-nicaragua-en and www.alianzacivicanicaragua.com/es/acuerdo-para-fortalecer-los-derechos-y-garantias-ciudadanas.

⁵ Available at www.imf.org/en/Publications/CR/Issues/2020/11/20/Nicaragua-Requests-for-Purchase-under-the-Rapid-Financing-Instrument-and-Disbursement-under-49908.

⁶ As of 18 November 2020, the Citizens' Observatory counted 11,251 suspected cases and 2,796 deaths from pneumonia and suspected COVID-19.

⁷ Available at www.migob.gob.ni/158-hermans-nicaraguense-procedentes-de-panama-regresaron-al-pais.

⁸ Available at www.el19digital.com/articulos/ver/titulo:110247-presentacion-preliminar-cuantificacion-de-danos-perdidas-y-necesidades-post-huracanes.

⁹ Speech delivered by the Minister for Foreign Affairs on 17 September 2020 at the high-level meeting to commemorate the seventy-fifth anniversary of the United Nations, available at www.el19digital.com/articulos/ver/titulo:107548-mensaje-del-gobierno-de-nicaragua-en-la-reunion-de-alto-nivel-conmemorando-el-75-aniversario-de-las-naciones-unidas.

¹⁰ The Agreement was adopted on 4 March 2018 and will enter into force on 22 April 2021, 90 days after the deposit of the eleventh instrument of ratification. Available at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-18&chapter=27&clang=_en.

access to justice in relation to environmental governance, including strong protection for indigenous peoples and environmental human rights defenders.¹¹

III. Violations of the rights to freedoms of peaceful assembly and association and situation of human rights defenders

13. On 27 February 2020, in the context of the High Commissioner's oral update to the Human Rights Council on Nicaragua, a representative of Nicaragua stated that free mobilization and political expression were guaranteed for those who expressed themselves in peace and with no intention of disturbing the tranquility of the population.¹²

14. OHCHR observed, however, the persistence of bans on public demonstrations organized by any group critical of the Government, grounded on a restrictive interpretation of Law 872 on the National Police, which makes public events subject to the authorization of the National Police.¹³

15. Despite these restrictions, OHCHR noted that there had been attempts to stage protests in public spaces to demand the release of detainees or to commemorate those killed during the 2018 protests. Such attempts were systematically prevented by numerous police deployments or quelled by police officers and riot police, who often resorted to brief arrests. OHCHR registered at least six instances in which law enforcement officers had made disproportionate use of force against demonstrators and journalists. It also registered at least 11 incidents in which armed individuals or mobs (*turbas*), in some cases wearing the colors of the ruling party, had attacked or threatened persons perceived as opponents, while the police often remained passive. Police officers and pro-Government elements also obstructed, sometimes violently, gatherings of the opposition and of victims' relatives in Catholic churches. In this context, some members of the clergy were affected by the violence on 18 November 2019, when dozens of Government supporters intimidated and attacked a priest and a nun, along with a group of relatives of persons who had been detained in the context of the crisis, who had been staging a hunger strike protest in the cathedral of Managua.

16. The Government affirms that there have been no attacks or acts of intimidation against human rights defenders, community leaders, journalists and media workers, or against any person critical of the Government, and that their work is protected.¹⁴ However, in late 2019 and throughout 2020, OHCHR documented 83 cases of persecution, harassment and threats against such civil society actors, particularly students, peasants and human rights defenders, including members of victims' and women's organizations. These included at least four women and three men who were reportedly subjected to reprisals or intimidation owing to their cooperation with the United Nations in the field of human rights.¹⁵

17. Intimidating messages through social networks and graffiti on the walls of the offices and homes of human rights defenders and opposition supporters continued. OHCHR also documented various actions of intimidation and harassment by the police, such as the selective stopping and searching of vehicles, police checkpoints and surveillance by police patrol vehicles around the premises of civil society organizations or the homes of activists. For instance, the Permanent Commission for Human Rights reported the presence of police patrols outside its premises at least 10 times between September 2019 and October 2020. A political opponent released in June 2019 after spending nine months in prison reported a police presence outside his house in Managua on 168 occasions between October 2019 and November 2020. In some cases, police also prevented people from leaving their homes for several hours, reportedly to prevent them from staging public protests. On 8 March 2020,

¹¹ United Nations Experts statement, 9 November 2020, available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26488&LangID=E

¹² Available at www.el19digital.com/articulos/ver/titulo:100579-intervencion-de-nicaragua-ante-el-consejo-de-derechos-humanos-de-naciones-unidas.

¹³ Law 872 on the organization, functions, career and special social security regime of the National Police, 26 June 2014, article 7 (1).

¹⁴ Communication sent by the Government of Nicaragua to OHCHR on 28 January 2020.

¹⁵ A/HRC/45/36, paras. 94–96.

International Women's Day, riot police prevented a group of mostly women activists from rallying outside of the premises of a women's organization.

18. At the time of writing, nine civil society organizations continued to be deprived of their legal registration¹⁶ for alleged administrative omissions or activities contrary to their statutory purposes, including providing support to "terrorist actions" in relation to the 2018 events. Their assets had been liquidated and disposed of by the Government. Some legal representatives of these organizations remained in exile. Six of the nine organizations had challenged the withdrawal of their legal registration before the Supreme Court of Justice, whose decision remained pending as of December 2020. On 25 June 2020, the legal registration of the Asociación de Hermanamiento Municipal of Camoapa had also been cancelled in an expedited manner, and without guaranteeing due process.

