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Agenda item 2

Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Albania,* Australia,* Austria,* Belgium,* Brazil, Bulgaria,* Canada,* Chile,* Colombia,* Costa Rica,* Croatia,* Cyprus,* Czechia,* Denmark,* Ecuador,* Estonia,* Finland, France, Georgia,* Germany, Greece,* Iceland,* Ireland,* Italy,* Latvia,* Liechtenstein,* Lithuania, Luxembourg, Malta,* Marshall Islands, Monaco,* Montenegro, Netherlands, New Zealand,* North Macedonia,* Norway,* Paraguay, Peru,* Portugal,* Slovakia,* Slovenia,* Spain,* Sweden,* Switzerland,* United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay:* draft resolution

49/... Promotion and protection of human rights in Nicaragua

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other relevant international human rights instruments,

Reaffirming the primary responsibility of States to respect, protect and fulfil all human rights and fundamental freedoms and to fulfil their obligations under the human rights treaties to which they are party and other human rights agreements to which they have subscribed,

Recalling its resolutions 40/2 of 21 March 2019, 43/2 of 19 June 2020 and 46/2 of 23 March 2021 on the promotion and protection of human rights in Nicaragua,

Welcoming the oral updates of the United Nations High Commissioner for Human Rights on the situation of human rights in Nicaragua, presented to the Human Rights Council at its forty-seventh and forty-eighth sessions, the interim oral update of the High Commissioner on the situation of human rights in Nicaragua in the context of the electoral process, presented to the Council on 14 December 2021, and the comprehensive written report of the High Commissioner on the situation of human rights in Nicaragua, presented to the Council at its present session,¹

Expressing alarm at the democratic backsliding and continuing sociopolitical and human rights crisis in Nicaragua, as well as the erosion of the rule of law, the independence of the judiciary and the separation of powers, and their multidimensional impact on the enjoyment of civil, political, economic, social and cultural rights,

* State not a member of the Human Rights Council.

¹ A/HRC/49/23.



Expressing serious concern at the continued disregard of Nicaragua for its international human rights obligations, including its failure to submit periodic reports to the relevant treaty bodies, and expressing concern at the State's unwillingness to engage in a constructive dialogue with the Committee on Economic, Social and Cultural Rights,

Expressing concern at the continuous refusal of Nicaragua to cooperate with international and regional human rights mechanisms, particularly the Office of the United Nations High Commissioner for Human Rights, including its regional office in Central America, and the special procedures of the Human Rights Council, and recognizing that this refusal continues to create a protection gap in the country,

Expressing concern also at the decision of Nicaragua to interrupt its engagement with international human rights mechanisms and its denunciation of regional instruments, and recalling that, as its obligations under legally binding instruments remain in force, the competent human rights mechanisms will continue to exercise their mandates to monitor the country,

Expressing grave concern at the violations of civil and political rights in the context of the electoral process of 2021, in contravention of the obligations of Nicaragua to uphold the right of every citizen to take part in the conduct of public affairs and to vote and be elected in genuine periodic elections, including the failure of the Government of Nicaragua to implement electoral and institutional reforms aimed at guaranteeing free and fair elections, carried out in a transparent manner, the adoption and use of legal provisions that explicitly aim, or may be used, to restrict the ability of Nicaraguan citizens to participate in the political process, the arbitrary cancellation of the legal status of three opposition political parties, the refusal to receive independent and credible international electoral observers, acts of violence to coerce voters and the widespread political violence during the entire process,

Expressing concern at the worsening trend in forced displacement since the 2021 electoral process, commending neighbouring and other States in the region for their continued efforts to host and welcome Nicaraguan migrants, refugees and asylum seekers, and acknowledging the associated socioeconomic consequences and challenges for those States and their citizens,

Expressing grave concern at the adoption and use of legal provisions that explicitly aim, have been used or may be used to restrict the ability of Nicaraguans to exercise their fundamental freedoms and to participate in the political process; at the broad scope of the Amnesty Law of 2019; and at the implementation of recent legislation by the Government of Nicaragua, including the amendments to some provisions of the Criminal Code and the enactment of the Foreign Agents Registration Law, the Law on Cybercrimes, Law No. 977 on Combating Money Laundering, the Financing of Terrorism and the Proliferation of Weapons of Mass Destruction, and Law No. 1055 on the Rights of People to Independence, Sovereignty and Self-Determination for Peace, which excludes those who speak in favour of international sanctions from electoral processes, all of which, contrary to international human rights law, hinder victims of human rights violations from exercising their right to an effective remedy, which may include reparations and full disclosure of the truth, and further restrict the rights to freedom of expression, of association, of peaceful assembly and of movement, the right to take part in the conduct of public affairs and the right to privacy, as recognized in international law, unduly limiting political participation and the activities of human rights defenders and civil society,

Condemning the continuation of arbitrary detentions and new arbitrary detentions, including in the context of the electoral process of 2021, of, inter alia, opposition pre-presidential candidates and political leaders, human rights defenders, business people, journalists, peasant and student leaders and members of civil society organizations, and expressing grave concern for their integrity, treatment and detention conditions, including health conditions, which may constitute torture or cruel, inhuman or degrading treatment or punishment, and recognizing the particular vulnerability of older and sick persons, and women and girls, in detention,

