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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

## 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 49/3, contains an update on the human rights situation in Nicaragua and a detailed assessment of the implementation of the recommendations made to the State by the Office of the United Nations High Commissioner for Human Rights, Human Rights Council mechanisms and treaty bodies since 2018.

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\* The present report was submitted after the deadline in order to reflect the most recent information.



## I. Introduction and methodology

1. In its resolution 49/3, adopted on 31 March 2022, the Human Rights Council requested the High Commissioner to prepare 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, and of the recommendations of the Council's mechanisms and the treaty bodies.

2. Chapter II summarizes the human rights situation since March 2022, highlighting the most worrying facts documented by the Office of the United Nations High Commissioner for Human Rights (OHCHR) through the analysis of official and non-governmental documents and reports, videos and photographs, 43 face-to-face and remote meetings with different actors, including members of civil society and members of the international community, as well as 25 interviews with victims, family members, lawyers and witnesses of human rights violations.

3. Chapter III assesses the implementation of the recommendations made to the State in the reports of OHCHR. The first,<sup>1</sup> from 2018, was prepared pursuant to the universal mandate of the High Commissioner, and the remaining three were submitted to the Human Rights Council in 2019,<sup>2</sup> 2021<sup>3</sup> and 2022,<sup>4</sup> pursuant to resolutions of the Council. The four reports contain 47 recommendations addressed to the State and 9 addressed to the international community and the Human Rights Council. The implementation of the recommendations made to Nicaragua in the context of the 2019 universal periodic review<sup>5</sup> (out of 259 recommendations, the State accepted 135),<sup>6</sup> and by the Working Group on Arbitrary Detention in nine cases<sup>7</sup> (38 recommendations), is also evaluated. Finally, the implementation of the 43 recommendations adopted by the Committee on Economic, Social and Cultural Rights in 2021<sup>8</sup> is evaluated. The Committee against Torture and the Committee on the Elimination of Racial Discrimination adopted provisional concluding observations in July and August 2022 respectively; therefore, an assessment of their implementation is not included in the present report.

4. In April and May 2022, OHCHR requested information from the Government of Nicaragua on the implementation of the 396 recommendations, but received no response. It also requested information from various agencies of the United Nations system, victims of human rights violations and civil society, to whom it is grateful for their cooperation. In addition, official sources, OHCHR records and other reliable and open sources were consulted in accordance with the Office's monitoring methodology.

## II. Current situation of human rights in Nicaragua

### A. Context

5. In 2022, OHCHR noted a deterioration in the situation of human rights, especially civil and political rights, in a context marked by a lack of dialogue, a worsening political crisis and the isolation of Nicaragua from the international community.

<sup>1</sup> OHCHR, "Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018". Available at [https://www.ohchr.org/sites/default/files/Documents/Countries/NI/HumanRightsViolationsNicaragua\\_Apr\\_Aug2018\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Countries/NI/HumanRightsViolationsNicaragua_Apr_Aug2018_EN.pdf).

<sup>2</sup> [A/HRC/42/18](#).

<sup>3</sup> [A/HRC/46/21](#).

<sup>4</sup> [A/HRC/49/23](#).

<sup>5</sup> [A/HRC/42/16](#).

<sup>6</sup> [A/HRC/42/16/Add.1](#).

<sup>7</sup> Opinions No. 16/2019, No. 19/2019, No. 43/2019, No. 17/2020, No. 21/2020 and No. 39/2020, among others.

<sup>8</sup> [E/C.12/NIC/CO/5](#).

6. In January 2021, the President of Nicaragua, Daniel Ortega, publicly announced that a national dialogue would take place after the elections to be held on 7 November.<sup>9</sup> The threatening and pejorative tone of his statements regarding persons detained in the context of the elections<sup>10</sup> dampened any expectation of a dialogue-based solution to the crisis. In March 2022, Nicaragua expelled the Apostolic Nuncio, who had supported dialogue at the beginning of the crisis. In April, Nicaragua precipitated its disengagement from the Organization of American States (OAS) after having denounced the OAS Charter in November 2021. Without waiting for the expiry of the two-year notice period stipulated in article 143 of the Charter, Nicaragua withdrew its representatives to the Organization, forcibly took over the Organization's offices in Managua with the participation of agents of the Special Operations Directorate of the police, and expelled its staff.<sup>11</sup> The Vice-President of Nicaragua, Rosario Murillo, announced that the premises had been declared to be of public utility.<sup>12</sup> Nicaragua has thus become more isolated from the international community, having received condemnation for these actions<sup>13</sup> and for the current situation of human rights,<sup>14</sup> and some States have imposed new institutional and individual sanctions on its officials, including judges and prosecutors.

7. On 16 August, the Supreme Electoral Council called for municipal elections to be held on 6 November 2022 to elect authorities in the 153 municipalities of the country, of which the Sandinista National Liberation Front controls 139. In July, five opposition mayors were dismissed de facto by government and police officials, on the grounds that their party, Ciudadanos por la Libertad, no longer had legal personality,<sup>15</sup> a circumstance not provided for in electoral or municipal legislation as grounds for removal. The Nicaraguan Institute for Municipal Development appointed new authorities from the Government's party to replace the five who had been dismissed. The Supreme Electoral Council has not commented on the matter. In May, the National Assembly approved a new electoral reform, Act No. 1116 (Act amending Act No. 331, the Electoral Act), which did not amend the elements observed in the most recent OHCHR report regarding Act No. 1070 (Act amending and supplementing Act No. 331, the Electoral Act), a law whose restrictions on political rights and civil liberties<sup>16</sup> are incompatible with international standards in respect of political rights and should be modified.

## B. Rights to personal liberty and to physical and moral integrity

8. At the time of writing, 180 persons detained in the context of the crisis (18 women and 162 men) were still deprived of liberty, including those who were detained in the context of elections between May and November 2021. Fifty of them (11 women and 39 men) were tried at first instance between January and May 2022 on charges of undermining national integrity, disseminating fake news, money-laundering and related crimes; these offences are defined in Act No. 1042, Act No. 1055 and the Criminal Code (para. 40 below). The trials were held behind closed doors instead of in public; most of them took place in police custody facilities instead of in courts of law; and defence counsel were not permitted to review the case files, to meet with their clients for more than a few minutes before the hearings or to

<sup>9</sup> See <https://www.el19digital.com/articulos/ver/titulo:111762-llamado-del-presidente-daniel-ortega-unamonos-y-seremos-mas-fuertes-para-derrotar-la-pobreza>.

<sup>10</sup> See <https://www.el19digital.com/articulos/ver/titulo:122538-acto-del-45-aniversario-del-transito-a-la-inmortalidad-de-carlos-fonseca-amador>.

<sup>11</sup> See <https://www.youtube.com/watch?v=zTRsyMx8VhA>.

<sup>12</sup> See <https://www.el19digital.com/articulos/ver/titulo:127519-inmueble-que-ocupaba-oea-en-nicaragua-es-declarado-de-utilidad-publica>.

<sup>13</sup> OAS, CP/RES. 1203 (2389/22), available at [https://www.oas.org/en/council/CP/documentation/res\\_decs/](https://www.oas.org/en/council/CP/documentation/res_decs/).