19. On 15 October 2020, Law 1040 on the Regulation of Foreign Agents was adopted, to prevent interference by foreign Governments, organizations or individuals in the internal and external affairs of Nicaragua. The law foresees the cancellation of the legal registration of organizations obtaining foreign funds to conduct activities interfering in the internal affairs of Nicaragua, threatening its independence, self-determination, sovereignty and economic and political stability. This broad formulation could be used to dismantle any organization deemed critical of the Government. Other aspects of the law, including the mandatory registration of organizations and individuals¹⁷ with the Ministry of the Interior to obtain foreign funds, the prohibition of anonymous donations and the duty to inform authorities in detail about all funds obtained, contravene international human rights standards.¹⁸

20. OHCHR expressed concern about the above-mentioned law¹⁹ and offered technical assistance to ensure its alignment with international human rights norms and standards, to no avail. The Inter-American Commission on Human Rights,²⁰ the European Union²¹ and four special procedure mandate holders²² also expressed concern about the Law. On 13 November 2020, the latter, along with the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, addressed a joint communication to the Government expressing that the Law presented serious and fundamental problems of compatibility with the obligations of Nicaragua under international law and urged the Government to review it and open public space to discuss its content.²³

IV. Restrictions on the right to freedom of expression

21. In September 2019, during the forty-second session of the Human Rights Council, the Government indicated that in Nicaragua there was full freedom of expression and association and that journalists carried out their work without censorship or restriction.²⁴ Notwithstanding,

¹⁶ A/HRC/42/18, para. 20.

¹⁷ Article 3.2 of Law 1040 defines a foreign agent as "an individual or legal entity, Nicaraguan or of another nationality, that within Nicaragua receives funds, goods or any object of value coming directly or indirectly from individuals, Governments, agencies, foundations, companies or foreign associations of any type or nature that works, receives funds from or responds to bodies that belong to or are controlled directly or indirectly by individuals, Governments or foreign entities, except for the exceptions provided by this law".

¹⁸ A/HRC/23/39 and A/70/266.

¹⁹ Available at www.oacnudh.org/oacnudh-expresa-su-preocupacion-sobre-la-aprobacion-de-la-ley-de-regulacion-de-agentes-extranjeros.

²⁰ See www.oas.org/es/cidh/MESENI/Boletines/BOLETIN-MESENI-2020_10.pdf.

²¹ European Parliament resolution of 8 October 2020 on the 'Foreign Agents' Law in Nicaragua (2020/2814(RSP)), available at www.europarl.europa.eu/doceo/document/TA-9-2020-0259_EN.html.

²² The Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression, on the right to freedom of peaceful assembly and of association, on the situation of human rights defenders, and on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

²³ Available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25691>.

²⁴ See [http://webtv.un.org/search/enhanced-id-human-rights-in-nicaragua-4th-meeting-42nd-regular-session-human-rights-council-/6084897806001/?term=nicaragua&sort=date&page=9#player\(24:03\)](http://webtv.un.org/search/enhanced-id-human-rights-in-nicaragua-4th-meeting-42nd-regular-session-human-rights-council-/6084897806001/?term=nicaragua&sort=date&page=9#player(24:03)).

campaigns of intimidation and delegitimization of the media continued, with independent media workers labelled as “enemies of the homeland”. The authorities did not take measures to prevent, investigate, prosecute or sanction acts of harassment or intimidation against media workers. OHCHR registered 30 cases of intimidation, threats, criminalization and smear campaigns against journalists or media workers and four instances of media outlets having been subjected to raids, destruction of equipment and administrative sanctions for criticizing the Government. Furthermore, in September 2019, three media outlets, including the newspaper with the second largest circulation, *El Nuevo Diario*, shut down their operations, reportedly for economic, technical and logistical reasons. This situation continues to inhibit the exercise of the right to freedom of expression.

22. On 26 August 2019, four special procedure mandate holders of the Human Rights Council and the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights stated that there were indications of ongoing systematic repression of the media, with journalists being silenced, assaulted and threatened with death.²⁵ In an opinion adopted on 20 July 2020, the Working Group on Arbitrary Detention concluded that Miguel Mora and Lucía Pineda, journalists working for *100% Noticias*, an independent television station, who had been detained from 21 December 2018 to 11 June 2019,²⁶ had been subjected to arbitrary detention and that their rights to liberty, freedom of expression and guarantees of due process had been violated.²⁷ Their media outlet remains seized, considered by the authorities as “an instrument to commit crimes”.²⁸

23. In some cases, authorities publicly blamed those who questioned the State response to the COVID-19 pandemic, stigmatizing them as traitors, terrorists or coup plotters.²⁹ In a document (*libro blanco*) released on 25 May 2020, the Government accused the opposition of plotting a coup and waging a massive disinformation campaign in the context of the pandemic.³⁰ OHCHR registered the dismissal, without respect for the applicable legal procedures, of at least 16 medical doctors (8 men and 8 women) who had criticized the State response to the COVID-19 pandemic.

