

CHAPTER IV. B NICARAGUA

I. INTRODUCTION

1. The Inter-American Commission (hereinafter “the Commission,” “the Inter-American Commission,” or “the IACHR”) has been monitoring with special attention the progressive deterioration of the human rights situation in Nicaragua, especially since the start of violence on April 18, 2018 in the context of the state’s repression of protests.

2. On May 3, 2018, the IACHR announced the establishment of the Rapid and Integrated Response Coordination Unit (*Sala de Coordinación y Respuesta Oportuna—SACROI*), for the purpose of focusing special attention on the human rights situation in Nicaragua using its various mechanisms.¹ Because the protests against the state’s repression did not stop, the President of Nicaragua expressed his receptiveness to a National Dialogue, in which the Catholic Church would participate as mediator. The Church requested the Commission to visit the country as one of the principal conditions to establish the dialogue group.² On May 13, 2018, the state of Nicaragua consented to have the Commission make a working visit “for the purpose of observing onsite the human rights situation in Nicaragua in the context of the events from April 18 up to the present date.”³

3. On May 17 to 21, 2018, the Commission made a working visit to the country and issued its preliminary observations with 15 initial recommendations addressed to the state.⁴ On June 20, 2018, the state of Nicaragua transmitted to the IACHR the agreements reached at the sessions of June 15 and 16 in the National Dialogue, among which the following was indicated: “1. Encourage the presence of the IACHR and urge it to announce the members of the GIEI and to put it into operation, as well as the monitoring mechanism (MESENI).”⁵

4. On June 21, 2018, the IACHR published its Final Report, *Gross Human Rights Violations in the Context of Protests in Nicaragua*, in which it concluded that the state’s response was at all times aimed at violently deterring participation in the protests. The Commission reiterated the 15 recommendations that were initially made and issued additional ones, among which the following requests to the State: immediately cease repressing demonstrators and arbitrarily detaining those who participate in protests; respect and guarantee the full enjoyment of the right of the population to protest, to freedom of expression, to peaceful assembly, and to political participation; create an international investigative mechanism on the acts of

¹ IACHR, Press Release 094/2018 - [CIDH anuncia instalación de Sala de Coordinación para monitorear la situación en Nicaragua](#), Washington, D.C., May 3, 2018.

² The first session of the National Dialogue was held on May 16, 2018, with the participation of representatives of the government, private enterprise, universities, students, social organizations, and indigenous and Afro-descendent communities. Between May 23 and June 15, 2018, the National Dialogue Group suspended its plenary session because of failure of the government and civil society to reach consensus. IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 68 and following.

³ According to Article 18, subparagraph g), of the Statute. Communication from the state of Nicaragua, Note MRE-DMDMC/DGAJST/00202/05/18, May 13, 2018.

⁴ IACHR, Press Release 113/18 - [Observaciones preliminares de la visita de trabajo de la CIDH a Nicaragua](#). Washington, D.C., May 2, 2018.

⁵ Note from the Permanent Mission of Nicaragua to the OAS, MRE/DM-DMC/00268/06/18, June 19, 2018; National Dialogue, [Comunicado Oficial](#), June 15, 2018. On June 16, an agreement was reached to establish the Verification and Security Commission comprised of 12 members—6 from the government and 6 from Civic Alliance for Justice and Democracy—with the appointment of its members and the mediator and witness; b) the establishment of the Electoral Group comprised of 6 members—3 from the government and 3 from Civic Alliance for Justice and Democracy—with the appointment of its members and the mediator and witness and “the agenda of the Electoral Group, according to a roadmap to implement the agreements”; and c) the establishment of the Judicial Group comprised of 6 members—3 from the government and 3 from Civic Alliance for Justice and Democracy—with the appointment of its members and the mediator and witness 2018.

violence that occurred, with guarantees of autonomy and independence to ensure the right to truth and to duly identify the persons responsible, among others.⁶

5. On June 24, 2018, the Inter-American Commission installed the Special Monitoring Mechanism for Nicaragua (*Mecanismo Especial de Seguimiento para Nicaragua—MESENI*) for the purpose of upholding in-the-field monitoring of the human rights situation in line with the mandate given to the IACHR to follow up on both the recommendations made as a result of the visit to the country and compliance with the precautionary measures granted in this context. In the framework of MESENI's operation, the IACHR made several additional visits to the country.⁷ Afterwards, on July 2, 2018, the Commission announced the installation of the Interdisciplinary Group of Independent Experts (*Grupo Interdisciplinario de Expertos Independientes—GIEI*) in charge of contributing to and supporting the investigations into the deaths that occurred in the context of the violent events in the country⁸.

6. On the basis of the ongoing monitoring of Nicaragua, the IACHR has documented four phases or stages of the state's repression under varying modalities and intensity since April 18. In the Report *Gross Human Rights Violations in the Context of Social Protests in Nicaragua*, the Commission reported common patterns such as human rights violations observed which characterized the first stage of the repression. Among them, the excessive and arbitrary use of the police force, the use of parapolic groups or riot squads with the acquiescence and tolerance of state authorities, erecting obstacles to prevent the injured from gaining access to emergency medical care as a form of retaliation for their participation in the protests, a pattern of arbitrary detentions of young people and adolescents who participated in the protests, the dissemination of propaganda and smear campaigns, direct and indirect censorship, intimidation, and threats against leaders of social movements, and the failure to ensure due diligence in the investigations into killings and injuries.⁹ Likewise, the IACHR noted with concern an adverse context for exercising freedom of expression because of a series of repressive measures and actions against independent broadcasting media and journalists, including jamming television transmission signals and attacks on Internet, seizure of equipment and information, among others.

7. Afterwards, in the second stage, which began in July 2018, the Commission recorded human rights violations in the context of "clean-up operations"¹⁰ carried out by National Police officers and parapolic groups to dismantle the roadblocks and barricades that had been built throughout the country and kept as a form of protest and vigilance in response to the violence meted out by government agents and other armed stakeholders. The Commission also noted the beginning of a pattern of selective and arbitrary detentions of persons who participated in the protests, not only in the context of the clean-up operations but also in raids, which benefited from the active participation of the so-called Citizen Power Councils (*Consejos de Poder Ciudadano—CPC*) serving the interests of the government.¹¹

8. In August 2018, the Commission identified a third stage of repression, consisting mainly of massive selective prosecution and criminalization of protesters, human rights defenders, students, social leaders, and opponents of the government, including workers from sectors opposing the government, on the basis of groundless and disproportionate charges such as terrorism; irregularities in access to justice, the

⁶ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018.

⁷ The IACHR Office of the Rapporteur on the Rights of Persons Deprived of Liberty in the Americas (Rapporteurship) made a working visit to Nicaragua on September 18 to 20, 2018 in order to review the detention conditions of the persons deprived of liberty in the country because of incidents associated with the protests. On October 14 to 18, the Rapporteurship on the Rights of Migrants made a working visit to Costa Rica for the purpose of monitoring the situation of Nicaraguan asylum seekers needing international protection who have been forced to flee their country. On October 25 to 27, 2018, the President of IACHR, Margarete May Macaulay, also made a working visit to Nicaragua to examine the human rights situation of women defenders, women deprived of liberty, and Afrodescendant persons.

⁸ IACHR, Press Release 121/2018, [CIDH anuncia la creación de Grupo Interdisciplinario de Expertos Independientes para coadyugar las investigaciones de los hechos recientes de violencia en Nicaragua](#), Washington, D.C., May 30, 2018.

⁹ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 2.

¹⁰ National Police, Nicaragua, [Policía presenta resultados de "Operación por la Paz"](#), July 16, 2018.