<sup>14</sup> See [https://www.eeas.europa.eu/eeas/nicaragua-declaraci%C3%B3n-del-portavoz-sobre-el-cierre-de-siete-emisoras-de-radio-y-el-cierre-de\\_es?s=189%2C%20https%3A/www.europarl.europa.eu/news/es/press-room/20220531IPR31809/nicaragua-la-ue-debe-sancionar-a-los-jueces-responsables-de-la-represion&page\\_lang=en](https://www.eeas.europa.eu/eeas/nicaragua-declaraci%C3%B3n-del-portavoz-sobre-el-cierre-de-siete-emisoras-de-radio-y-el-cierre-de_es?s=189%2C%20https%3A/www.europarl.europa.eu/news/es/press-room/20220531IPR31809/nicaragua-la-ue-debe-sancionar-a-los-jueces-responsables-de-la-represion&page_lang=en).

<sup>15</sup> A/HRC/49/23, paras. 9–10.

<sup>16</sup> Ibid., paras. 4–7.

meet with them in private. All the defendants were found guilty and sentenced to prison terms of up to 13 years and disqualification from holding public office. These sentences were upheld on appeal. An appeal in cassation is now being processed, but none of the judgments, save one, have been overturned.

9. Despite having been convicted, 28 of these persons allegedly remain in the Evaristo Vásquez Legal Cooperation Directorate Complex, a police custody facility not intended to house convicted persons. The same inhumane detention conditions referred to in the most recent report<sup>17</sup> continue to be reported and are endangering their physical and mental health. They have allegedly been prevented from receiving visits from their minor children or children with disabilities, and this has led at least two prisoners to carry out a hunger strike. On 2 July, after his wife and civil society organizations publicly denounced the inhumane detention conditions in which Félix Maradiaga and the other detainees were being held,<sup>18</sup> pro-Government media shared images in which Mr. Maradiaga's evident physical deterioration could be seen.<sup>19</sup>

10. The death on 12 February of Hugo Torres, who was allegedly moved, due to a serious illness, from the Evaristo Vásquez Complex to a police medical centre, where he died some weeks later, led the State to grant house arrest to 12 persons due to health conditions and/or advanced age. Authorization must urgently be given for all detainees who require specialized medical attention to be taken to hospitals.

11. Conflict over land in Indigenous Peoples' territories continues to result in violence in the territories of the Caribbean coast and threats to the integrity of the inhabitants. On 13 February, the Inter-American Commission on Human Rights requested an extension of precautionary measures to protect the life and personal integrity of the Musawas, Suniwas and Wilú communities of the Mayangna Sauni As territory due to armed violence committed by third parties. Land distribution is still pending, as in other cases, even though they were given the collective land title in 2005.<sup>20</sup>

### C. Restrictions of civic space

12. The State of Nicaragua has continued to restrict civic space,<sup>21</sup> with particular repercussions on the rights to freedom of association and expression. So far this year, it has revoked the legal personality of 1,112 human rights and development organizations,<sup>22</sup> professional associations, including medical associations, entities associated with the Catholic Church and others, totalling at least 1,178 since 2018. In July, the Special Rapporteur on the rights to freedom of peaceful assembly and of association expressed concern over the revocation of the legal personality of hundreds of organizations.<sup>23</sup>

13. Twelve universities have also had their legal personality revoked, affecting the right to education. This right was also impacted by other measures restricting university autonomy and academic freedom that were included in the amendment to the Act on the Autonomy of Higher Education Institutions (Act No. 1114). Under the amendment, the academic programmes of all universities are subject to approval by a central body.

14. In April 2022, the National Assembly adopted Act No. 1115 (General Act on the Regulation and Control of Non-Profit Organizations), which replaced the 1992 General Act on Non-Profit Legal Entities. Five special procedure mandate holders noted that the new law is not in line with international human rights standards because, among other aspects, it

<sup>17</sup> A/HRC/49/23, paras. 25–26.

<sup>18</sup> See <https://www.youtube.com/watch?v=ogYh9H1VYGI>.

<sup>19</sup> See <https://www.el19digital.com/articulos/ver/titulo:129845-condenan-a-13-anos-de-prision-al-delincuente-felix-alejandro-maradiaga-blandon>.

<sup>20</sup> See [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2022/032.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2022/032.asp).

<sup>21</sup> A/HRC/46/21, paras. 18–19; and A/HRC/49/23, para. 50.

<sup>22</sup> According to information published in the Official Gazette. See <http://legislacion.asamblea.gob.ni/Normaweb.nsf/xpMainDIL.xsp>.

<sup>23</sup> See <https://www.ohchr.org/en/press-releases/2022/07/nicaragua-un-experts-denounce-arbitrary-shutdown-civil-society-organisations>.

prohibits political activity by organizations and makes all their activities subject to prior authorization by the Government.<sup>24</sup> OHCHR also expressed concerns about the law,<sup>25</sup> which, since entering into force on 6 May 2022, has also been used to revoke the legal status of organizations.

15. The enjoyment of freedom of expression also continued to deteriorate. Nicaragua fell by 23 points in the World Press Freedom Index, moving from the category of “difficult” to “very serious”, and is now ranked in 160th place out of 180 countries.<sup>26</sup> In March, the general manager of the newspaper *La Prensa*, who was arrested in the context of the 2021 elections, was sentenced to 9 years’ imprisonment for laundering assets attributed to the newspaper. In July, staff of the newspaper left the country citing constant harassment against them, thus joining 120 other journalists who remain in exile.<sup>27</sup> Furthermore, three journalists were sentenced to up to 13 years in prison for the offences of disseminating fake news and undermining national integrity. The Government has also censored musical artists, preventing them from entering Nicaragua or arresting and then expelling them from the country even though they are nationals of Nicaragua. Between May and August, the authorities shut down the operations of 12 radio and television outlets of the Catholic Church, especially in Matagalpa, arguing, over the objections of the outlets’ representatives, that they did not have operating permits. At least five non-denominational media outlets were also shut down, allegedly due to non-compliance with the sector’s regulations.

16. OHCHR continued to document acts of harassment, especially against human rights defenders, journalists, clerics, political opponents or persons considered as such. Cases have primarily involved a constant and intimidating police presence in front of their homes or workplaces, affecting their privacy and activities; permanent surveillance; selective detention and/or photographic tracking of vehicles and demands for their occupants’ documents; and the fencing off of access roads leading to facilities of organizations considered to be critical of the Government. Officials and citizens associated with the Sandinista National Liberation Front have also allegedly participated in these acts of harassment, intimidating other people for allegedly using social media against the Government.

17. On 1 August, acts of harassment against a Catholic priest escalated to violence when the police tried to seize equipment of a Church media outlet that was broadcasting from the Jesús de la Divina Misericordia parish in Sébaco, Matagalpa. Dozens of police officers and riot police stormed the facilities, causing damage. The priest, along with six other persons, was held in the rectory, where he asked for help via social media. Dozens of people responded to the call for help. According to the shared videos, the police used force, fired ammunition and released tear gas. One citizen suffered a serious eye injury and others were beaten.<sup>28</sup> The seven persons remained locked in the rectory for three days, without food and with the electricity cut off.