24. OHCHR is further concerned by Special Law 1042 on Cybercrimes, adopted by the National Assembly on 27 October 2020 to prevent, investigate, prosecute and sanction crimes committed through information and communication technologies. In a joint communication to Nicaragua, four special procedure mandate holders of the Human Rights Council and the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights stated that, although under international law States had an obligation to prohibit by law any advocacy of hatred that constituted incitement to discrimination, hostility or violence, the Special Law went far beyond that type of prohibition and provided for the use of criminal law to sanction acts that could fall within the exercise of freedom of expression.³¹

25. Moreover, the proposal launched by the President of Nicaragua³² to reform article 37 of the Constitution to punish hate-motivated crimes with life imprisonment, instead of the current maximum prison sentence of 30 years, raises concerns. Taking into account the patterns recorded since the 2018 protests, there is a risk that this could be used to selectively

²⁵ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24920&LangID=E.

²⁶ A/HRC/42/18, para. 18.

²⁷ A/HRC/WGAD/2020/17.

²⁸ Communication sent by the Government of Nicaragua to OHCHR on 28 January 2020.

²⁹ Available at www.el19digital.com/articulos/ver/titulo:103397-companera-rosario-murillo-en-multinoticias-15-05-20.

³⁰ Available at www.el19digital.com/app/webroot/tinymce/source/2020/00-Mayo/25%20MAYO/AL%20PUEBLO%20DE%20NICARAGUA%20Y%20AL%20MUNDO-%20INFORME%20SOBRE%20EL%20COVID-19.pdf.

³¹ Available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25691>.

³² Available at www.el19digital.com/articulos/ver/titulo:107322-declaracion-de-la-presidencia-de-la-republica-sobre-cadena-perpetua-para-castigar-crimes-atroces.

repress dissenting voices. On 10 November 2020, the National Assembly approved the proposal in a first session; its adoption is foreseen early in 2021.³³

V. Right to participation

26. In her 2019 report to the Human Rights Council and three subsequent oral updates presented in 2020, the High Commissioner recommended that Nicaragua promptly ensure the implementation of electoral and institutional reforms, aimed at guaranteeing fair and transparent elections.³⁴ Despite the Government's announcement that it would include some electoral reforms in the 2020 legislative agenda,³⁵ this has not happened. On 21 October 2020, the General Assembly of the Organization of American States approved resolution 2962 (L-O/20), in which it urged Nicaragua to commit to such reforms to ensure free, fair, competitive, observed and legitimate elections no later than in May 2021.³⁶

27. The outbreak of COVID-19 forced the opposition to reduce the number of political meetings, which, however, increased in recent months in view of the 2021 elections. Since 1 September 2020, OHCHR registered that 15 opposition supporters had been arbitrarily detained and released within 24 hours. OHCHR also identified 34 instances in which police officers or pro-Government elements had harassed or intimidated people taking part in rallies or other political activities. These included three political leaders whose vehicles had been stopped by police and prevented from reaching the venue of scheduled political events.

28. On 11 October 2020, pro-Government elements threw rocks at participants in a meeting of the National Coalition in Masaya.³⁷ The co-founder of *100% Noticias*, who was at the meeting, was hit on the head with a rock and had to be hospitalized.³⁸ On 1 November 2020, the police abruptly interrupted a similar activity, telling participants that they had five minutes to finish their meeting and clear the building.³⁹

29. On 21 December 2020, the National Assembly passed Law 1055 on the Defence of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace. The law, inter alia, prohibits anyone who "undermines independence, sovereignty and self-determination" or "demands, praises and applauds the imposition of sanctions against Nicaragua and its citizens, or damages the supreme interests of the nation" from standing as a candidate for elected positions. As in the case of Laws 1040 and 1042 adopted in October 2020, Law 1055 sets restrictions incompatible with international human rights standards that may affect the exercise of the rights to political participation and to freedom of expression. In particular, its provisions contain very broad definitions that give leeway to efforts to prevent opposition candidates from participating in the November 2021 elections.

VI. Violations of the right to life

30. At the time of writing, impunity persists for over 300 killings registered by OHCHR in the context of the 2018 protests. No investigations have been carried out since the approval in June 2019 of the Amnesty Law, which granted broad amnesty for all persons who

³³ Constitutional amendments have to be adopted in two separate legislative sessions. On 10 November 2020, the National Assembly approved by large majority a reform law establishing life imprisonment for serious hate-motivated crimes of such a nature as to cause public outrage.

³⁴ A/HRC/42/18, para. 65 (h).

³⁵ Communication sent by the Government of Nicaragua to OHCHR on 28 January 2020.

³⁶ Available at <http://scm.oas.org/IDMS/Redirectpage.aspx?class=AG/doc.&classNum=5717&lang=e>, pp. 183–185.

³⁷ On 25 February 2020, various organizations funded after the eruption of protests in 2018 and political parties launched a wide-range coalition in view of the forthcoming elections.

³⁸ See <https://100noticias.com.ni/nacionales/103280-paramilitares-agreden-hieren-veronica-chavez>.

³⁹ See <https://ipnicaragua.com/se-me-salen-ya-les-doy-cinco-minutos-asi-amenazo-la-policia-a-opositores-este-domingo>.

participated in the events that occurred between 18 April 2018 and 10 June 2019, without exception.⁴⁰

31. Between January 2019 and October 2020, OHCHR registered 13 homicides and an attempted homicide in the North Caribbean Coast Autonomous Region and in the Departments of Jinotega and Nueva Segovia. Most of the victims could be identified as opponents (including peasants, members of opposition parties and a former detainee), although the motives for the killings and other circumstances surrounding them could not be thoroughly corroborated. Authorities reported having clarified four cases and sentenced one person.⁴¹

32. On 19 July 2020, alleged pro-Government elements attacked and shot a man in the neck, killing him, in La Trinidad (Estelí Department), reportedly for having shouted “Viva Nicaragua libre” (“Long live free Nicaragua”). The perpetrator was held in police custody and sentenced to one year of imprisonment, which was suspended for a period of one year’s probation.