¹¹ IACHR, Press Release 156/2018, [Mecanismo Especial de Seguimiento para Nicaragua \(MESENI\) completa tercera semana de trabajo y constata intensificación de represión y operativos por la policía y grupos parapoliciales](#), Washington, D.C. / Managua, July 19, 2019.

right to defense and due process for persons charged; and human rights violations of persons deprived of liberty and their next of kin. According to statements made by senior officials, on September 18, a total of “184 men and 17 women” were being held in the National Penitentiary System.¹² As for civil society, it reported that the number of persons detained amounted to more than 300.¹³

9. The IACHR received distressing information about human rights violation patterns against persons detained in the context of protests that started on April 18, such as solitary confinement, inadequate ventilation, the confiscation of personal belongings, overcrowding, insufficiency of beds, mattresses, and blankets, restrictions on water supply from their families, and the absence of adequate and specialized medical care services for persons suffering from severe health problems. The IACHR also observed the specific impact on the rights of women detained as a result of unsanitary conditions, poor medical care, obstructions to visits, the implementation of maximum security regimes without any objective criteria, and the violation of their privacy and intimacy.¹⁴

10. In December 2018, 8 months after the protests started, the Commission identified a fourth stage of state repression characterized by the illegitimate restriction on the rights to freedom of expression, association, and assembly by declaring null and void the legal status of civil society organizations, the requirement of prior authorization to hold protests, and greater constraints on freedom of expression. A rise in acts of aggression and intimidation against independent media and journalists was observed; as well as a continuation of the detention and indictment of leaders, human rights defenders, and opponents of the government; and the arbitrary expulsion of naturalized citizens or permanent residents who participated in the protests, and foreign journalists.¹⁵

11. On December 19, the state of Nicaragua communicated the decision to temporarily suspend the presence of the MESENI in the country and the IACHR’s visits, as well as the expiry of the GIEI’s time-limits, objective, and mission.¹⁶ The IACHR notes that this decision was transmitted the day before the GIEI’s Final Report was scheduled to be presented in Managua.

12. The state of Nicaragua communicated to the Commission that “as a result of the actions of criminal terrorist groups who held violent marches and protests,” as of April 18, a total of 198 persons had died, among these 22 National Police officers; 1,240 injured persons, among these 401 police officers injured by firearms; 252 buildings “vandalized and damaged”; 209 kilometers of streets and highways destroyed; 278 pieces of heavy machinery “vandalized and burned”; and 389 motor vehicles destroyed.¹⁷ On November 5, 2018, the state informed the Commission that 273 persons continued to be held “for their participation in crimes perpetrated in the context of the failed overthrow of the government.”¹⁸ On December 24, 2018, the

¹² According to statements made by the Deputy Minister of the Interior, at September 18, a total of 204 prisoners remained in the National Penitentiary System for incidents associated with the protests that began on April 18. Of the 204 detainees, 7 had been convicted and 197 were in pre-trial detention. *19 Digital*, [Entrevista al Viceministro de Gobernación Luis Canas](#), Managua, September 19, 2018.

¹³ IACHR, Press Release 210/2018, [Relatoría sobre los Derechos de Personas Privadas de Libertad realiza visita a Nicaragua](#), Managua / Washington, D.C., August 24, 2018.

¹⁴ IACHR, Press Release 210/2018, [Relatoría sobre los Derechos de Personas Privadas de Libertad realiza visita a Nicaragua](#), Washington, D.C., September 26, 2018.

¹⁵ IACHR, Press Release 273/2018, [CIDH denuncia agravamiento de la represión y el cierre de espacios democráticos en Nicaragua](#), Washington, D.C. / Managua, December 19, 2018.

¹⁶ IACHR, Press Release 274/2018, [Comunicado sobre Nicaragua](#), Washington, D.C. / Managua, December 19, 2018.

¹⁷ Note MPN-OEA/00122, December 5, 2018, Report of the State of Nicaragua to the Inter-American Commission on Human Rights for the hearing convened at the 170 period of sessions of December 6, 2018.

¹⁸ Note MRE/DM-DMC/00519/11/18, November 5, 2018, “Complete Report of the National Penitentiary System relative to the 273 prisoners held, indicted, tried, and/or convicted for their participation in the crimes committed in the context of the failed attempt to overthrow the government.”

Ministry of the Interior updated the figure to 340 persons held in the Penitentiary System for these incidents.¹⁹

13. On February 15, 2019, the IACHR noted that repressions of the protests that started on April 18 led to the death of 325 persons, 21 of whom were police officers and 24 of whom were children or adolescents; more than 2,000 wounded; 777 persons detained and tried according to figures provided by civil society organizations; the dismissal of 300 health professionals²⁰; and the expulsion of at least 144 students from the National Autonomous University of Nicaragua (*Universidad Nacional Autónoma de Nicaragua—UNAN*).²¹ In addition, up to September 2018, in Costa Rica alone, there was a 1,376 percent increase in Nicaraguan asylum seekers compared to Nicaraguans seeking asylum globally in 2017. The above is a consequence of the various forms of persecution that have occurred in the country against protesters, opponents, students, social leaders, and human rights defenders described in the paragraphs above.²² In view of the inconsistencies in the figures provided by the Nicaraguan authorities and the public questioning of records held by the IACHR,²³ the Inter-American Commission repeatedly informed the state of Nicaragua that it was willing to compare and cross-check the data, without receiving any response whatsoever. The State, for its part, recognizes 198 fatalities in the context of the crisis and claims to have clarified 32 of those cases, while another 21 would be in process. Likewise, at the end of this chapter, the State recognizes that it holds 372 people in detention (345 men and 27 women).²⁴

14. In its observations on the draft of this report, the State of Nicaragua indicated that the IACHR and human rights organizations "have indicated higher figures of deceased persons, as a result of alleged repressive actions by the State, particularly the National Police, without being verified with the competent institutions, taken from media that are adverse to the government and in statements made by people who are evidently linked to violent protests. It reported that the number of fatalities amounts to 198, including 22 police officers, of which 2 are women; the injured people amount to 1240 people, of whom 403 are police officers and within them, 59 women, 66 policemen kidnapped, threatened and harassed. It also reported the total destruction of police units, 51 means of transport and partial damage 39 units and 136 means of transport.²⁵ The State also added that "[t]hey are investigating the 198 murders committed by these violent groups, many of them have been captured and prosecuted. State institutions work and continue working to guarantee the protection of the human rights of the Nicaraguan people".²⁶

15. In face of the inconsistency of the figures reported by the State and its questioning of the registration of deaths of the IACHR, it is to reiterate that for the consolidation of the data recorded, analyzed and published by the IACHR on Nicaragua, a rigorous technical monitoring work is carried out, in which it considers and collates various sources of information, in particular the figures and reports collected by organizations of the civil society dedicated to the defense of human rights, the one reported by public information media, and to the extent provided, the one documented by the State. The Commission also reiterates to the State of Nicaragua its request to access detailed information on all deceased persons, so that the IACHR can check and verify the figures with those offered by the Nicaraguan authorities.

¹⁹ *El 19 Digital*, [Presos golpistas recibieron visita extraordinaria este 24 de diciembre](#), December 24, 2018; *TN8, Gobierno de Nicaragua respeta y garantiza los Derechos Humanos de los golpistas, presos en el Sistema Penitenciario*, December 24, 2018; *Radio Ya*, [Presos golpistas recibieron visita extraordinaria este 24 de diciembre](#), December 24, 2018.

²⁰ IACHR, Press Release 273/2018, [CIDH denuncia agravamiento de la represión y el cierre de espacios democráticos en Nicaragua](#), Washington, D.C. / Managua, December 19, 2018.

²¹ *El Nuevo Diario*, [Expulsan a más universitarios](#), September 23, 2018.

²² IACHR, Press Release 233/2018 - [Observaciones preliminares sobre la visita de trabajo para monitorear la situación de personas nicaragüenses que se vieron forzadas a huir a Costa Rica](#), Washington, D.C., November 1, 2018.