18. At least two other Catholic priests were harassed in May. One of them, the Bishop of Matagalpa, whose diocese includes most of the closed media outlets, began a hunger strike demanding that the Government stop harassing him and his relatives. On 4 August dozens of police officers surrounded the diocesan curia in Matagalpa, preventing anyone from entering or leaving and not allowing the Bishop to go to the cathedral to celebrate Mass.<sup>29</sup> At the time of writing, the Bishop, five other priests and six laypeople were still confined in the curia and surrounded by dozens of riot-police officers; one layperson was able to leave on 7 August and two on 17 August. On 5 August, the police reported that they were launching a criminal investigation, accusing the Bishop of inciting hate for the purpose of destabilizing the State and attacking the authorities.<sup>30</sup> The police also stated that the persons under investigation

<sup>24</sup> See communication NIC 1/2022. All communications mentioned in the present report are available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

<sup>25</sup> See <https://www.ohchr.org/en/statements/2022/05/nicaraguas-crackdown-civil-society>.

<sup>26</sup> See <https://rsf.org/en/rsf-s-2022-world-press-freedom-index-new-era-polarisation-0>.

<sup>27</sup> See <https://www.dw.com/es/unos-120-periodistas-de-nicaragua-en-el-exilio-desde-2018/a-60405528>.

<sup>28</sup> See <https://www.youtube.com/watch?v=6xKAUa78DIs>.

<sup>29</sup> See <https://www.expedientepublico.org/monsenor-rolando-alvarez-al-regimen-queremos-que-nos-dejen-en-paz>.

<sup>30</sup> See <https://twitter.com/vppolicial/status/1555722200677842944>.

should remain in their homes and summoned for questioning those who had stationed themselves in front of the curia to pray and de-escalate the situation the day before.

19. Other violations of the rights of persons perceived as opponents of the Government have consisted of preventing them from leaving the country, through confiscation of their passports by migration officials. In three other cases documented by OHCHR, consular officials in other countries informed exiled activists that they were required to return to Nicaragua to renew their passports, on express instructions from the capital. The Office has also documented four cases in which Nicaraguan citizens were arbitrarily prevented from entering or leaving their own country.

20. The restrictions on civic space and the persecution of persons perceived as opponents of the Government, as well as the deterioration of the socioeconomic situation in the country, have resulted in an increase in the number of people who have left Nicaragua for the United States of America, from 5,450 people intercepted at the border in the whole of 2020 to 84,055 in the first six months of 2022. The number of refugees and asylum-seekers in Costa Rica had reached more than 150,000 as of March 2022.<sup>31</sup>

### III. Assessment of the recommendations addressed to Nicaragua

#### A. Dialogue

21. In August 2018, OHCHR recommended that the Government resume the national dialogue, the first phase of which had taken place in May and June of that year, and seek to “reach agreements based on human rights”.<sup>32</sup> In February 2019, the Government and the Civic Alliance for Justice and Democracy resumed negotiations, which led to agreements that included the release of imprisoned persons and respect for civil liberties. The dialogue stalled for several months and was terminated by the Government in July.

22. OHCHR<sup>33</sup> and the Committee on Economic, Social and Cultural Rights<sup>34</sup> have reiterated the recommendation that the State resume the national dialogue. During the universal periodic review,<sup>35</sup> seven States made this same recommendation. Nicaragua accepted four of these recommendations; however, the dialogue has not yet been resumed, despite the announcement made by President Daniel Ortega in 2021 (para. 6).

#### B. Justice and accountability

23. In its 2018 report, OHCHR recommended that Nicaragua “ensure that independent, impartial, effective, thorough and transparent investigations [are] promptly conducted into all allegations of serious human rights violations and abuses that have occurred since 18 April ...”.<sup>36</sup>

24. On 29 April 2018, without the participation of civil society or the victims, the National Assembly established the Truth, Justice and Peace Commission. This body was called into question by local stakeholders for its lack of independence and credibility.<sup>37</sup> In May 2019, the National Assembly adopted the Act on Comprehensive Care for Victims (Act No. 994), which provided that the State would address the harm caused to the “victims of the failed coup d’état”, thereby excluding the population that was targeted by law enforcement officers

<sup>31</sup> See <https://www.unhcr.org/displacement-in-central-america.html?query=displacement%20central%20america>.

<sup>32</sup> OHCHR, “Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018”, para. 119.8.

<sup>33</sup> A/HRC/42/18, para. 65 (a); A/HRC/46/21, para. 70; and A/HRC/49/23, para. 66 (b).

<sup>34</sup> E/C.12/NIC/CO/5, para. 6.

<sup>35</sup> A/HRC/42/16, paras. 125.113, 125.127, 125.131, 125.132, 125.143, 125.144 and 125.149.

<sup>36</sup> OHCHR, “Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018”, para. 119.3.

<sup>37</sup> A/HRC/42/18, para. 48.

and pro-Government elements.<sup>38</sup> Act No. 996, the Amnesty Act, was adopted in June. Although it allowed the release of 106 persons detained in connection with the protests, it did not provide for any further reparations, thus granting impunity to State and non-State actors who had committed human rights abuses and violations.<sup>39</sup>

25. The measures adopted by the State were, in any case, insufficient and impeded efforts to ascertain the truth, achieve justice, adjudicate responsibility and grant reparations. OHCHR recommended that the State repeal Acts Nos. 994 and 996, but this has not been done. It also recommended, as did international and regional human rights bodies, that the State establish a comprehensive, inclusive and victim-centred action plan for accountability.<sup>40</sup> During the universal periodic review, Nicaragua received 20 recommendations to implement measures on accountability and reparations to victims of human rights violations since April 2018. The Government did not accept 16 of these recommendations,<sup>41</sup> claiming that they distorted reality, and accepted 4,<sup>42</sup> which have yet to be implemented.

26. To the Office's knowledge, no law enforcement officers have been convicted of any of the human rights violations that have occurred since 2018. It has only been able to document two cases in which pro-Government elements received prison sentences, which have not been served.<sup>43</sup> In February 2022, OHCHR again recommended that Nicaragua design and implement a comprehensive action plan for accountability.<sup>44</sup> The State has not reported on the measures taken to implement this recommendation and, in the past, has invoked the Amnesty Act as an impediment to accountability.<sup>45</sup>

### C. Institutional and legislative reforms

27. OHCHR has recommended that Nicaragua implement legislative and institutional reforms to strengthen entities that are fundamental to democracy and human rights.

28. In 2018, in light of the insufficient response of the Office of the Human Rights Advocate to human rights violations, OHCHR recommended that it adequately and independently fulfil its mandate as a national human rights institution and a national mechanism for the prevention of torture.<sup>46</sup> In 2019, the Global Alliance of National Human Rights Institutions downgraded it from A to B status for failing to act independently in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).<sup>47</sup> Subsequent recommendations<sup>48</sup> that the Office of the Human Rights Advocate strengthen its independence were not implemented.

29. Since 2019, OHCHR has recommended that the State undertake comprehensive security sector reform,<sup>49</sup> particularly with the aim of dismantling and disarming pro-Government elements.<sup>50</sup> The reform has not been carried out and OHCHR has not received information from the Government on actions aimed at dismantling and disarming these

<sup>38</sup> Ibid., para. 51.