VII. Violence against women and girls

33. While Nicaragua has made progress in relation to gender equality, particularly with regard to political representation and by creating the Ministry of Women in 2013, specific information on the achievements and challenges faced in the implementation of its policies is not available.

34. During the reporting period, violence against women increased, including in the context of COVID-19 and of the humanitarian situation following Hurricanes Eta and Iota. While official data indicated that there were 11 femicides between 1 February and 7 August 2020, civil society organizations reported an increase in femicides, with the North Caribbean Coast Autonomous Region and Managua being the areas with the highest number of cases. Non-governmental sources had registered 71 femicides as of 31 December 2020, including of 11 minors, compared with 63 during the same period in 2019. In addition, they registered 115 femicide attempts, compared with 72 in the same period in 2019. Women’s organizations have set up hotlines during the pandemic, as victims have at times been reluctant to file complaints with the police.

35. According to the same sources, during 2019 and 2020, respectively, only 4 and 12 perpetrators of femicides were convicted. This could be partly related to the implementation of a 2014 decree regulating Law 779 of 2012 on the Prevention of Violence against Women,⁴² which limits the definition of femicide to the killing of women in the context of relationships.⁴³ Civil society organizations also reported deficiencies within the judiciary, including sexist stereotyping by some of its members, as well as a lack of investigation into the history of violence and abuse suffered by victims of femicides. Moreover, the decree regulating Law 779 introduced mediation between the victim and the aggressor, which heightens the risk of impunity while exposing the victims to revictimization and reprisals.

36. According to civil society organizations, since April 2018 online violence against women has increased by 73.1 per cent, including by exposing their personal lives or threatening them with rape or public humiliation.⁴⁴

⁴⁰ Article 1 of the Amnesty Law provides, inter alia, that extensive amnesty shall be granted to all persons who participated in the events that occurred throughout the country between 18 April 2018 and the date of entry into force of the Law and that, by virtue of the Law, the competent authorities shall cancel the criminal records of all persons benefiting from the amnesty.

⁴¹ Communication sent by the Government of Nicaragua to OHCHR on 28 January 2020.

⁴² Specifically, its article 9; see also reforms to Law No. 641 on the Criminal Code.

⁴³ Decree No. 42-2014, art. 2.

⁴⁴ Available at <https://confidencial.com.ni/the-nicaragua-crisis-means-increased-violence-against-women>.

37. Nicaragua has one of the highest rates of underage pregnancy in the region.⁴⁵ Although no updated official information is publicly available, OHCHR received credible information that the number of young mothers between the ages of 10 and 14 continued to increase. Moreover, the total ban on abortion leaves women and girls, including victims of sexual violence, at risk and obliges girls to become mothers.

VIII. Arbitrary detentions and violations of the rights of persons deprived of their liberty

38. OHCHR continued to observe cases of arbitrary detention, especially targeting people perceived as opponents of the Government. Between 1 August 2019 and 30 November 2020, civil society organizations registered 586 cases, 51 of which OHCHR was able to document. Most of those arbitrary detentions consisted of brief arrests by police for between a few hours and two days. The victims were not informed about any charge against them and were released without being brought before a judge. Most of them reported having been subjected to threats against them and their families while in custody, usually in a police station, and some reported physical and psychological ill-treatment.

39. OHCHR also documented longer detentions, as in the case of 16 persons (9 men and 7 women) known as the “*aguadores*”, who were arrested on allegedly fabricated charges on 14 November 2019 after delivering water to the hunger strikers at the Church of San Miguel, in Masaya. They were prosecuted and eventually released under alternative measures to detention on 30 December 2019, along with 74 men and 1 woman who had also been detained in the context of the sociopolitical and human rights crisis.

40. Between June 2019 and October 2020, the Working Group on Arbitrary Detention issued six decisions in which it concluded that 21 persons (13 men and 8 women) had been arbitrarily detained by law enforcement officers since August 2018, with similar patterns of lack of due process; 17 of those persons (10 men and 7 women) had been arrested after September 2019.⁴⁶ They had been placed in pretrial detention and not allowed access to lawyers of their choice or to their criminal case files. Some of the detainees were reportedly interrogated under pressure, experiencing threats and even physical violence. Others were prosecuted in territorial jurisdictions other than those where the alleged crimes had been committed.

41. As of 7 December 2020, civil society organizations reported that 110 persons (106 men and 4 women)⁴⁷ were still detained on political grounds, including 30 who had been reimprisoned. These figures represent a 10 per cent decrease in comparison with those registered in July 2019 by the same sources. The Government has denied any political motive, stating that all those detained in the context of “violent incidents that occurred since 18 April 2018” had been released as of 11 June 2019.⁴⁸ Most of those who remain in detention, including 13 since 2018, have been charged or convicted for common crimes, such as drug trafficking or the illicit manufacture, trafficking, possession or use of weapons or explosives. All of these persons took part in the 2018 protests, however, and OHCHR collected credible reports indicating that, in most of these cases, detention procedures had not been followed and due process guarantees had not been respected.