²³ Regarding IACHR's figures and records, on July 30, 2018, President Daniel Ortega indicated that the IACHR data had not been debugged and assured that human rights organizations invented the number of dead persons. *CNN en Español*, [Daniel Ortega entrevista](#), July 30, 2018; subsequently on August 18, 2018, the Ministry of Foreign Affairs published the [Informe Evaluativo de la actuación parcializada y politizada de la Comisión Interamericana de Derechos Humanos \(CIDH\) en Nicaragua](#).

²⁴ IACHR, Press Release 51/2019, [IACHR Calls for Conditions that Enable the Enjoyment of Human Rights during Nicaraguan Dialogue](#), Washington, D.C., February 28 2019.

²⁵ State of Nicaragua, [State's Observations on the "Chapter IV. B- Annual Report of the IACHR"](#), February 22, 2019, Pag 2, 8, 9, 15, and 97.

²⁶ State of Nicaragua, [State's Observations on the "Chapter IV. B- Annual Report of the IACHR"](#), February 22, 2019, pag. 10.

16. In 2018, the Inter-American Commission requested the Government of Nicaragua to adopt the 67 precautionary measures, through 34 resolutions, to directly protect the 159 persons who are running a severe and urgent risk of suffering irreparable damage to their human rights. It also published 41 press releases voicing its concern over the state's repression which is maintaining a critical situation in terms of the enjoyment and exercise of the human rights of the Nicaraguan population.²⁷

17. The IACHR takes note of the conclusions issued by the GIEI in its Final Report on the incidents of violence that took place between April 18 and May 30, 2018, where it is indicated that, in the state of Nicaragua, there were conducts carried out in the context of a widespread and systematic attack against the civilian population which, according to international law, must be considered as crimes against humanity. This conclusion is based on the number of victims, the severity of the actions of repression, and the existence of certain patterns of behavior using state resources and which responded to a well-defined policy authorized by the topmost authorities of state power. The characteristics of state violence also show that a decision was taken to promote, from the state's structure of command, a line of conduct that entailed the perpetration of many criminal actions against protesters and political opponents.²⁸

18. Once it had assessed the human rights situation in Nicaragua, the IACHR decided to incorporate Nicaragua into the present Chapter because it deems that it falls within the purview of Article 59, subparagraph 6.a.i), of the IACHR's Rules of Procedure, which provides the existence of the following as a criterion for the inclusion of a member state in the present chapter:

a serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including: i. there is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the judiciary or lack of subordination of State institutions to the legally constituted civilian authority [...].

19. As discussed below, the Commission has documented throughout this report, an arbitrary exercise by the Government in the three branches of power, due to, inter alia, the lack of independence of the judiciary and other State institutions. All the aforementioned justifies the inclusion of the State of Nicaragua in chapter IV.B of the Annual Report, based on the aforementioned precept.

20. The Commission has decided to incorporate Nicaragua into this chapter because its situation falls under subparagraph 6 b) of the above-mentioned article, which establishes that among the criteria for the inclusion of a State in Chapter IV.B of the Annual Report is:

the unlawful suspension, totally or partially, of the free exercise of the rights guaranteed in the American Declaration or the American Convention, by virtue of the imposition of exceptional measures such as a declaration of a state of emergency, state of siege, suspension of constitutional guarantees, or exceptional security measures.

21. The IACHR notes, as developed in this chapter, that the severe human rights crisis in the country has continued for more than 8 months because of the de facto installation of a state of emergency characterized by the abusive exercise of law enforcement to repress dissident voices against the government, the search, shutdown, and censorship of the media, imprisonment or exile of journalists and social leaders, as well as the executive branch's interference with and control over the other branches of government. This establishment of a de facto state of emergency has been deemed by the Commission to be a determining

²⁷ Of the total number of press releases published in 2018, 4 pertain to the specific monitoring of the situation of journalists and media by the Special Rapporteurship for Freedom of Expression; and 1 pertains to the follow-up work of the Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights (SRESCER) in Nicaragua.

²⁸ GIEI, Nicaragua, [Informe final sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo](#), 2018, p. 228.

element for incorporating Nicaragua into this Chapter as it falls under the purview of subparagraph 6 b) of Article 59 of its Rules of Procedure²⁹.

22. Likewise, the Commission decided to incorporate Nicaragua into this chapter because its situation falls under subparagraph 6 c) of Article 59, referring to whether the State has committed or is committing:

massive, serious and widespread violations of human rights guaranteed in the American Declaration, the American Convention, or the other applicable human rights instruments.

23. Following the social protests that began in April 2018, there has been a massive, systematic and serious repressive State's response against the population. This has resulted in various human rights violations, such as rights to life and personal integrity, health, freedom of expression, political participation, association, education, work, and due process. In this regard, the GIEI, within the framework of its mandate, concluded that these State actions were carried out in the context of a generalized and systematic attack against the civilian population. The foregoing, based on the aforementioned precept, forms the justification for the inclusion of Nicaragua in this chapter.

24. For the purpose of monitoring the human rights situation in Nicaragua, the Commission has used various mechanisms, among which there are the following: installing the MESENI in the field; convening public hearings; issuing press releases; requesting information from the State on the basis of Article 41 of the American Convention; visits; information from the State and civil society organizations; as well as from international organizations. All of the above comes under the provisions of Article 59.5 of the Rules of Procedure of the IACHR. Below, the IACHR reviews in greater detail the grave human rights situation observed in 2018.

25. On January 25, 2019, in keeping with its Rules of Procedure, the IACHR forwarded the State a copy of the preliminary draft of this document, which is a part of Chapter IV of its Annual 2018 Report, and asked it to return its comments within a period of one month. On February 22, 2019, the State of Nicaragua presented its observations, which, as pertinent, were incorporated in this final version approved by the Commission on March 14, 2019.³⁰

26. In its observations on the draft of this report, the State indicated that "it rejects this report, due to the lack of objectivity, impartiality and manifest bias, reflecting destabilizing political interests against the State of Nicaragua." The State also requested that "the position of the State in relation to this report be consigned"³¹.

II. GENERAL HUMAN RIGHTS SITUATION SINCE APRIL 2018

A. Concentration of power and undermining the rule of law

27. The IACHR has received information from its various mechanisms about the concentration of power in the executive branch of government and the progressive weakening of democratic institutions in the country, which has benefited from the distribution of state functions based on political party

²⁹ IACHR, Press Release 006/2019, [CIDH denuncia el debilitamiento del Estado de Derecho ante las graves violaciones de derechos humanos y crímenes contra la humanidad en Nicaragua](#), Washington, D.C., January 10, 2019. In addition, on 19 December, 2018, the IACHR observes the adoption of measures and decrees that, under the guise of legality and strict formality, illegitimately restrict the rights to freedom of expression, association and assembly, IACHR, Press Release 273/2018 - [CIDH denuncia agravamiento de la represión y el cierre de espacios democráticos en Nicaragua](#), Washington, D.C. / Managua, December 19, 2018.

³⁰ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019.