<sup>39</sup> Ibid., paras. 51 and 52.

<sup>40</sup> Ibid., para. 65 (d).

<sup>41</sup> [A/HRC/42/16](#), paras. 125.84, 125.86, 125.88, 125.91–125.94, 125.96–125.102, 125.104 and 125.106.

<sup>42</sup> Ibid., paras. 125.85, 125.87, 125.89 and 125.90.

<sup>43</sup> The person responsible for the death of Brazilian student Rayneia Lima was released under the Amnesty Act. The person responsible for the death of Jorge Rugama was sentenced to 1 year in prison for involuntary manslaughter, although the sentence was suspended and was thus not served.

<sup>44</sup> [A/HRC/49/23](#), para. 66 (e).

<sup>45</sup> Government communication of 27 January 2020.

<sup>46</sup> The Office of the Human Rights Advocate was given this mandate in 2012 under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

<sup>47</sup> See <https://ganhri.org/wp-content/uploads/2019/11/SCA-Report-March-2019-EN-.pdf>.

<sup>48</sup> [A/HRC/42/18](#), para. 66 (a) and (b); [A/HRC/42/16](#), paras. 125.37, 125.38, 125.40–125.42, 125.44 and 125.45; and [E/C.12/NIC/CO/5](#), para. 8.

<sup>49</sup> [A/HRC/42/18](#), para. 65 (d) (iv); and [A/HRC/49/23](#), para. 66 (e).

<sup>50</sup> OHCHR, "Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018", para. 119.2; [A/HRC/42/18](#), para. 65 (d) (iv); and [A/HRC/42/16](#), paras. 125.60 and 125.129.



groups. Although the Office has not documented any armed attacks by these groups in 2021 or 2022, it has been informed that they continue to harass those they consider to be opponents or critics of the Government.

30. In 2019, in light of the failure to investigate serious human rights violations, OHCHR recommended that the State create a special unit within the Public Prosecution Service to fulfil that obligation. It also recommended the introduction of reforms in the justice sector, in line with the Basic Principles on the Independence of the Judiciary and the Guidelines on the Role of Prosecutors.<sup>51</sup> This recommendation was reiterated in 2022.<sup>52</sup> However, OHCHR has been unable to verify or obtain official information on its implementation.

31. In 2019 and 2021, OHCHR recommended that Nicaragua undertake electoral reform to ensure free, fair and transparent elections.<sup>53</sup> In May 2021, the National Assembly adopted Act No. 1070 (para. 7 above). On 7 November 2021, general elections were held without independent international observation; three opposition parties were barred from participating and seven presidential candidates were imprisoned before the elections. The OAS General Assembly determined that the elections “were not free, fair or transparent and have no democratic legitimacy”.<sup>54</sup> In March 2022, OHCHR reiterated its recommendation that the State reform the electoral body, especially in view of the upcoming municipal elections in November.<sup>55</sup> Act No. 1116 amending the Electoral Act, adopted in May 2022, does not provide guarantees for fair and transparent elections (para. 7).

32. Regarding criminal law, OHCHR recommended that amendments be made to ensure that arrests, seizures and searches were preceded by a court order and that pretrial detention was used only as an exceptional measure in accordance with the criteria of necessity and proportionality.<sup>56</sup> The recommendation was not acted upon and, in 2021, the National Assembly adopted the Act amending and supplementing Act No. 406, Code of Criminal Procedure (Act No. 1060), under which individuals may, at the authorities’ discretion, be held for up to 90 days without being informed of the charges against them.<sup>57</sup> The State has also failed to examine the compatibility of article 565 of the Criminal Code,<sup>58</sup> which imposes automatic pretrial detention for certain crimes, with article 9 (3) of the International Covenant on Civil and Political Rights, as recommended by the Working Group on Arbitrary Detention.<sup>59</sup> This provision remains in force, contrary to international standards on the exceptional nature of pretrial detention.

33. In other areas, the recommendations to amend Acts No. 872 (para. 35), No. 1040 (para. 38), No. 1042 (para. 40) and No. 1055 (para. 40) have also not been implemented.

## D. Civic space

### 1. Freedom of peaceful assembly

34. In August 2018, OHCHR recommended that the State “ensure the right to freedom of peaceful assembly is fully respected through the proper management of public gatherings, in line with applicable international human rights norms and standards”.<sup>60</sup> However, demonstrations against the Government to demand the release of detained persons continued

<sup>51</sup> [A/HRC/42/18](#), para. 65 (d) (ii).

<sup>52</sup> [A/HRC/49/23](#), para. 66 (e).

<sup>53</sup> [A/HRC/42/18](#), para. 65 (h); and [A/HRC/46/21](#), para. 71 (b). Two recommendations were made in the context of the universal periodic review: [A/HRC/42/16](#), paras. 125.93 and 125.114.

<sup>54</sup> Document AG/DOC.5749/21.

<sup>55</sup> [A/HRC/49/23](#), para. 66 (f).

<sup>56</sup> [A/HRC/42/18](#), para. 65 (g).

<sup>57</sup> [A/HRC/49/23](#), para. 23.

<sup>58</sup> Amended by Act No. 952.

<sup>59</sup> Opinion No. 39/2020, para. 58.

<sup>60</sup> OHCHR, “Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018”, para. 119.6.



to be repressed with excessive use of force by the police or attacked by pro-Government elements with the acquiescence of law enforcement officers.<sup>61</sup>

35. Since September 2018, based on a narrow interpretation of article 7 of the Act on the Organization, Functions, Career and Special Social Security Regime of the National Police (Act No. 872), the police have prohibited demonstrations and required applications to authorize public gatherings.<sup>62</sup> Communications and requests for demonstrations submitted by those perceived by the police as opponents have been automatically rejected or not received. All unauthorized protests, or attempts to stage an unauthorized protest, have been immediately dispersed or prevented.

36. Since 2019, OHCHR has recommended that the Government guarantee the right to peaceful assembly<sup>63</sup> and end undue restrictions on the freedom of movement.<sup>64</sup> During the universal periodic review, Nicaragua received 26 recommendations to guarantee this right and to decriminalize the right to hold peaceful demonstrations.<sup>65</sup> Despite having accepted 10 of these recommendations, the Government has maintained the restrictions to date, with the result that there are no longer any public protests against the Government in Nicaragua.

## 2. Freedom of association

37. The State has shut down civil society organizations, claiming that they have supported terrorist actions and/or failed to fulfil administrative requirements since November 2018. In some cases, excessive force was used, and organizations were searched and their assets seized without a warrant.<sup>66</sup>

38. In 2019, OHCHR recommended that the State guarantee freedom of association, restore the legal personality of sanctioned organizations and return their assets.<sup>67</sup> During the universal periodic review, 23 recommendations were made along the same lines,<sup>68</sup> 10 of which were accepted by Nicaragua. Instead of complying with them, the National Assembly reinforced the restrictive legal framework for the exercise of this right. In 2020, it adopted Act No. 1040 on the Regulation of Foreign Agents, which provides for the revocation of the legal personality of organizations that obtain foreign funding to carry out activities that, in the Government's view, interfere in the internal affairs of Nicaragua. Four special procedure mandate holders and OHCHR urged the Government to review the law, since it presented serious and fundamental problems of compatibility with international law.<sup>69</sup> In February 2022, OHCHR reiterated its recommendation to restore the legal personality and assets of the sanctioned organizations.<sup>70</sup> However, as detailed above, such revocations continued, affecting a total of 1,178 organizations.