Recalling General Assembly resolution 70/175 of 17 December 2015 on the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which established that disciplinary sanctions and restrictive measures shall not

include the prohibition of family contact and that family contact may be restricted for only a limited period of time and as strictly required for the maintenance of security and order, and Assembly resolution 65/229 of 21 December 2010 on the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), which prohibit sexual misconduct and abuse of women in detention,

Expressing grave alarm at the death in Nicaragua on 12 February 2022 of Hugo Torres Jiménez, a political prisoner detained in egregious conditions since his arrest in June 2021,

Expressing grave concern at recent reports of trials of persons who were arbitrarily detained, which have been held without respect for due process or legal guarantees, including the rights to be presumed innocent until proven guilty, to a fair and public hearing by a competent, independent and impartial tribunal, and to adequate time and facilities for the preparation of a defence,

Condemning all acts of intimidation, harassment and reprisals, both online and offline, by State and non-State actors against individuals and groups that seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, with the Organization of American States or the Inter-American Commission on Human Rights,

Expressing grave concern at the continuing violations of the freedom of expression and the freedom to seek, receive and impart information, including for members of the press, including by the raiding of the country's main print newspaper, and the arbitrary arrests, threats and harassment of journalists and media workers involved in reporting that is critical of the Government, forcing many of them into exile,

1. *Expresses grave concern* at the deterioration of democracy and the situation of human rights in Nicaragua, in particular with regard to the enjoyment of civil and political rights, continuing reports of human rights violations and abuses, the lack of accountability since April 2018, the persisting bans on public demonstrations and the disproportionate use of force and acts of intimidation and harassment by the police to repress peaceful protests and acts of violence by armed groups, as well as reports of the increasing incidence of unlawful arrests and arbitrary detentions, expedited trials without due process, harassment, torture and other cruel, inhuman or degrading treatment or punishment, gender-related killings, including femicides, and sexual and gender-based violence in detention;

2. *Expresses concern* at the worsening restrictions on civic and democratic space and the repression of dissent in Nicaragua, which includes acts of intimidation, harassment and unlawful or arbitrary surveillance of human rights defenders, including defenders who are women, indigenous, Afrodescendant and those working in environmental matters referred to as environmental human rights defenders, community and religious leaders, journalists and other media workers, students, victims of human rights violations and their family members, and individuals expressing views that are critical of the Government of Nicaragua, and urges the Government to publicly condemn and ensure accountability for any attacks or acts of intimidation or harassment, sexual or gender-based violence, and to take measures to ensure a safe and enabling environment, both online and offline, for the above-mentioned persons to carry out their work freely;

3. *Also expresses concern* at the growing number of civil society organizations, universities and independent media outlets that have been forced to cease their activities owing to unduly restrictive administrative and financial constraints imposed by the legal reforms passed since 2018, and at the arbitrary cancellation of their legal registrations and the impact such closures have on independent human rights monitoring and the enjoyment of human rights, online and offline, especially the rights to freedom of opinion, of expression, of association and of peaceful assembly, to privacy and to education, as set out in articles 12, 19, 20 and 26 of the Universal Declaration of Human Rights, articles 17, 19 and 21 of the International Covenant on Civil and Political Rights and article 13 of the International Covenant on Economic, Social and Cultural Rights, and urges the Government of Nicaragua to restore the legal registration of civil society organizations, universities and independent media outlets that have been cancelled since 2018, to restore the independence of the private universities that have been placed under Government control, and to return seized assets, including confiscated property;

4. *Urges* the Government of Nicaragua to allow and facilitate peaceful and public demonstrations and to repeal or amend legislation that may unduly restrict human rights, including the rights to freedom of expression, of peaceful assembly and of association, the right to take part in the conduct of public affairs and the right to privacy, as recognized in international law, and that may prevent victims of human rights violations from enjoying the right to an effective remedy or extend the period of detention without formal charge or criminalize dissenting voices;

5. *Urgently calls upon* the authorities in Nicaragua to cease immediately the use of arbitrary arrests and detentions, as well as of threats and other forms of intimidation or alternative measures of detention, as a means to repress dissent, to release immediately and unconditionally all those who have been arbitrarily or unjustly detained, as well as those who have been prosecuted under ambiguous criminal laws or laws that arbitrarily restrict the civil and political rights of the Nicaraguan population, to annul their sentences and waive charges against them, to respect fair trial guarantees, to ensure that conditions of detention comply with applicable human rights obligations and are consistent with standards such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);

6. *Urges* the Government of Nicaragua to combat impunity and to ensure accountability and justice for victims of human rights violations, including by designing and implementing a comprehensive action plan for accountability that is inclusive and victim-centred, by conducting independent, transparent and impartial investigations into the multiple forms of repression and violence, including in the context of the electoral process, that have been reported since April 2018 by the Office of the United Nations High Commissioner for Human Rights, including alleged extrajudicial executions, enforced disappearances, torture and other grave human rights violations and abuses, by ensuring that victims are provided with effective remedies and reparations and by amending the Amnesty Law of 2019;