³¹ According to the State of Nicaragua, "[t]he Report "[e]l is an echo of the groups that attempted the coup d'état, as well as the voices and interventionist actions of the IACHR, MESENI, GIEI and Working Group of the Permanent Council of the OAS, who have had as sources NGOs, media, videos, and others, that evidently oppose the Government of Reconciliation and National Unity, with the main objective of bringing sanctions to the people and Government of Nicaragua. State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, Pag. 6, 93 and 95.

membership.³² Civil society has reported, on repeated occasions, to the IACHR about the establishment of various bodies of government—the Supreme Court of Justice (CSJ), the Office of the Comptroller General, the Supreme Electoral Council (CSE), and the Office of the Attorney General of the Republic—by persons appointed because they are close to the political party of the current administration and how this has impacted the exercise of political rights, right to assembly and association, the right to freedom of expression and the dissemination of thinking of the population, among others.³³

28. Afterwards, the results of the municipal elections of 2008 were seriously questioned by reports on the alteration of the Polling Stations (*Juntas Receptoras de Votos*) for the benefit of the government's party, as well for irregularities by the Supreme Electoral Council when publishing the final results of the election.³⁴ The IACHR notes that, in these elections, there were no national or international observers³⁵. In the 2011 presidential elections, Daniel Ortega was re-elected President of the Republic with 62.46 percent of the votes. Sentence No. 6 of the Constitutional Chamber of the Supreme Court of Justice on September 2009, allowed Daniel Ortega to run as a candidate in that presidential election. This, despite the constitutional prohibition reelection³⁶. This ruling was ratified by the plenary of the Supreme Court of Justice in September 2010, and declared that Article 147 of the Constitution was null and void *erga omnes* regarding the prohibition of re-election and ordered compliance with said decision as an "ineluctable compliance for state authorities."³⁷ Afterward, by an amendment to the Constitution in 2014, the National Assembly eliminated Article 147 of the Constitution (which banned immediate re-election to the office of President of the Republic) and authorized indefinite re-election of the standing president, which has made it possible for Daniel Ortega to continue in the Office of the President.³⁸

29. In 2016, President Daniel Ortega was re-elected for a third consecutive term of office along with his wife, Rosario Murillo, as Vice-President, in a process which did not include any international election observers.³⁹ This triggered greater polarization in Nicaraguan society, leading to public marches that were, on

³² As for the independence of the branches of government, Article 129 of the Political Constitution of Nicaragua provides that: the legislative, executive, judicial, and electoral branches of government are independent from each other and are coordinated harmoniously, subordinated only to the supreme interests of the nation and what is set forth in the present Constitution (our underlining) (National Assembly, Political Constitution of the Republic of Nicaragua, adopted by the National Assembly with constitutional functions on November 19, 1986, published in *Gazette* No. 94 of April 30, 1987, and subsequent amendments, available at: http://www.oas.org/juridico/spanish/mesicic3_nic_const.pdf).

³³ IACHR, Hearing on the [Situación general de derechos humanos en Nicaragua](#), 157 Regular Period of Sessions, April 7, 2016; IACHR, Hearing on the General Human Rights Situation in Nicaragua, 144 Regular Period of Sessions, March 26, 2012; IACHR, Hearing on the Political Rights Situation in Nicaragua, 141 Regular Period of Sessions, March 25, 2011.

³⁴ CENIDH, The electoral branch of government at the service of Ortega's dictatorial project; *The Economist*, [How to steal an election](#), November 13, 2008; *Envío Digital*, [Nicaragua is the Municipal Elections' Big Loser](#), UCA, No. 328, November 2008.

³⁵ In 2008, the Supreme Electoral Council denied accreditations to observe the municipal elections three days before the elections. In the 2011 elections, this experience was repeated. European Union, [Informe Final, elecciones generales y al Parlamen 2011](#), Nicaragua 2011, p. 30. The OAS did not participate this time in the electoral observation. In the 2006 elections, the OAS deployed a mission for 11 months. OAS, Press Release C-434/08, [Insulza expresa preocupación por dificultades surgidas en Nicaragua](#), November 11, 2018.

³⁶ The judgment by the Constitutional Court rules that Article 147 of the Constitution regarding the ban on reelection is unenforceable. Supreme Court of Justice. [Sentencia No. 06](#), September 30, 2010.

³⁷ In its judgment, the Supreme Court resolves: "As a result: THE OMBUDS UNLAWFULNESS IS DECLARED of the following constitutional provisions: ARTICLE 147 Cn., Only in the part that is completely and literally reads: "It can not be a candidate for President or Vice President of the Republic: a) the one who exercises or has exercised ownership of the Presidency of the Republic at any time during the period in which the election is held for the following period, nor the one who exercised it for two presidential terms; b) the Vice President of the Republic or the call to replace him, if he has exercised his office or that of the President in office during the twelve months prior to the date on which the election is held for the following period; ..." and ARTICLE 178 Cn., Only in the part that is completely and literally reads: "... The Mayor and Vice Mayor may only be reelected for a period. The reelection of the Mayor and Deputy Mayor may not be for the immediate following term. ... "; therefore these articles are inapplicable for all cases erga omnes [...] "Supreme Court of Justice. [Judgment No. 06](#), September 30, 2010.

³⁸OAS, [Informe Final de la Misión de Acompañamiento Electoral de la OEA sobre las Elecciones Generales celebradas en la República de Nicaragua el 6 de noviembre de 2011](#). See also: The Carter Center, The 2011 Elections in Nicaragua: Report of a Mission under Study, available at: www.cartercenter.org.

³⁹ *Confidencial*, [Observación Electoral está en la Ley y debe ser garantía](#), June 12, 2016; *El País*, [Daniel Ortega, el eterno candidato](#), June 9, 2016; The Carter Center, [Comunicado de prensa sobre la decisión de Daniel Ortega de no invitar a observadores internacionales a las elecciones de noviembre](#), June 7, 2016; On October 16, 2016, the OAS worked with the Government of Nicaragua to

ocasion, violently repressed by law enforcement officers.⁴⁰ Civil society organizations reported that state violence has been used systematically to control and repress any social outcries, for example: in 2013 the “OcupaINSS” movement protesting the reduced old-age pension was violently repressed by riot squads;⁴¹ in 2014, the peasant movement’s protests against the building of the Grand Interoceanic Canal⁴² and the marches of former sugar-cane workers in Chichigalpa were attacked by state agents;⁴³ in 2015, the IACHR recorded riot squad attacks against the protest of mine workers in El Limón; and in 2016, against congresspersons and journalists during “Wednesday Protest” calling for free and transparent elections.⁴⁴ According to information in the public domain, in the north of the country, there have also been selective killings of government opponents since 2011.⁴⁵

30. Other factors that have contributed to and facilitated the concentration of power in Nicaragua are: the fake counterweight exercised by the National Assembly because it is comprised of a governing-party majority;⁴⁶ the intelligence gathered throughout the Citizen Power Councils (CPC) and the Sandinista Leadership Councils (CLS) to monitor any local or institutional opposition to the current administration;⁴⁷ control over the media;⁴⁸ and the direct and personal relationship between the head of the National Police and the President himself.⁴⁹

31. In fact, in 2014, Law 872 was passed, as a result of which the President became the Supreme Commander of the National Police.⁵⁰ Since then, Daniel Ortega has ordered the direct appointment of persons in his circle of trust or close to his political party to high-ranking offices and has placed the police force at his service by promoting officers to senior ranks and positions in exchange for their loyalty to him.⁵¹ Since 2011, Aminta Granera has stayed in his office as Director General of the National Police for a period of more than the five years provided for by law.⁵² Afterwards, the President’s in-law, Francisco Javier Díaz Madrid, was

set up a conversation and exchange table to jointly analyze the issues related to the electoral process. However, there was no electoral mission in the 2016 elections; OEA, [Comunicado de la Secretaría General sobre el proceso electoral en Nicaragua](#), October 16, 2016.

⁴⁰ IACHR: Hearing about the General Situation of Human Rights in Nicaragua, 157 Regular Period of Sessions, April 7, 2016; Precautionary Measure 121-16, Resolution 17/2016, Case of Carlos Humberto Bonilla Alfaro and others with respect to Nicaragua, March 24, 2016.

⁴¹ *El Confidencial*, [El asalto a OcupaINSS paso a paso](#), June 22, 2017; *La Prensa*, [Los rostros del asalto a ocupa INSS](#), June 24, 2017.

⁴² On December 24, 2014, the peasant movement reported armed attacks against the protests it was holding in the country’s interior, which left at least 50 persons wounded. *El País*, [Hasta 50 heridos en Nicaragua en las protestas contra el canal oceánico](#), December 24, 2014; Amnesty International, Nicaragua. [Peligro: derechos en venta: el proyecto del gran canal interoceanico y la erosión de los derechos humanos](#), August 3, 2017; CENIDH and FIDH, [Concesión del Canal Interoceanico en Nicaragua: Grave Impacto para los Derechos Humanos. Comunidades Campesinas Resisten](#), September 2016.