## 3. Freedom of expression

39. Since 2018, recommendations have been issued to Nicaragua urging it to guarantee freedom of expression, personal liberty and the safety of journalists and the media.<sup>71</sup> However,

<sup>61</sup> [A/HRC/42/18](#), paras. 11, 15 and 16.

<sup>62</sup> *Ibid.*, para. 10.

<sup>63</sup> *Ibid.*, para. 65 (b).

<sup>64</sup> [A/HRC/46/21](#), para. 71 (a) and (c).

<sup>65</sup> [A/HRC/42/16](#), paras. 125.110, 125.111, 125.113, 125.115, 125.117, 125.119, 125.121, 125.123, 125.124, 125.126, 125.128, 125.129, 125.135, 125.140, 125.142, 125.146, 125.148, 125.151, 125.153, 125.155, 125.157, 125.160, 125.162, 125.164, 125.167 and 125.168.

<sup>66</sup> [A/HRC/42/18](#), para. 20.

<sup>67</sup> *Ibid.*, para. 65 (b) and (c).

<sup>68</sup> [A/HRC/42/16](#), paras. 125.67, 125.87, 125.110, 125.111, 125.115, 125.120, 125.121, 125.124, 125.126, 125.135, 125.136, 125.140, 125.142, 125.146, 125.148, 125.151, 125.155, 125.157, 125.164, 125.166–125.168 and 125.253.

<sup>69</sup> See communication NIC 3/2020; and [A/HRC/46/21](#), para. 71 (d).

<sup>70</sup> [A/HRC/49/23](#), para. 66 (d).

<sup>71</sup> OHCHR, "Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018", paras. 119.1 and 119.9; [A/HRC/42/18](#), para. 65 (b) and (c); [A/HRC/46/21](#), para. 71 (b), (c) and (d); [A/HRC/49/23](#), para. 66 (c); and [A/HRC/42/16](#), paras. 125.68, 125.79, 125.85, 125.87, 125.92, 125.96, 125.109–125.111, 125.113, 125.116, 125.117, 125.119, 125.120, 125.122, 125.124,

the serious deterioration of freedom of expression has not been reversed. The 2018 murder of journalist Ángel Gahona remains unpunished.<sup>72</sup> Numerous other cases of aggression and attacks against journalists, media workers and media outlets have not been investigated<sup>73</sup> and, as mentioned above, the censorship and closure of radio and television stations continued in 2022.

40. Despite the observations of the special procedure mandate holders<sup>74</sup> and the recommendations of OHCHR that amendments be made to the Special Act on Cybercrimes (Act. No. 1042), under which any person who spreads “false” or “distorted” information can be sentenced to up to 5 years in prison, and the Act on the Defence of the People’s Rights to Independence, Sovereignty and Self-Determination for Peace (Act. No. 1055), which, together with article 410 of the Criminal Code (Offence of undermining national integrity), provides for a penalty of up to 15 years’ imprisonment for any person deemed to be a “traitor to the homeland” for calling for or welcoming the imposition of sanctions against the State and its citizens, both laws remain in force.

#### 4. Persecution of human rights defenders, political activists, journalists and dissidents

41. OHCHR has recommended that Nicaragua cease, condemn and punish attacks against human rights defenders, activists, journalists or anyone perceived to be critical of the Government.<sup>75</sup> During the universal periodic review, three States recommended that measures be taken to ensure that human rights organizations are able to carry out their activities freely, without fear of reprisals, and that all forms of violence and retaliation against them are halted and investigated.<sup>76</sup> The Government did not accept those recommendations.

42. OHCHR has continued to document acts of harassment against these groups.<sup>77</sup> The authorities have made no progress in investigating the cases previously reported by OHCHR, nor have they publicly condemned them. On the contrary, in 2021 and 2022 they continued to direct stigmatizing comments and hate speech against critics and opponents.<sup>78</sup>

### E. Arbitrary detention and due process

43. OHCHR has consistently recommended that the State refrain from arbitrarily detaining persons who are critical of or perceived to be opponents of the Government, immediately release them and withdraw all criminal charges against them.<sup>79</sup> During the universal periodic review, States made 23 similar recommendations,<sup>80</sup> of which Nicaragua accepted 6 and rejected 17, alleging that they were based on a distortion of reality. Between June 2019 and May 2022, the Working Group on Arbitrary Detention issued nine decisions in which it concluded that 37 people had been arbitrarily detained, since there was no legal basis for their detention or they were detained for legitimately exercising their rights and freedoms, among other reasons (para. 3). The Working Group recommended that the State release these individuals and implement other measures of reparation. Twenty-two were released, but the State did not compensate them or investigate those responsible for their

125.126, 125.128–130, 125.134, 125.135, 125.138, 125.139, 125.141, 125.142, 125.145, 125.146, 125.148, 125.150, 125.152, 125.154–125.156, 125.158–125.160, 125.162 and 125.164–125.168.

<sup>72</sup> OHCHR, “Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018”, para. 92.

<sup>73</sup> Ibid., paras. 93–95; [A/HRC/42/18](#), paras. 18–19; [A/HRC/46/21](#), paras. 21–22; and [A/HRC/49/23](#), paras. 40–43.

<sup>74</sup> See communication NIC 3/2020.

<sup>75</sup> [A/HRC/42/18](#), para. 65 (b); and [A/HRC/49/23](#), para. 66 (c).

<sup>76</sup> [A/HRC/42/16](#), paras. 125.133, 125.163 and 125.165.

<sup>77</sup> [A/HRC/46/21](#), para. 16; and [A/HRC/49/23](#), paras. 40 and 45.

<sup>78</sup> See <https://www.el19digital.com/articulos/ver/titulo:122538-acto-del-45-aniversario-del-transito-a-la-inmortalidad-de-carlos-fonseca-amador>; <https://www.el19digital.com/articulos/ver/titulo:124381-acto-solemne-de-juramentacion-e-inauguracion-del-nuevo-periodo-del-pueblo-presidente>.

<sup>79</sup> OHCHR, “Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018”, para. 119.4; [A/HRC/42/18](#), para. 65 (f); [A/HRC/46/21](#), para. 71 (a) and (c); and [A/HRC/49/23](#), para. 66 (a).

<sup>80</sup> [A/HRC/42/16](#), paras. 125.66, 125.68–125.84, 125.86, 125.108, 125.120, 125.143 and 125.153.

detention. Three of these individuals were arrested again between 2020 and 2021 and, together with 13 others arrested for the first time in 2021, were convicted and remain in custody, with the exception of Hugo Torres, who died on 12 February as mentioned above.