42. Moreover, OHCHR has received allegations of lack of timely and adequate medical care, as well as torture and ill-treatment, affecting some of the 110 detainees mentioned above. The Government continued to deny such allegations and, in some cases, provided

⁴⁵ According to civil society organizations, 24 per cent of pregnancies reported in 2019 were among minors.

⁴⁶ A/HRC/WGAD/2019/16, A/HRC/WGAD/2019/19, A/HRC/WGAD/2019/43, A/HRC/WGAD/2020/17, A/HRC/WGAD/2020/21 and A/HRC/WGAD/2020/39.

⁴⁷ After the Ministry of the Interior on 21 December 2020 granted three men and one woman included in this group alternative measures to detention, 106 people (103 men and 3 women) continued to be deprived of their liberty.

⁴⁸ According to official sources, between 27 February and 11 June 2019, the Government released at least 492 people (452 men and 40 women).

medical reports and photos to document the good health and well-being of these inmates. Regrettably, national and international human rights organizations are still not allowed to independently assess the conditions of detainees. OHCHR also documented that at least two transgender women had been detained in the same cells as male detainees, since penitentiary legislation does not recognize transgender persons in accordance with their gender identity.

43. Some relatives of the detainees, especially women, reported having been subjected to strip searches and undue pressure during prison visits, compelled to sign statements about the well-being of their relatives or forced to commit not to disclose false information on their condition. On 2 November 2020, the Inter-American Commission on Human Rights, in its resolution 82/2020, granted precautionary measures in favour of 37 men and 4 women deprived of their liberty in relation to the 2018 protests who reported symptoms consistent with COVID-19, in addition to other latent health problems, which in some cases had been exacerbated by conditions in detention.⁴⁹

44. According to official sources, as of 1 April 2020, the overcrowding rate in Nicaraguan prisons was 30 per cent. The Government indicated that the National Police and the national penitentiary system had put in place plans related to prevention, mitigation and treatment of COVID-19 in police stations and penitentiary centres.⁵⁰ Since 1 August 2019, the Government has reduced prison overcrowding by granting alternative measures to detention to more than 11,400 individuals, around half of them in the context of COVID-19.⁵¹

IX. Rights of victims of gross human rights violations and measures to grant reparations and achieve reconciliation

45. Authorities – did not show a willingness to amend Laws 985, 994 and 996,⁵² adopted in 2019, which prevent victims of gross human rights violations from exercising their rights to remedy and reparation. On several occasions, the Government underscored that the Amnesty Law precluded investigations into the events that had occurred between 18 April 2018 and 10 June 2019. The Law was also used to close a criminal investigation into the killing of an inmate during a protest in La Modelo prison in May 2019.⁵³ OHCHR reiterates that amnesties are impermissible under international law when they prevent the prosecution of persons responsible for gross human rights violations or preclude the rights of victims to truth, justice, reparation or guarantees of non-recurrence.⁵⁴

46. OHCHR did not receive detailed information on programmes and measures implemented within the framework of Laws 985 and 994. The Government generically referred to⁵⁵ “intensive actions” by the national human rights institution, namely, the Office of the Human Rights Advocate (Procuraduría para la Defensa de los Derechos Humanos), which had reportedly paid visits, together with officers from the Ministries of Health and of Family, Youth and Children’s Affairs, to “all the victims”.

47. Since the outset of the 2018 protests, State authorities have not acknowledged the occurrence of any of the human rights violations that have been widely documented by regional and international institutions, and by national non-governmental organizations. As previously noted, the official narrative of the attempted “coup d’état” often labelled those who had taken part in the protests as traitors, terrorists or coup plotters.

⁴⁹ See www.oas.org/es/cidh/prensa/comunicados/2020/266.asp.

⁵⁰ Communication sent by the Government of Nicaragua to OHCHR on 3 April 2020.

⁵¹ Press releases published by the Ministry of the Interior on its official webpage: www.migob.gob.ni/noticias.

⁵² Law 985 on a Culture of Dialogue, Reconciliation, Security, Labour and Peace and Law 994 on Comprehensive Care for Victims adopted on 24 January and 29 May 2019, respectively, and Law 996 (Amnesty Law) adopted on 8 June 2019. See A/HRC/42/18, paras. 49 and 51.

⁵³ A/HRC/42/18, para. 47.

⁵⁴ OHCHR, *Rule-of-Law Tools for Post-Conflict States: Amnesties* (New York and Geneva, United Nations, 2009), sect. II.A.

⁵⁵ Communication sent by the Government of Nicaragua to OHCHR on 28 January 2020.

48. On 30 September 2019 in Managua, the April Mothers' Association inaugurated a museum of memory intended to "claim, remember and dignify" 71 victims of the more than 300 people killed in the context of the 2018 protests.⁵⁶ Following this initiative, the Association denounced intensified harassment and intimidation of its members, most of whom are women, by the police and pro-Government elements in Carazo, Ticuantepe, León, Estelí and Managua. Members of the Association reported that their houses were under constant surveillance and that they were prevented from holding religious services in memory of their loved ones. On 29 October and 1 November 2019, respectively, the graves of relatives of two members of the association were vandalized and marked with political insults.