⁴³ CENIDH, [Informe del CENIDH sobre la represión policial en el municipio de Chichigalpa, Chinandega, el 18 de enero del 2014](#), January 30, 2014; *El Confidencial*, [Represión Policial y tragedia IRC](#), January 26, 2014.

⁴⁴ IACHR, [Informe Anual 2015. Volumen II: Informe Anual de la Relatoría para la Libertad de Expresión](#), paras. 966 and 967

⁴⁵ *El Confidencial*, [Comunitarios denuncian “terrorismo de Estado” en Las Segovias](#), October 19, 2017; *New York Times*, [Ortega vs. the Contras: Nicaragua Endures an ‘80s Revival](#), March 7, 2016.

⁴⁶ IACHR: Hearing on the [Situación general de derechos humanos en Nicaragua](#), 157 Regular Period of Sessions, April 7, 2016; Hearing on [Derechos humanos y seguridad ciudadana en Nicaragua](#), 157 Regular Period of Sessions, April 7, 2016; Hearing on Political Rights in Nicaragua, 141 Regular Period of Sessions, March 25, 2011; Hearing on the Right to Freedom of Expression, Participation, Assembly, and Demonstration in Nicaragua, 137 Regular Period of Sessions, November 2, 2009.

⁴⁷ In the political party structure inside the institutions of the Sandinista Leadership Councils, they are in charge of ensuring the participation of civil servants in activities such as marches, occupying traffic circles or round points in the city of Managua, counter-demonstrations, fairs, and other political ceremonies. In addition, they are in charge of surveillance of civil servants who are not government supporters, GIEI, Nicaragua, [Informe final sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo](#), 2018, p. 57.

⁴⁸ In Nicaragua, public television stations from channels 2 to 13 are deemed to be supporters of the government except for channels 10 and 12. International Crisis Group, [A Road to Dialogue After Nicaragua’s Crushed Uprising](#), Report No. 72, 2018, pp. 4 and 5.

⁴⁹ GIEI, Nicaragua, [Informe final sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo](#), 2018, p. 48.

⁵⁰ Nicaragua, Law 872. [Organización, funciones, carrera y régimen especial de seguridad social de la Policía Nacional](#), July 7, 2014.

⁵¹ GIEI, Nicaragua, [Informe final sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo](#), 2018, p. 48.

⁵² Nicaragua, Law 872. [Organización, funciones, carrera y régimen especial de seguridad social de la Policía Nacional](#), July 7, 2014, Article 47; *El Confidencial*, [Una Policía Leal a Ortega](#), April 8, 2014. Commissioner Granera withdrew from her post in 2018 on the basis of a presidential decree. Nicaragua, [Acuerdo Presidencial 113-A-2018](#) of July 31, 2018.

appointed to be the Director General and, a few months later, was promoted to be the Senior Commissioner.⁵³ At the same time, as explained below, former members of the National Police had been promoted to high-ranking offices in the structure of the Public Ministry.

32. The Commission identified the fire in the Indio Maíz Biological Reserve as one of the principal immediate triggers for the protests in April.⁵⁴ This fire occurred at the end of March and early April 2018, in one of the country's largest natural reserves and had not been put out properly.⁵⁵ According to information received, protesting the state's weak response to the fire, young people engaged in demonstration that were repressed by the state.⁵⁶

33. Days after the fire, without submittal to prior public debate, the government published in the Official Gazette, an amendment to the social security system that increased the contributions to be made by workers and employees and also provided for a 5 percent drawdown on the pension of retirees, allocated to provide medical assistance coverage guaranteed by Article 3 of the Law on Social Security.⁵⁷ This led to peaceful protests initially convened by older persons which were violently repressed by riot squads on April 18. The above led to widespread peaceful protests throughout the country spearheaded by groups of students and young people, as well as by sectors of workers, peasants, businesspersons, environmentalists, human rights defenders, and the citizenry in general.

34. In its observations on this report, the State of Nicaragua expressed that "[As of] April 18, 2018, armed terrorist groups, disguised as peaceful and civic protesters, encouraged and financed by sectors of the extreme right of the United States, attempted a coup d'état, in which 198 people were killed among them 22 officers of the National Police, torturing and kidnapping Nicaraguan citizens, attacking the constitutional right to free movement of people throughout the national territory"⁵⁸. The State added that the causes of the crisis the country is facing are in a failed attempt of a coup d'état, which has been resisted "once again winning peace, fraternal coexistence and the gradual return to normality"⁵⁹.

35. Next, the IACHR describes the different stages or phases of repression identified as of April of this year and the systematic patterns of human rights violations registered.

B. First stage: state repression of protests on April 18, 2018

36. In Nicaragua, the magnitude of state violence and the strategies used to deter the marches that started on April 18 highlight the implementation of actions coordinated by the Government to control public spaces. In its Report *Gross Human Rights Violations in the Context of Social Protests in Nicaragua*, the Commission disclosed that state violence following a common pattern, characterized by the following: the excessive and arbitrary use of police force, the use of parapolice groups or riot squads with the acquiescence, tolerance, and collaboration of state authorities, intimidation and threats against social movement leaders, a pattern of arbitrary detentions of young people and adolescents who participated in protests, irregularities in launching investigations into killings and injuries occurring in this context, obstacles to gaining access to

⁵³ Nicaragua, [Acuerdo Presidencial 98-A- 2018](#) July 5, 2018; Nicaragua, Acuerdo Presidencial 130-A- 2018.

⁵⁴ In 2015, the IACHR had been informed of the state's violent repression of the "Anti-Canal Movement" protests aimed at suspending the project of building the country's Grand Inter-oceanic Canal. IACHR, [Audiencia sobre la Construcción del canal transoceánico y su impacto sobre los derechos humanos en Nicaragua](#), 154 Regular Period of Sessions, March 16, 2015. Various sources identify the repression of this movement as another one of the important precedents to the state's policy of repression against the opposition. OHCHR, [Violaciones de derechos humanos en el contexto de las protestas en Nicaragua](#), 2018, para.9.

⁵⁵ *Confidencial*, [Tres escenarios tras la insurrección de abril en Nicaragua](#), Review of the Communication Research Center (Centro de Investigación de la Comunicación—CINCO), May 8, 2018.

⁵⁶ *Confidencial*, [Tres escenarios tras la insurrección de abril en Nicaragua](#), Review of the Communication Research Center (CINCO), May 8, 2018; *La Prensa*, [Así te contamos la marcha de los jóvenes que exigen una respuesta al incendio en Indio Maíz](#), April 12, 2018; *Hoy!* [Marchas y contramarchas en Managua, y el incendio sigue en reserva Indio Maíz](#), April 13, 2018.

⁵⁷ Resolution 1-317, *Gazette* No. 72, published on April 18, 2018.

⁵⁸ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 2.