44. Although the State released some of the people who had been arbitrarily detained in the context of the crisis,<sup>81</sup> not all of them were released. According to civil society, even after the enactment of the Amnesty Act, 42 people (3 women and 39 men) who had been released were rearrested and convicted.<sup>82</sup>

45. It has also been recommended that Nicaragua guarantee judicial independence and impartiality.<sup>83</sup> OHCHR made its recommendations on the basis of its observations that perpetrators of human rights violations since 2018 have gone unpunished and that due process rights have not been respected in criminal cases opened against dissidents, journalists, human rights defenders, social and campesino leaders, students, entrepreneurs and opponents of the Government.

46. The proceedings against these individuals have been characterized by violations of the presumption of innocence, the right to a defence, equality of arms, the right to a public hearing and the principles of impartiality, independence and the natural judge.<sup>84</sup> These violations were also noted by the Working Group on Arbitrary Detention in the nine cases mentioned above (para. 3), in which it concluded that international standards on the right to a fair trial had not been respected. As noted above, the criminal proceedings against persons detained in the context of the 2021 elections also failed to respect fair trial standards, thus indicating that the recommendations of OHCHR and other human rights mechanisms on judicial impartiality and independence have not been implemented. The judiciary and the Public Prosecution Service continue to act in the interests of the Government.

## **F. Torture, ill-treatment and conditions of detention**

47. In 2019, OHCHR recommended that the Government take immediate measures to halt and effectively prevent acts of torture and ill-treatment in custody, including prolonged solitary confinement; carry out prompt, impartial and effective investigations into all allegations of torture and ill-treatment; and bring perpetrators to justice and ensure reparation for the victims.<sup>85</sup> The Government has not provided information on any measures taken in this regard.

48. During the universal periodic review, the Government received three recommendations: to protect the rights of detained persons,<sup>86</sup> ensure that the National Police refrain from committing acts of torture<sup>87</sup> and ensure that no acts of ill-treatment are tolerated in detention centres.<sup>88</sup> The Government accepted only the first recommendation, but OHCHR has not received any information indicating that it has been implemented.

49. In December 2021, the Office of the Human Rights Advocate published a report on human rights advances in Nicaragua, covering the period from 2007 to 2021, that does not mention any action taken to prevent ill-treatment and torture. The current conditions of detention of the persons held in the Evaristo Vázquez Complex since May 2021 (para. 9 above) seem to confirm that the State has not taken any such measures.

50. Since 2018, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, together with other rapporteurs, has sent six communications to the

<sup>81</sup> [A/HRC/42/18](#), para. 6.

<sup>82</sup> See <https://presasypresospoliticosnicaragua.org/wp-content/uploads/2022/07/Lista-informe-p%C3%ABlico-de-PP-junio-2022.pdf>.

<sup>83</sup> [A/HRC/42/18](#), para. 65 (d) (ii); [A/HRC/49/23](#), para. 66 (e); [E/C.12/NIC/CO/5](#), para. 7; and [A/HRC/42/16](#), paras. 125.39, 125.95, 125.97, 125.100, 125.101 and 125.105.

<sup>84</sup> [A/HRC/42/18](#), paras. 39–47 and 64.

<sup>85</sup> *Ibid.*, para. 65 (e).

<sup>86</sup> [A/HRC/42/16](#), para. 125.59.

<sup>87</sup> *Ibid.*, para. 125.56.

<sup>88</sup> *Ibid.*, para. 125.65.

Government<sup>89</sup> requesting information on allegations of torture or ill-treatment in 37 cases, with no response. In October 2018 and January 2021, he sent requests to visit the country, but again received no response from the Government.

51. In July 2022, the Government did not take part in the dialogue with the Committee against Torture for the review of the second periodic report of Nicaragua. The Minister for Foreign Affairs addressed a letter to the Chair of the Committee denigrating that body and stating that torture is not practised in his country.<sup>90</sup> The Committee concluded that systematic violations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had been committed in Nicaragua.<sup>91</sup>

## G. Economic, social and cultural rights

52. Assessing the implementation of recommendations on economic, social and cultural rights is particularly complex due to the scarcity of up-to-date and public official information. Consequently, it has not been possible to carry out such an assessment in relation to certain issues and rights.

53. Nicaragua has made efforts to maintain spending on health and education, in partial compliance with the recommendation of the Committee on Economic, Social and Cultural Rights to implement a budget that guarantees the enjoyment of these rights by the entire population<sup>92</sup> and with six recommendations received during the universal periodic review,<sup>93</sup> all of which were accepted by the Government. The 2022 budgets for health and education (21.5 per cent and 23 per cent respectively)<sup>94</sup> have remained similar to those of 2021 and continue to exceed the regional and developed-country averages.<sup>95</sup>

54. The same recommendation called for strengthened accountability and fiscal transparency and for an assessment of the impact of the Tax Harmonization Act. The Government has not provided information on any measures taken in this regard or on how transparency and accountability are ensured in the fight against corruption.<sup>96</sup> Nicaragua is reportedly the country in the region with the second highest public perception of corruption,<sup>97</sup> an indicator that has worsened since 2012.<sup>98</sup>

55. Nicaragua has also made no progress in implementing recommendations regarding discrimination in the enjoyment of economic, social and cultural rights,<sup>99</sup> including the development of comprehensive legislation, or regarding the reinstatement of students and academic and medical personnel who have been removed from their schools, universities or workplaces on account of their political views.<sup>100</sup> It has also taken actions contrary to the recommendations regarding the right to education,<sup>101</sup> as noted above (para. 13).

56. Regarding the recommendation to make efforts to promote gender equality in the workplace,<sup>102</sup> the Government has been working to close the pay gap in public administration, as noted in the report on its first voluntary national review of progress towards the Sustainable

<sup>89</sup> See communications NIC 4/2018, NIC 1/2020 and NIC 3/2021 to NIC 6/2021.

<sup>90</sup> Communication of 29 June 2022 from the Minister for Foreign Affairs.

<sup>91</sup> See <https://media.un.org/en/asset/k1o/k1ow6ov3m3>.

<sup>92</sup> E/C.12/NIC/CO/5, para. 16.

<sup>93</sup> A/HRC/42/16, paras. 125.181, 125.203, 125.209, 125.211, 125.212 and 125.222.

<sup>94</sup> See <https://www.el19digital.com/articulos/ver/titulo:123683-asamblea-nacional-aprueba-presupuesto-general-de-la-republica-2022>.

<sup>95</sup> Health spending averaged 12.7 per cent of total public expenditure for Latin America and 18.1 per cent for Organisation for Economic Co-operation and Development (OECD) countries in 2018. In the case of education, the average was 16.1 per cent for Latin America and 12.2 per cent in OECD countries. Available at <https://data.worldbank.org/>.

<sup>96</sup> E/C.12/NIC/CO/5, para. 14.

<sup>97</sup> See <https://www.transparency.org/en/news/cpi-2021-americas-a-region-in-crisis>.

<sup>98</sup> Ibid.

<sup>99</sup> E/C.12/NIC/CO/5, para. 18.

<sup>100</sup> A/HRC/49/23, para. 66 (h), and E/C.12/NIC/CO/5, para. 10.

<sup>101</sup> E/C.12/NIC/CO/5, para. 49.

<sup>102</sup> E/C.12/NIC/CO/5, para. 20.