X. Indigenous peoples and people of African descent

49. In Nicaragua, 31 per cent of the national territory is home to indigenous peoples and people of African descent. In 2003, Law 445 was adopted, recognizing more than 37,842 km² of collective land tenure,⁵⁷ including 23 indigenous territories inhabited by 304 communities. These communities face challenges, however, owing to recurrent invasions and violent attacks by settlers (*colonos*). When these communities lose their lands, they also face hunger and disease.⁵⁸

50. Between October 2019 and January 2020, the National Police registered 20 homicides (19 men and 1 woman), two disappearances and two persons injured in connection with property conflicts between community members and third parties in the North Caribbean Coast Autonomous Region.⁵⁹ In 2020, OHCHR documented the killing of 10 indigenous men while 6 men and 1 girl were injured in four incidents allegedly linked to land disputes in that same Region. In early 2020, the authorities informed OHCHR that they had conducted investigations and identified the alleged perpetrators of some of those incidents.⁶⁰

51. Judicial authorities and the national human rights institution reportedly conducted investigations into the incidents in the North Caribbean Coast Autonomous Region, including into the attack against the Mayangna community of Alal in the Sauni As territory, within the Bosawás Biosphere Preserve, on 29 January 2020. An ad hoc national commission is also following these cases. After these incidents, the Supreme Court of Justice created an inter-institutional commission to prosecute all cases involving violation of the rights of indigenous peoples to land and territories.⁶¹

52. Since May 2020, OHCHR has not received any information on progress in or the outcome of these investigations, including with regard to reports of the alleged collusion of settlers with local authorities or protection measures by public institutions to prevent indigenous peoples and persons of African descent from receiving further threats in their territories.

53. OHCHR has been informed about the imposition by State authorities of indigenous authorities and authorities of African descent other than those elected by communities in accordance with their own procedures. These "parallel governments" reportedly impose decisions on local indigenous authorities and authorities of African descent without duly respecting free, prior and informed consent.

⁵⁶ See www.museodelamemorianicaragua.org/sobre-el-museo.

⁵⁷ A/HRC/42/G/2, para. 54.

⁵⁸ Center for Justice and International Law, *Miskitu Resistance: A Fight for Territory and Life* (San José, 2019), sect. 3.B. Available at <https://cejil.org/es/informe-resistencia-miskitu-una-lucha-territorio-y-vida>.

⁵⁹ Communication sent by the Government of Nicaragua to OHCHR on 10 February 2020. The incidents occurred in Triángulo Minero, Prinzapolka and Mulukuku.

⁶⁰ *Ibid.* Authorities also reported that, in December 2019, approximately 240 non-indigenous families were evicted from the Sauni As Territory owing to non-compliance with procedures for leasing communal lands.

⁶¹ Communication sent by the Government of Nicaragua to OHCHR on 7 May 2020.

XI. Impact of the multidimensional crisis on economic, social and cultural rights

54. Nicaragua is one of the poorest countries in Latin America, with 47.1 per cent of the population living in poverty and 18 per cent in extreme poverty in 2019.⁶² However, in the past decade the country achieved significant results in reducing poverty and child mortality, and in fulfilling the right to adequate food, among others.⁶³ This progress is also threatened by the COVID-19 pandemic, which has considerably reduced the availability of resources to fulfil economic and social rights. After a 4.6 per cent growth rate in 2017, GDP shrank by 4.0 per cent in 2018 and 3.9 per cent in 2019. With regard to 2020, the Central Bank of Nicaragua recently projected a contraction of between 1.5 and 2.5 per cent, which represents an improvement in comparison with the contraction of 4.5 per cent initially estimated.⁶⁴ However, according to regional projections, the impact of the pandemic may have increased poverty and extreme poverty to 52.7 per cent and 22.8 per cent, respectively, in 2020, above the regional averages.⁶⁵ Therefore, COVID-19 has further affected a two-year economic contraction triggered in 2018, as social unrest generated job losses, a fall in consumer and business confidence and a decline in tourism and construction, two of the main economic sectors in Nicaragua.⁶⁶

55. Official data indicate that the unemployment rate reached 5.4 per cent in the second quarter of 2020 (5.7 per cent among men and 5.0 per cent among women). During the same period, the inactivity rate reached 33.5 per cent (21.4 per cent among men and 44.3 per cent among women), the highest in five years and an increase of 4.0 per cent compared with the same quarter in 2019.⁶⁷ This is also reflected by the loss of around 180,000 workers affiliated to the Nicaraguan Social Security Institute between 2017 and 2019, and over 21,000 during 2020.⁶⁸

56. The Government managed to contain the impacts of the shocks to the fiscal and financial sector in 2018 and 2019.⁶⁹ It maintained social spending as a budget priority, particularly spending on health and education, as well as measures to combat poverty, through the national human development plan⁷⁰ and specific programmes, such as the Zero Usury, Zero Hunger and Solidarity Bonus programmes, as well as free access to education.⁷¹ In addition, the Government has increased social spending, including on health, education, housing and social protection, in the 2021 budget to 57.1 per cent of total expenditure, a 1.5 per cent increase from 2020.⁷²

57. The Government requested the support of multilateral institutions to respond to the health and economic crisis. In July 2020, the Inter-American Development Bank approved a \$43 million project to contain and control the virus and mitigate its effects.⁷³ In November 2020, the International Monetary Fund approved financing to address the balance of

⁶² See https://repositorio.cepal.org/bitstream/handle/11362/45784/4/S2000470_en.pdf, table 4.