⁵⁹ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pág. 11.

emergency medical care for the injured in retaliation for their participation in the marches, the broadcasting of propaganda and smear campaigns, and direct and indirect measures of censorship.⁶⁰

37. In its observations on the draft of this report, the State of Nicaragua stated that “the police forces never attacked anyone, they were attacked [...] in their police units and their homes; the Police complied with the constitutional mandate of restoring the public order [...]”⁶¹. The IACHR noted that the state’s initial response was characterized by the excessive use of firearms and less lethal weapons, such as teargas, rubber bullets, and pellets by the National Police, riot squads, and parapolice groups. In addition, the repression went through various levels of intensity against the protesters and civil population in the streets. According to information in the public domain, on the first day of protests, there were no casualties recorded. Nevertheless, because of the continuation of the protests, the state activated a more aggressive strategy against the protesters and even persons who were not involved in the protests. Between April 19 and 22, the Commission observed that the intensity of the state’s reaction had led to at least 49 deaths. As a result, the protests spread throughout the country and to sectors of workers, peasants, environmentalists, and the citizenry in general.⁶²

38. Although the government withdrew the amendment to the social security system on April 22, 2018, the protests continued and also incorporated other complaints against the government.⁶³ In the press release of April 24, 2018, the IACHR condemned the death of 25 persons, dozens of injured persons, and injuries to journalists. The government justified its use of the police force as a legitimate defense against groups who were promoting violence.⁶⁴

39. Regarding the excessive use of force, the IACHR concluded that the National Police and its riot squads had led attacks at a short range using firearms and rubber bullets against persons participating in the protests or who were in the vicinity of the universities and the Cathedral of Managua. During the first stage of the repression, many victims hit by rubber bullets in the head, eyes, neck, and chest, as well as the back, were attended.⁶⁵ The mechanics and pathway of the shots would tend to indicate a pattern of extrajudicial executions and the participation of snipers in places such as the Denis Martínez National Stadium.⁶⁶ Among others, the IACHR was appalled when hearing the testimony of the next-of-kin of the 15-year-old minor Álvaro Manuel Conrado Dávila, who received a shot in the neck from a firearm while he was taking “water to the guys of the UPOLI” and as informed, at first, when he reached the public Hospital Cruz Azul, he had been denied medical care.⁶⁷

40. Since the start of the protests, the Commission was informed of the participation of armed third-party groups and parapolice groups who engaged in violent actions, alongside the National Police or with their acquiescence, in order to intimidate, monitor, and repress, even by violent actions, the demonstrators who were opposing the Government. These groups acted on the orders of the same National

⁶⁰ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 55.

⁶¹ State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag. 9.

⁶² IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 96.

⁶³ *El Nuevo Diario*, [Ortega retira reforma al INSS y rechaza condiciones del COSEP](#), April 23, 2018.

⁶⁴ IACHR, [CIDH expresa preocupación por muertes en el contexto de protestas en Nicaragua](#), April 24, 2018.

⁶⁵ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 103.

⁶⁶ According to the autopsies reviewed by Amnesty International, the bullet holes, in many cases, were located in areas of high fatality for the body, which would indicate that the shots fired were intended to kill. In 8 cases documented by the same organization, the injuries were located in the head, the neck, or the upper chest. In at least 4 cases, the bullet had come from above aiming downward, which suggests the possibility that snipers or persons were shooting from an elevated vantage point. Amnesty International, [Disparar a matar: estrategias de la represión de la protesta en Nicaragua](#), 2018. p. 32. Likewise, a newspaper story based on the examination of various CT scans of persons with head injuries from a firearm indicates that the features of the injuries and the paths of the bullets from above and downward and from elevated vantage points would constitute clues that snipers were being used by the National Police. *Confidencial*, [Disparaban con precisión: a matar!](#), May 26 to June 2, pp. 9 and 10.

⁶⁷ Testimony taken by the IACHR in Managua on May 20, 2018. IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, paras. 104 and 115.

Police or were even organized and armed by them and acted upon the instructions of local mayors or political district secretaries.⁶⁸

41. To the extent that the resistance of the civilian population kept going after the initial protests in April, the actions of these parapolice forces evolved towards other forms of violence which led to the death and physical and psychological injuries of protesters, students, and civilians who were not involved in the protests or engaged in actions of resistance. The intimidation and deterrence activities aimed at the protests and barricades by parapolice groups consisted of firearms being shot with bursts at close range from moving motor vehicles aimed at persons located on the barricades and civilians walking outside in the vicinity of universities and public squares. In other cases, the IACHR received abundant information about the incidents occurring on May 30, 2018 during the Mother's Day march in Nicaragua. In Managua, this march was heavily repressed by parapolice groups, who shot their firearms indiscriminately against hundreds of protesters. According to official data, as a result of these incidents, 15 persons lost their lives and 199 were wounded in Managua, Estelí, and Masaya.⁶⁹

42. At the beginning of the protests, the IACHR noted a pattern of arbitrary detentions mainly to the detriment of young people who were in the area of the incidents. The IACHR received information about numerous cases in which the detentions were carried out violently, with a disproportionate and arbitrary use of force, without any crime being committed that would have justified the detention. The IACHR concluded that, during the first stage of the protests, the principal purpose of depriving the detainees of their liberty was to punish or repress a stance of opposition to Nicaragua's current regime and that it did not respond to any legal causes provided for in the domestic regulatory framework.⁷⁰

43. According to data provided by the state, from April 20 to June 5, a total of 507 persons were deprived of their liberty. Out of this total, 421 detentions—that is, 83 percent of them—pertained to adolescents (between 14 and 17 years of age) and young people (between 18 and 35 years of age). Of these 421 detentions, 65 were adolescents and 356 were young people. During its visit, the IACHR requested information from the state of Nicaragua on the specific places of detention, but this information was not provided. Said information is of the utmost importance, because, of the 507 detentions reported by the state, 65 are adolescents (between 14 and 17 years of age) and 24 of them are women. The above would require said detentions to take place in centers specifically for both of these population groups.⁷¹

44. Since the start of the protests, the IACHR identified an increasing social violence in the country. The tension and the reaction to the environment of injustice and lack of protection on behalf of state actors generated actions that would be exceeding the limits of peaceful protests. Social sectors affiliated to the government and state agents have also been subject to reprisals and harassment. According to information provided by the State, between April 18 and June 6, 2018, at least 5 police officers lost their lives and 65 were injured in the context of the protests. The Commission also rejected these actions that threaten the life and integrity of people⁷².

45. The state's response also included the broadcasting of propaganda and smear campaigns. From the start of the protests, information was broadcast ignoring the grievances behind the protests and excluding any information whatsoever about police repression and accusing those protesting, especially young people who organized roadblocks, of being "delinquents" or "vandals" who were perpetrating "acts of terrorism and organized crime" and causing "chaos, pain, and death" in the country and violating the right to work of Nicaraguan families. The IACHR also documented attacks, acts of intimidation, threats, including death threats, and smear campaigns against young protesters, student leaders, human rights defenders, the next-of-kin of victims, and religious orders in the country. The Commission observed that various human

⁶⁸ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 122.

⁶⁹ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, paras. 127 and 128.

⁷⁰ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 180

⁷¹ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 174

⁷² CIDH, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, párr. 19.

rights defenders were identified and assailed in the context of the protests, in addition to being targeted and individualized for supporting the protests.⁷³

46. The Inter-American Commission has recognized that social protest is a manifestation of the joint exercise of the right to assembly and freedom of expression, as well as a mechanism of political participation and human rights defense,⁷⁴ which is of basic social interest in order to guarantee the functioning of the democratic system and the defense of human rights.⁷⁵ In that respect, it has asserted that public marches and other forms of protest against government projects or policies, far from being a provocation to violence, are inherent to any pluralist democracy and merit maximum protection.⁷⁶

47. Regarding the use of force, the Commission reiterates that it constitutes “a last resort, limited in both qualitative and quantitative terms, aimed at preventing an incident of greater severity than the one that is provoking the state’s reaction.”⁷⁷ In this framework, characterized by exceptionality, both the Commission and the Inter-American Court of Human Rights agree that, for the use of force to be justified, the principles of legality, absolute necessity, and proportionality must be met. Likewise, the police operations organized in the context of the protests must be aimed, as a general rule, at guaranteeing the exercise of the right to social protest and protecting the protesters and third parties present. When a march or protest leads to situations of violence, it must be construed that the state was not capable of guaranteeing the exercise of this right.⁷⁸

48. The state’s initial response to the protests unleashed a severe human rights crisis. Between April 18 and June 20, 2018, repression and, in particular, the excessive use of force by the police, parapolic groups, and armed third-party groups left behind a total of 212 dead. Likewise, up to June 6, a total of 1,337 injured persons were recorded. Nevertheless, according to information received by the IACHR directly in the field, the figures could well be higher because they did not include a large number of injured persons who had been denied medical care or who had been attended by improvised medical brigades at the universities and religious centers for fear of detention at the hospitals.⁷⁹

49. The State of Nicaragua, in its observations to the draft of this report, noted that “[i]t is necessary to observe that members of the National Police have been killed while complying their constitutional duty with firearms, and dozens were seriously injured with firearms, artillery firearms with lethal ammunition and blunt objects” and in that context the State mentioned that “[t]he use of force, the use of weapons with non-lethal ammunition, dissuasive weapons, were used by police personnel, previously trained, in particular, guided by the principles of congruence, opportunity and proportionality”.⁸⁰

⁷³ Among others, the IACHR received information about the attack on Ana Quirós, Director of the Health Information and Advisory Services Center (*Centro de Información y Servicios de Asesoría en Salud—CISAS*), who was assaulted by the so-called pro-government riot squads when she was participating in the protests on April 18, 2018 in Managua. In an interview with Amnesty International, the defender indicated that she was seeking the help of the police when a group of men on motorcycles started attacking demonstrators and journalists with sticks and iron bars. At that time, another person who had identified her as a human rights defender in the country attacked her with a metal bar, wounding her head and one of her hands. Amnesty International, [Disparar a matar. Estrategias de represión de la protesta en Nicaragua](#), 2018, p. 14; IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 254.