Development Goals. This gap reportedly decreased from 27.3 per cent in 2007 to 7.6 per cent in 2020 in the central Government.<sup>103</sup>

57. Nicaragua also received recommendations regarding the rights to water and sanitation.<sup>104</sup> According to the same voluntary review, from 2007 to 2020 there was an investment of US\$ 809.9 million in this sector, increasing urban drinking water coverage from 65.0 per cent to 91.5 per cent and sewage system coverage from 33.0 per cent to 54.0 per cent. In rural areas, drinking water coverage increased from 26.7 per cent to 55.4 per cent and sewage system coverage from 36.1 per cent to 50.9 per cent.<sup>105</sup>

## H. Rights of women and girls

58. Nicaragua has received recommendations to amend the total ban on abortion and bring it into line with international standards on sexual and reproductive rights, and to adopt other measures to guarantee sexual and reproductive rights.<sup>106</sup> OHCHR has not received information on the implementation of these recommendations. The Government stated that they represent an attempt to impose abortion against Nicaraguan tradition and culture.<sup>107</sup> Between 2019 and 2021, US\$ 4.2 million was reportedly invested in the purchase of contraceptives, which was insufficient to prevent stock shortages. Emergency oral contraceptives continue to be unavailable in public health centres.

59. It has also been recommended that Nicaragua strengthen the participation of women in the economic and political spheres.<sup>108</sup> According to the Global Gender Gap Index,<sup>109</sup> Nicaragua is among the countries with the greatest equality between men and women in the world in terms of educational, political and economic indicators, and has the second highest percentage of female mayors in Latin America and the Caribbean (42.5 per cent).<sup>110</sup> The Electoral Act (Act No. 1070) supports gender parity by establishing 50 per cent quotas for men and women in the composition of the Supreme Electoral Council, in the internal bodies of political parties and in the electoral lists for local, regional and national elections.<sup>111</sup>

60. With regard to gender-based violence, women's access to justice and maternal mortality, Nicaragua also received recommendations during the universal periodic review,<sup>112</sup> one of which was to establish comprehensive and transparent records of the incidence of domestic violence, sexual violence and maternal mortality, as well as femicides.

61. Due to insufficient official data, it is not possible to ascertain the extent of violence against women in Nicaragua. In 2020 there was a large disparity between the number of femicides documented by civil society and those reported by the Government,<sup>113</sup> which, in 2021, stopped publishing these figures. However, it has reported the creation of more than 100 Special Police Units for Women with expertise in this area.<sup>114</sup>

62. The Government included the reduction of the maternal mortality ratio as a priority objective of the national anti-poverty and human development plan for 2022–2026 and in

<sup>103</sup> See <https://ods9.org/resource/273/informe-nacional-voluntario-2021-de-nicaragua>, p. 59.

<sup>104</sup> [A/HRC/42/16](#), paras. 125.178 and 125.186.

<sup>105</sup> See <https://ods9.org/resource/273/informe-nacional-voluntario-2021-de-nicaragua>, pp. 40–42.

<sup>106</sup> [A/HRC/49/23](#), para. 66 (j); [E/C.12/NIC/CO/5](#), para. 45; and [A/HRC/42/16](#), paras. 125.217 and 125.220.

<sup>107</sup> See <https://www.el19digital.com/articulos/ver/titulo:116982-companera-rosario-murillo-en-multinoticias-09-06-21>.

<sup>108</sup> [A/HRC/42/16](#), paras. 125.185 and 125.238; [E/C.12/NIC/CO/5](#), paras. 20 and 26.

<sup>109</sup> See [https://www3.weforum.org/docs/WEF\\_GGGR\\_2021.pdf](https://www3.weforum.org/docs/WEF_GGGR_2021.pdf).

<sup>110</sup> See <https://oig.cepal.org/en/indicators>.

<sup>111</sup> [A/HRC/49/23](#), para. 36.

<sup>112</sup> [A/HRC/42/16](#), paras. 125.236, 125.237, 125.241 and 125.244, all of which were accepted by the Government.

<sup>113</sup> [A/HRC/46/21](#), paras. 34–35.

<sup>114</sup> See <https://www.el19digital.com/articulos/ver/titulo:126803-policia-nacional-inauguro-la-comisaria-de-la-mujer-numero-113-en-ticuantep>.

2021 claimed to have reduced the ratio to 37 per 100,000 births.<sup>115</sup> This would represent a 68 per cent reduction in deaths since 2006, when the ratio was 115 per 100,000. However, the accelerated reduction since 2017, which does not reflect past trends, has not been validated by international agencies.

63. With regard to the recommendations made on the rights of girls during the universal periodic review,<sup>116</sup> it should be noted that despite the existence of family prevention programmes and an inter-institutional protocol (Presidential Decree No. 25-2020) to combat sexual violence against children, the fertility rate among girls and women aged 10 to 19 years in Nicaragua is estimated to be the highest in Central America, with the rate among girls between 10 and 14 years of age standing at twice the regional average,<sup>117</sup> although there are no recent official data. The absence of a multisectoral plan and the failure to implement the strategy on adolescent pregnancy, in addition to the failure of family prevention programmes to cover rural populations, people of African descent, Indigenous people, persons with disabilities or lesbian, gay, bisexual, transgender and intersex persons, continue to be major challenges, together with the aforementioned unavailability of contraceptives.

## **I. Rights of Indigenous Peoples and people of African descent**

64. Nicaragua has received several recommendations to adopt measures to protect Indigenous Peoples' right to land and territory, including the restitution of lands occupied by non-Indigenous settlers, and to investigate attacks against Indigenous Peoples by settlers and third-party occupants, bringing those responsible to justice.<sup>118</sup> OHCHR has not received any information on progress in the land distribution process or on investigations into the attacks.<sup>119</sup>

65. Regarding the Committee's recommendations that the State design and implement, in consultation with Indigenous Peoples and people of African descent, an adequate procedure for free, prior and informed consultation regarding any measure that affects their rights<sup>120</sup> and that it ensure that the legitimate Indigenous authorities are not supplanted by other "parallel" authorities,<sup>121</sup> the Government has not reported any initiatives.

## **J. Rights of other vulnerable groups and populations**

### **1. Children**

66. With regard to the recommendations on children's rights made during the universal periodic review,<sup>122</sup> according to information received from the United Nations Children's Fund, Nicaragua devoted 72.7 per cent of its 2019 social spending to children and adolescents, equivalent to 7.5 per cent of gross domestic product, surpassing other countries in the region. The main shortcomings observed relate to sexual and reproductive rights, as reflected in paragraphs 59 and 64.

### **2. Lesbian, gay, bisexual, transgender and intersex persons**

67. The recommendations of the universal periodic review regarding lesbian, gay, bisexual, transgender and intersex persons, all of which were accepted by the Government,

<sup>115</sup> See <https://www.el19digital.com/articulos/ver/titulo:125214-nicaragua-redujo-la-mortalidad-materna-en-68-entre-2006-y-2021>.

<sup>116</sup> [A/HRC/42/16](#), paras. 125.207, 125.214 and 125.237.

<sup>117</sup> See <https://population.un.org/wpp/Download/Standard/Fertility/>.