⁶³ A/HRC/42/18, para. 54.

⁶⁴ Statement made by the president of the Central Bank of Nicaragua on 17 December 2020.

⁶⁵ https://repositorio.cepal.org/bitstream/handle/11362/45784/4/S2000470_en.pdf, table 4.

⁶⁶ See www.worldbank.org/en/country/nicaragua/overview and www.imf.org/en/News/Articles/2019/11/20/mcs112019-nicaragua-staff-concluding-statement-of-the-2019-article-iv-mission.

⁶⁷ See www.inide.gob.ni/docs/Ech/2doTrim2020/Publicación%20ECH%20II%20Trimestre%202020.pdf.

⁶⁸ See www.bcn.gob.ni/estadisticas/sector_real/mercado_laboral/3-1.htm.

⁶⁹ See www.imf.org/en/News/Articles/2019/11/20/mcs112019-nicaragua-staff-concluding-statement-of-the-2019-article-iv-mission.

⁷⁰ See www.el19digital.com/app/webroot/tinyMCE/source/2018/00-Enero/Del22al28Enero/Viernes26Enero/EJES%20DEL%20PROGRAMA%20NACIONAL%20DE%20DESARROLLO%20HUMANO.pdf.

⁷¹ Communication sent by the Government of Nicaragua to OHCHR on 28 January 2020.

⁷² See www.hacienda.gob.ni/hacienda/ppresupuesto2021/pgr/1.ExposicionMotivos.pdf and www.hacienda.gob.ni/hacienda/ppresupuesto2020/pgr/1.ExposicionMotivos.pdf.

⁷³ Inter-American Development Bank project No. NI-L1161, available at www.iadb.org/en/project/NI-L1161.

payments in the amount of \$185.32 million,⁷⁴ which will be used for health-related and social spending. The Government has committed to following standards for fiscal transparency, mitigating risks of corruption and ensuring that emergency spending reaches the most vulnerable.⁷⁵

58. On 31 March 2020, the Minister of Health reported the first five cases of COVID-19 in Nicaragua. At the end of March, the Government indicated that education brigades had visited more than 1.3 million households, including those of indigenous peoples and persons of African descent, to raise awareness of preventive health and to detect cases, highlighting that the State provided universal health coverage to all Nicaraguans.⁷⁶ The participation of Nicaragua in actions undertaken by the Central American Integration System contributed to the adoption in March of the “Central America united against the coronavirus” declaration and the regional contingency plan against the coronavirus.

59. Nevertheless, some of the Government’s measures did not comply with the recommendations made by the World Health Organization and PAHO, especially regarding physical distancing and gatherings of people.⁷⁷ Throughout 2020, OHCHR noted a need for greater transparency in the dissemination of official information about the impact of COVID-19 in Nicaragua.

60. Health workers released three public statements⁷⁸ urging national authorities to immediately implement social distancing measures and restrict mass gatherings. On 11 May, five former Ministers of Health issued a similar statement, while medical associations called on the population to undertake a “voluntary quarantine”.⁷⁹ In May and June, OHCHR received alarming reports of vehicles allegedly transporting bodies of those deceased with symptoms consistent with COVID-19 in the middle of the night, including for “express burials”.

61. Since May, PAHO has offered to send a team of experts to Nicaragua to evaluate the COVID-19 situation. The Government indicated that PAHO experts would be allowed to visit health facilities and that detailed disaggregated information on confirmed and suspected cases would be provided. However, at the time of writing, the PAHO mission had not taken place.⁸⁰

62. OHCHR is concerned about the lack of disaggregated data regarding COVID-19 infections among indigenous peoples and persons of African descent, and about the lack of information regarding specific measures implemented to protect them. As at 2 December 2020, civil society sources had registered 461 suspected cases of COVID-19 and 167 deaths among these communities,⁸¹ most of which lack basic infrastructure and sanitary services, including safe drinking water and access to public health care. The Government reported that it had prepared messages on COVID-19-related measures in English, Miskito and Mayangna.⁸² However, OHCHR received reports that information and isolation protocols related to COVID-19 were not always available in those languages. The lack of outreach to indigenous communities and communities of African descent, and the lack of trust in public institutions, prompted at least 20 communities on the Caribbean Coast to self-isolate between May and June 2020.

⁷⁴ See www.imf.org/en/News/Articles/2020/11/20/pr20349-nicaragua-imf-executive-board-approves-us-185-3m-emergency-support-to-address-covid19.

⁷⁵ See www.imf.org/en/Publications/CR/Issues/2020/11/20/Nicaragua-Requests-for-Purchase-under-the-Rapid-Financing-Instrument-and-Disbursement-under-49908, appendix I.

⁷⁶ Communication sent by the Government of Nicaragua to OHCHR on 3 April 2020.

⁷⁷ Dr. Ciro Ugarte, PAHO Director of Health Emergencies, statement at a virtual press briefing on COVID-19 on 12 May 2020.

⁷⁸ On 30 April, 18 May and 2 July 2020.

⁷⁹ See www.abc.es/internacional/abci-ministros-salud-denuncian-manipulacion-cifra-muertos-covid-19-nicaragua-202005111758_noticia.html and <https://confidencial.com.ni/asociaciones-medicas-de-nicaragua-urgen-cuarentena-voluntaria-ante-contagio-masivo-de-covid-19>.