⁷⁴ IACHR, [Segundo Informe sobre la Situación de las Defensoras y los Defensores de Derechos Humanos en las Américas](#), 2011, para. 106; IACHR, Annual Report. Volume II. [Informe de la Relatoría para la Libertad de Expresión. Cap. V. “Las Manifestaciones como Ejercicio de la Libertad de Expresión y la Libertad de Reunión”](#), 2005, para. 91; and IACHR, [Informe Anual. Capítulo IV. A “Uso de la Fuerza”](#), 2014, para. 64 and following.

⁷⁵ IACHR, [Segundo Informe sobre la Situación de las Defensoras y los Defensores de Derechos Humanos en las Américas](#), 2011, para. 106.

⁷⁶ I/A Court H.R. Case of López Lone et al. v. Honduras. Preliminary Objection, Merits, Reparations, and Costs. Judgment of October 5, 2015. Series C No. 302, para. 160.

⁷⁷ IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, December 31, 2011, para. 64.

⁷⁸ IACHR, [Informe Anual. Capítulo IV. A “Uso de la Fuerza”](#), 2014, paras. 7 and 68.

⁷⁹ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 86.

⁸⁰ State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag. 26 y 27.

50. As for GIEI's determination of possible crimes against humanity, in line with the jurisprudence of the Inter-American Court, the IACHR cautions that the prohibition of perpetrating crimes against humanity constitutes a *jus cogens* norm, and therefore the state is duty-bound to not allow these crimes to go unpunished; to that end, it must use both national and international remedies, instruments, and mechanisms to effectively prosecute said conducts and to punish their perpetrators, in order to prevent them and avoid letting them go unpunished.⁸¹

C. Second stage: clean-up operation

51. Since early May, hundreds of roadblocks and barricades were erected in Nicaragua as another way to protest, as well as a "method of defense and protection" in response to the violent repression of the protesters.⁸² More than 180 roadblocks and barricades were installed throughout the country.⁸³ On June 24, 2018, the IACHR installed the MESENI and, on June 29, in the framework of its mandate to provide technical advisory services to the Verification and Security Commission, it accompanied an observation mission to check the human rights situation of the persons located at the Jinotepe roadblock, both protesters and drivers of the freight vehicles.⁸⁴ At the site, the IACHR observed widespread fear among the population regarding a possible armed raid by state agents, as well as a stance of refusing demobilization for fear of suffering from reprisals for their involvement in the social protest.

52. The State qualified the installation of roadblocks and barricades as "terrorist" acts⁸⁵ and deployed clean-up operations to dismantle them by force. These operations started on July 3, 2018 and intensified as the July 19 national celebration approached. During this stage, the state strategy deployed featured the disproportionate use of lethal force; the use of arms exclusively carried by the army such as rocket launchers and hand grenades; and the participation and collaboration of riot squads or parapolice groups with national police officers and masked anti-riot personnel.⁸⁶

53. The attack of National Police agents and parapolice groups against young people who stayed at the roadblock of La Trinidad, Estelí, occurred on July 3, marking the beginning of state operations to remove the roadblocks. This attack resulted in one dead person and at least 3 injured persons. Afterwards, between July 5 and 8, the roadblocks and barricades in the communities of Suitaba, León, Wiwilí, Jinotepe, Masatepe, Matagalpa, and Ometepe were violently dismantled by means of armed attacks. On July 8, the roadblocks of Jinotepe, Dolores, and Diriamba were also dismantled in an attack that left at least 20 casualties.⁸⁷ In Diriamba, Amnesty International confirmed that the National Police and armed parapolice groups operated jointly and used, for the most part, arms that are for the exclusive use of the Army to counter

⁸¹ I/A Court H.R. Case of Almonacid Arellano et al. v. Chile. Preliminary Objections, Merits, Reparations, and Costs. Judgment of September 26, 2006. Series C No. 154, para. 105.

⁸² According to CENIDH, in view of the repressive actions and terror imposed by government forces, who would shoot to kill from Toyota-Hilux pickup trucks without license plates, the population erected roadblocks on the highways and main avenues, as a self-defense and protection method to guarantee their life and prevent a large number of persons from being wounded and taken by force. CENIDH, [Seis meses de resistencia cívica frente a la represión gubernamental](#), Nicaragua, December 10, 2018, p. 29.

⁸³ OHCHR, [Violaciones de Derechos Humanos y abusos en el contexto de las protestas en Nicaragua](#), Nicaragua, August 18, 2018, para. 20.

⁸⁴ The roadblock of Jinotepe was considered to be one of the largest in the country because it kept the Pan-American Highway closed. More than 200 freight trucks were stranded for more than 40 days. *El Confidencial*, [Jinotepe, el tranque más incómodo para el régimen](#), July 8, 2018; Canal 2, [400 conductores de la región llevan un mes varados en Jinotepe](#), July 4, 2018.

⁸⁵ *La Voz del Sandinismo*, [Entrevista al Presidente-Comandante Daniel Ortega](#), July 31, 2018.

⁸⁶ Other references to implementation of clean-up operations can be found in Amnesty International, [Sembrando el Terror: de la letalidad a la persecución en Nicaragua](#), 2018; CENIDH, [Seis meses de resistencia cívica frente a la represión gubernamental](#), Nicaragua, December 10, 2018; OHCHR, [Violaciones de Derechos Humanos y abusos en el contexto de las protestas en Nicaragua](#), Nicaragua, August 18, 2018.

⁸⁷ IACHR, Press Release 148/2018, [CIDH denuncia el deterioro, profundización y diversificación de la represión en Nicaragua y expresa preocupación por la situación de los niños, niñas y adolescentes en el país](#), Managua, Nicaragua, July 11, 2018.

the protesters.⁸⁸ On July 12, in Morrito, Río San Juan, there was a clash between the National Police and protesters, which left 5 persons dead, among which 4 police officers and 1 teacher.⁸⁹

54. On July 13, the IACHR observed the attack against students and protesters taking shelter in the UNAN. At about 3 o'clock in the afternoon, agents of the National Police and parapolic groups assaulted those who were on the barricades located around the University for the purpose of entering the premises. In view of the intensity of the aggression and the disproportionate deployment of force, including lethal force, the young people abandoned the barricades and roadblocks to save their lives inside the university's campus. Minutes later, the premises of the university were occupied by state forces and parapolic forces, because of which the injured persons and young people fled to the adjacent premises of the Church of Divine Mercy (*Iglesia de la Divina Misericordia*).⁹⁰

55. The IACHR was informed that the assaults against the Church of Divine Mercy, which was where there were injured persons, young people, priests, and 3 journalists from both national and international media, continued throughout the night and early dawn of July 13. According to information that was received, the state refused to let the National Red Cross have access to the premises so as to take care and take away the injured persons and guarantee the life and integrity of those who had taken refuge there. After more than 20 hours, the injured persons and those taking refuge in the church were evacuated to the Cathedral of Managua. As a result, 2 persons died and at least 16 were injured.⁹¹