7. *Also urges* the Government of Nicaragua to take effective measures to provide a safe environment for victims of human rights violations and their families, including political prisoners and opposition members, and those with long-term injuries and disabilities;

8. *Further urges* the Government of Nicaragua to take effective measures to prevent, investigate and ensure accountability for sexual and gender-based violence, including gender-related killings, and to take a survivor-centred approach to gender-based violence and abuse;

9. *Urges* the Government of Nicaragua to take effective measures, in meaningful consultation with indigenous peoples, in accordance with its legal obligations, to prevent and address the increasing violence committed against them, including by conducting prompt and independent investigations into alleged attacks, killings and land seizures by armed groups;

10. *Also urges* the Government of Nicaragua to adopt effective measures to guarantee the independence, transparency and impartiality of the justice system, the electoral authorities, the National Police, the Attorney General's Office and the Human Rights Ombudsman's Office, to uphold its international obligations with respect to fair trial guarantees and to adopt effective measures to guarantee the separation of powers and the reestablishment of the rule of law;

11. *Encourages* the Government of Nicaragua to adopt a time-bound action plan to implement the recommendations made by international and regional human rights mechanisms, including those made in the reports of the High Commissioner and the recommendations received during the third cycle of the universal periodic review of Nicaragua,² in meaningful consultation with civil society and victims;

12. *Calls upon* the Government of Nicaragua to prevent, refrain from and publicly condemn, investigate and punish any acts of intimidation, harassment or reprisal against political leaders, journalists, human rights defenders and any individual critical of the Government, including against those who cooperate or seek to cooperate with international

² See A/HRC/42/16.

and regional bodies, including the United Nations, its representatives and mechanisms in the field of human rights, and with regional mechanisms;

13. *Urges* the Government of Nicaragua to adopt electoral and institutional reforms and to engage in a dialogue with all political parties, civil society and other actors in Nicaragua or in exile, with the aim of ensuring genuine elections that are free and fair, carried out in a transparent manner with independent international observers, including the upcoming November 2022 municipal elections;

14. *Decides* to establish, for a period of one year, a group of three human rights experts on Nicaragua, to be appointed by the President of the Human Rights Council, with a mandate:

(a) To conduct thorough and independent investigations into all alleged human rights violations and abuses committed in Nicaragua since April 2018, including the possible gender dimensions of such violations and abuses, and their structural root causes;

(b) To establish the facts and circumstances surrounding the alleged violations and abuses, to collect, consolidate, preserve and analyse information and evidence and, where possible, to identify those responsible, and to make such information accessible and usable in support of ongoing and future accountability efforts;

(c) To make recommendations with a view to improving the situation of human rights, to provide guidance on access to justice and accountability, as appropriate, and to ensure a victim-centred approach, including by addressing the impact of multiple and intersectional forms of discrimination;

(d) To engage with all relevant stakeholders, including the Government of Nicaragua, the Office of the High Commissioner, international human rights organizations, relevant United Nations agencies and civil society, with a view to exchanging information, as appropriate, and providing support for national, regional and international efforts to promote accountability for human rights violations and abuses in Nicaragua;

15. *Requests* the Group of Human Rights Experts on Nicaragua to submit a report to the Human Rights Council at its fifty-second session, during an interactive dialogue;

16. *Requests* the immediate operationalization of the mandate and requests the Secretary-General to provide the Group of Human Rights Experts on Nicaragua with full administrative, technical and logistical support and the resources necessary to enable it to carry out its mandate;

17. *Requests* the High Commissioner to strengthen monitoring and engagement, including by preparing a comprehensive report on the situation of human rights in Nicaragua containing a detailed assessment of the implementation of the recommendations made in her previous reports, as well as in the reports and recommendations of the Human Rights Council mechanisms and those of the treaty bodies, and to present it to the Council at its fifty-first session, to be followed by an interactive dialogue, and by presenting an oral update to the Council at its fiftieth session; before the end of 2022; and at its fifty-second session, with each update to be followed by an interactive dialogue;

18. *Requests* the Office of the High Commissioner to strengthen its engagement by continuing to analyse legislation relating to civic and democratic space, the judicial sector and amnesties with a view to providing the support necessary for Nicaragua to fulfil its human rights obligations and commitments;

19. *Calls upon* the Government of Nicaragua to cooperate fully with the Office of the High Commissioner and its Regional Office for Central America, the Human Rights Council and its mechanisms, including the Group of Human Rights Experts on Nicaragua, and with the relevant treaty bodies, by, inter alia, granting them unfettered, full and transparent access throughout the country and facilitating visits, including to detention facilities, and providing necessary information, and to positively consider the recommendations made in their reports and their offers of technical assistance, and the requests for country visits made by the special procedures in accordance with the standing invitation it extended in 2006;

20. *Requests* that the Office of the High Commissioner be provided with the resources necessary to continue to fulfil its technical cooperation and human rights monitoring and reporting mandates;

21. *Decides* to remain actively seized of the matter and to consider all measures available to the Human Rights Council to strengthen the promotion and protection of human rights in Nicaragua and cooperation with the Office of the High Commissioner.