⁸⁰ See <https://news.un.org/es/story/2020/05/1474642>.

⁸¹ See <https://observatori.org/wp-content/uploads/2020/12/Nota-37-Observatorio-4.diciembre.pdf>.

⁸² Communication of 3 April 2020 sent by the Government of Nicaragua to OHCHR.

63. Between 27 June and 5 August 2020, OHCHR documented that some 1,300 Nicaraguan migrants had been blocked in very precarious conditions at the country's borders with Panama, Costa Rica and Guatemala for periods that ranged from 10 to 30 days while waiting for the authorization of the Government to enter Nicaragua.

64. Between 3 and 15 November 2020, Hurricanes Eta and Iota struck about 60 per cent of Nicaraguan territory, causing floods, landslides and serious damage to transportation, energy and communication infrastructure. In its preliminary assessment, the Government indicated that 5,800 houses had been totally destroyed and 38,000 partially damaged. It also calculated that the education sector had suffered an estimated loss of \$42 million and the health sector over \$12 million.⁸³ OHCHR received information that many peasant and indigenous communities and communities of African descent, particularly in the North and South Caribbean Coast Autonomous Regions, had lost their homes, crops and livelihoods. This situation poses serious challenges to guaranteeing the enjoyment of the rights to housing, adequate food, health and education, among others.

XII. Conclusions

65. Almost three years after the outbreak of social protests in Nicaragua, the Government has not acknowledged the State's responsibility for the multiple human rights violations, including killings and arbitrary detentions, committed since April 2018. Impunity has led to the recurrence of human rights violations, documented by OHCHR and other international and regional human rights mechanisms, notably restrictions on the rights to freedoms of expression, association, peaceful assembly, and to take part in the conduct of public affairs.

66. The lack of independence of the judiciary and the national human rights institution, and the continued reduction of civic space, hamper transparency and accountability, including in relation to the Government's response to the COVID-19 pandemic and the 2021 elections.

67. The postponement of electoral reforms and the adoption by the National Assembly of laws undermining the exercise of civil and political rights will not be conducive to a representative, pluralistic, transparent and fair electoral process in 2021.

68. OHCHR recognizes recent signs of openness of the Government in collaborating with United Nations specialized agencies in the response to COVID-19 and in the aftermath of Hurricanes Eta and Iota, with a focus on reconstruction and humanitarian aid. Nevertheless, it is urgent that the numerous dimensions of the crisis that erupted in 2018, notably its human rights dimensions, be addressed, as the situation continues to deteriorate. Efforts to recover from the impact of COVID-19 and the hurricanes are an opportunity for the Government to resume the political dialogue and to join efforts with all sectors of society to rebuild trust and ensure that no one is left behind. This is particularly critical in view of the 2021 electoral cycle.

69. The recommendations made by international and regional human rights mechanisms and the High Commissioner offer a useful road map to address outstanding concerns and enhance the protection of the most vulnerable. Nicaragua has taken few steps towards the implementation of these recommendations, and OHCHR reiterates its offer to assist Nicaragua in that regard.

XIII. Recommendations

70. **The High Commissioner invites the Government of Nicaragua and the opposition to engage in a fruitful dialogue grounded in international human rights norms and standards in order to address the multidimensional crisis that affects the country.**

⁸³ See www.lavozdelsandinismo.com/nicaragua/2020-11-24/gobierno-de-nicaragua-expone-balance-preliminar-de-danos-por-huracanes-eta-e-iota.

71. In particular, the High Commissioner calls upon Nicaragua:

(a) To adopt a timebound action plan with clear responsibilities to implement all the recommendations included in her first report, presented to the Human Rights Council in September 2019, including the immediate release of all persons arbitrarily deprived of their liberty in the context of the ongoing crisis; the protection of freedom of expression, association and peaceful assembly, and of human rights defenders, community leaders, journalists and media workers; and the full implementation of the rights to remedy and reparation (restitution, compensation, rehabilitation, satisfaction and guarantees of non-recurrence) for all victims of human rights violations;

(b) To urgently adopt effective electoral reforms that guarantee free, fair and transparent elections, to be identified through an inclusive and constructive dialogue with all sectors of the opposition;

(c) To immediately put a halt to arbitrary detentions, undue restrictions to freedom of movement, threats and other forms of intimidation against people who participate in peaceful assemblies or other political activities or express opinions differing from those of the Government;

(d) To amend Law 1040 on the Regulation of Foreign Agents, Special Law 1042 on Cybercrimes and Law 1055 on the Defence of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace, in line with international human rights norms and standards, in consultation with different sectors of civil society and experts;

(e) To ensure the effective participation of those affected, including women, indigenous peoples and people of African descent, in the formulation, implementation, monitoring and assessment of policies and programmes related to recovery from the COVID-19 pandemic and Hurricanes Eta and Iota;

(f) To resume constructive communication with OHCHR to discuss technical cooperation, and to grant the Office access to Nicaragua.

72. The High Commissioner calls upon the Human Rights Council and the international community:

(a) To urge Nicaragua to respect its international human rights obligations and to grant access to OHCHR and United Nations special procedures;

(b) To support Nicaragua to promptly find a solution to the multidimensional crisis it has been facing, ahead of the electoral process;

(c) To extend its request to OHCHR to enhance its monitoring, documentation and analysis of, and public reporting on, the human rights situation in Nicaragua.