<sup>118</sup> [A/HRC/49/23](#), para. 66 (i); [A/HRC/42/16](#), paras. 125.254 and 125.255; and [E/C.12/NIC/CO/5](#), para. 12 (c) and (d).

<sup>119</sup> [A/HRC/46/21](#), paras. 49–52; and [A/HRC/49/23](#), paras. 33–35.

<sup>120</sup> [E/C.12/NIC/CO/5](#), para. 12 (a).

<sup>121</sup> *Ibid.*, para. 12 (b).

<sup>122</sup> [A/HRC/42/16](#), paras. 125.207, 125.214, 125.237, 125.247–125.253 and 125.175.



were aimed at increasing such persons' visibility, eliminating violence and discrimination against them and releasing those detained since the events of 2018.<sup>123</sup>

68. Official statistics continue to lack data on violence or discrimination against such persons. In May 2021, two men were sentenced to life imprisonment subject to review for the murder of a trans woman, the first case in which this penalty was applied for a hate crime.

69. Trans women deprived of their liberty in the context of the crisis were held in men's prisons and subjected to discriminatory and degrading treatment.<sup>124</sup>

## K. Cooperation with OHCHR and other human rights mechanisms

70. Since August 2018, when Nicaragua rescinded its invitation granting the Office access to the country, the High Commissioner has urged the Government to allow its return, resume constructive cooperation<sup>125</sup> and engage with other human rights mechanisms and bodies.<sup>126</sup> During the universal periodic review, 28 similar recommendations were made, only 2 of which were accepted by the Government.<sup>127</sup>

71. The State has not allowed OHCHR to return and, since the end of 2020, has rejected its reports. Since January 2022, it has also failed to respond to communications and information requests from the Office.

72. Of the 20 joint communications and 13 individual cases submitted by special procedure mandate holders since April 2018, the State has responded to only one.<sup>128</sup> It has also not allowed visits by these mandate holders since 2009, despite having extended a standing invitation in 2006 and despite the submission of visit requests by five mandate holders since 2018.<sup>129</sup>

73. In 2019, Nicaragua partially complied with the recommendation to engage with treaty bodies and submitted six reports due between 2010 and 2013.<sup>130</sup> The reviews in 2020 had to be postponed owing to the coronavirus disease (COVID-19) pandemic. The first review took place in October 2021, before the Committee on Economic, Social and Cultural Rights, and Nicaragua participated in the session but did so in "listening mode" without answering the Committee's questions.<sup>131</sup> The State did not take part in two other dialogues, before the Committee against Torture in July 2022<sup>132</sup> and the Committee on the Elimination of Racial Discrimination in August 2022.<sup>133</sup>

74. Since 2018, Nicaragua has not ratified or acceded to any human rights treaties, contrary to recommendations.<sup>134</sup>

<sup>123</sup> Ibid., paras. 125.46 and 125.66.

<sup>124</sup> [A/HRC/46/21](#), para. 42.

<sup>125</sup> Ibid., para. 71 (f); and [A/HRC/49/23](#), para. 66 (m).

<sup>126</sup> OHCHR, "Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018", para. 19.16.

<sup>127</sup> [A/HRC/42/16](#), paras. 125.8–125.36.

<sup>128</sup> See communication NIC 5/2018.

<sup>129</sup> Arbitrary detention, enforced disappearances, freedom of peaceful assembly and of association, torture, and toxics.

<sup>130</sup> See

[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/countries.aspx?%20CountryCode=NIC&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?%20CountryCode=NIC&Lang=EN).

<sup>131</sup> [E/C.12/NIC/CO/5](#), paras. 2–3.

<sup>132</sup> See <https://ohchr.org/en/press-releases/2022/07/committee-against-torture-considers-situation-nicaragua-absence-delegation>.

<sup>133</sup> See <https://media.un.org/en/asset/k1r/k1rfw9qasz>.

<sup>134</sup> [E/C.12/NIC/CO/5](#), para. 54; and [A/HRC/42/16](#), paras. 125.1–125.7.



## IV. Follow-up to recommendations to the international community and the Human Rights Council

75. The High Commissioner recommended that the international community and the Human Rights Council adopt measures to prevent further deterioration of the human rights situation in Nicaragua, support the State in finding a solution to the crisis and urge it to comply with its international obligations.<sup>135</sup>

76. During the universal periodic review and in a number of declarations and resolutions, various States have expressed concern about the human rights situation in Nicaragua and have made recommendations.

77. The adoption of four resolutions by the Human Rights Council<sup>136</sup> also forms part of the implementation of these recommendations. The resolutions call on the Government to provide a human rights-based response to the crisis and have allowed OHCHR to continue its monitoring and reporting work through written reports and oral updates, which have helped to keep the situation in Nicaragua on the international human rights agenda.

78. In response to the recommendation that the Human Rights Council consider further measures to strengthen accountability for serious human rights violations,<sup>137</sup> the Council established, by its resolution 49/3, a Group of Human Rights Experts on Nicaragua with a mandate that includes establishing the facts concerning the alleged violations and identifying those responsible.

## V. Conclusions

79. **The human rights situation in Nicaragua has progressively deteriorated since 2018, but the Government has not shown the political will to address the crisis through dialogue and the implementation of the recommendations made by human rights mechanisms. The lack of institutional and legislative reforms for restoring the rule of law and the separation of powers, the State's isolation from the international community, the severe restrictions on civic space, the harassment of critics and the situation of persons detained in the context of the crisis are signs of such deterioration.**

80. **The recommendations made by the High Commissioner in all her reports form a road map with specific actions for enabling Nicaragua to devise solutions for overcoming the current crisis, with the support of the international community.**

## VI. Recommendations

81. **The High Commissioner strongly urges Nicaragua to implement, as soon as possible, the OHCHR and human rights mechanism recommendations that have not yet been put into practice, and in particular to:**

- (a) **Restore the rule of law through judicial reform that guarantees the independence and impartiality of the judiciary;**
- (b) **Bring domestic legislation into compliance with international human rights norms and standards, especially the Electoral Act (Acts No. 1070 and No. 1116), Act No. 1115, Act No. 1040, Act No. 1042 and Act No. 1055;**
- (c) **Immediately and unconditionally release all persons who have been arbitrarily detained and convicted, and invalidate their trials and sentences;**

<sup>135</sup> OHCHR, "Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018", paras. 119.15–119.16; [A/HRC/42/18](#), para. 67; [A/HRC/46/21](#), para. 72; and [A/HRC/49/23](#), paras. 67–68.

<sup>136</sup> Resolutions 40/2, 43/2, 46/2 and 49/3.

<sup>137</sup> OHCHR, "Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018", para. 119.15; and [A/HRC/49/23](#), para. 68 (b).

- (d) **Reinstate civic space by restoring the legal personality and assets of organizations that have been shut down, protecting their freedom of operation and refraining from arbitrarily revoking the legal personality of any additional organizations and media outlets;**
  - (e) **Remove all obstacles resulting in impunity for perpetrators of the human rights violations committed since April 2018 and provide reparations to all victims;**
  - (f) **Allow OHCHR access to Nicaragua and cooperate effectively with the Office.**
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