56. Between July 15 and 24, the country's other roadblocks were dismantled. On July 15, the armed operations in the municipalities of Diriá, Diriomo, Catarina, Niquinohomo, and Masaya left 10 dead. On July 17, the IACHR learned of the operation carried out in Monimbó that extended for more than 7 hours.⁹² The clean-up operation had ended on July 24 with the taking of Barrio Sandino in Jinotega. In that assault, 3 persons died.⁹³

57. It is important to point out that, since the start of the protests, the state of Nicaragua has denied any linkage with parapolic forces.⁹⁴ Nevertheless, during this stage, on July 20, President Daniel Ortega asserted that the groups who participated in the clean-up operations were "volunteer policemen" and cited security reasons to justify their undercover operations.⁹⁵ Regarding this, the Commission observes that

⁸⁸ By examining the images the following day, July 9, 2018, Amnesty International identified a convoy of at least of 23 pickup trucks with armed para-policemen and 3 ambulances from the Ministry of Health. In the images, a wide variety of shotguns, handguns, improvised firing mortars, zip guns, and AK-style rifles were identified. At least 4 of the pickup trucks held the flag of the FSLN. Amnesty International, [Sembrando el Terror: de la letalidad a la persecución en Nicaragua](#), 2018, p. 15.

⁸⁹ National Police, Nicaragua, [Nota de Prensa 82-2018](#), July 12, 2018.

⁹⁰ IACHR, Press Release 156/2018, [Mecanismo Especial de Seguimiento para Nicaragua \(MESENI\) completa tercera semana de trabajo y constata intensificación de represión y operativos por la policía y grupos parapoliciales](#), Washington, D.C. / Managua, December 19, 2018.

⁹¹ The evacuation of injured persons was made possible thanks to mediation by the Papal Nuncio, the Episcopal Conference, and the Verification and Security Commission established in the framework of the National Dialogue with the government. IACHR, Press Release 156/2018, [Mecanismo Especial de Seguimiento para Nicaragua \(MESENI\) completa tercera semana de trabajo y constata intensificación de represión y operativos por la policía y grupos parapoliciales](#), Washington, D.C. / Managua, December 19, 2018.

⁹² Sunday, June 15, the National Police reported the death of an officer in Masaya. National Police, Nicaragua, [Nota de Prensa 84-2018](#), July 15, 2018.

⁹³ OHCHR, [Violaciones de Derechos Humanos y abusos en el contexto de las protestas en Nicaragua](#), Nicaragua, August 18, 2018, para. 28.

⁹⁴ On May 27, the National Police indicated that, as a result of the National Dialogue, police forces would stay in their stations to guarantee peaceful marches and that their agents would not be present in the vicinity of university campuses. In the same communiqué, the police denied they had any ties with parapolic forces. National Police, Nicaragua, [Nota de Prensa 25-2018](#), May 27, 2018; in public statements, the Vice-President of Nicaragua indicated: "In Nicaragua there are no riot squads or paramilitary groups with ties to the government, therefore we cannot accept accusations of painful and tragic events that we have not provoked, that we will never provoke, and that, on the basis of groundless accusations, attempts are made to restrict the enforcement of the Constitutional Duty of Law Enforcement Forces to contribute to the safety of the Families." *El 19 Digital*, [Declaraciones de Rosario Vicepresidenta de Nicaragua en Edición del Mediodía de Multinoticias](#), May 31, 2018.

⁹⁵ *Euronews*, [Euronews entrevista al presidente de Nicaragua Daniel Ortega sobre la mortal crisis del país](#), July 20, 2018.

the establishment and actions of parapolice forces and riot squads do not pertain to the duties of the Voluntary Police Force or for the purposes of their functioning as provided for in Law 872.⁹⁶

58. The State, in its observations to the draft of this report, noted that in all interventions to restore public order “only participate professional police forces and volunteers, therefore denying the existence of groups called by political sectors and opponents of the legitimately constituted government, such as vigilantes, mobs or shock forces”⁹⁷.

59. According to information in the public domain, in the clean-up operations, the parapolice forces, police force, and riot squads were masked. On many occasions, the parapolice forces were taken in official motor vehicles or escorted by law enforcement officers and, in general, participated dressed as civilians and heavily armed.⁹⁸ Regarding this, the IACHR recalls that the accurate identification of law enforcement officers constitute an indispensable monitoring element that facilitates the individual identification of the various stakeholders intervening in an incident where force has been used, for clarifying the facts and ascertaining responsibilities, whenever applicable.

60. On August 29, 2018, the UNHCHR presented a report on the human rights violations that took place between April 18 and August 18 in Nicaragua. The Office of the UNHCHR concluded that the so-called riot squads and mobs had violently dismantled the barricades and roadblocks throughout the country. In addition, these “armed elements acted with the consent of high-ranking state authorities and the National Police, oftentimes jointly and in a coordinated fashion.”⁹⁹ The day after the presentation of the report, on August 30, 2018, the Ministry of Foreign Affairs of the state of Nicaragua communicated that the invitation extended to the Office of the UNHCHR had been withdrawn and that its mission in Managua had terminated on that same day.¹⁰⁰

61. As of July 19, 2018, the Inter-American Commission registered that the number of people killed in the context of the protests amounted to 277 and that there were more than 2,000 injured persons.¹⁰¹ As for the state of Nicaragua, it reported that, for the period from April 19 to July 25, 2018, 197 persons died who were “victims of terrorism aimed at overthrowing the government.” In the same report, the State indicated that 253 persons, in the aforementioned period, had died as a result of “common criminal activities.”¹⁰² The information provided did not include information about the identity and individualized causes of the reported deaths. Subsequently, the Commission of Truth, Justice and Peace of the State of

⁹⁶ According to Law 782, in its Article 25, The members of the Voluntary Police shall only carry out support tasks in prevention activities such as: 1) Assist the Police in surveillance, patrolling, controlling traffic, and natural disasters. 2) Assist the authorities when they are aware of the perpetration of criminal incidents, safeguarding the place, providing the necessary help to victims, and providing timely reports to the authorities having jurisdiction. In addition, “The members of the Voluntary Police, for the fulfillment of their tasks, shall be duly identified by wearing uniforms and their own badges, their activity must always be coordinated and supervised by a member of the National Police, and in their actions they are governed by the basic principles underlying the institution’s performance.” Nicaragua, Law 872. [Organización, funciones, carrera y régimen especial de seguridad social de la Policía Nacional](#), July 7, 2014.

⁹⁷ State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag. 29.

⁹⁸ CENIDH, [Seis meses de resistencia cívica frente a la represión gubernamental](#), Nicaragua, December 10, 2018, p. 30; Amnesty International, [Sembrando el Terror: de la letalidad a la persecución en Nicaragua](#), 2018, p. 37. *El Nuevo Diario*, [Operación Limpieza en Masaya: Parapolicías toman control de la ciudad](#), July 17, 2018.

⁹⁹ OHCHR, [Nicaragua: La crisis de derechos humanos exige acción y rendición de cuentas, señala informe de Naciones Unidas](#), August 29, 2018.

¹⁰⁰ OHCHR, Nicaragua: [Anuncio importante](#), August 30, 2018; IACHR, Press Release [195/18 - CIDH lamenta la conclusión a la invitación a la Oficina del Alto Comisionado de las Naciones Unidas en Nicaragua](#), Washington, D.C., August 31, 2018.

¹⁰¹ IACHR, Press Release 156/2018, [Mecanismo Especial de Seguimiento para Nicaragua \(MESENI\) completa tercera semana de trabajo y constata intensificación de represión y operativos por la policía y grupos parapoliciales](#), Washington, D.C. / Managua, December 19, 2018. According to CENIDH, in the period from July 14 to 25, the number of persons killed as a result of the repression amounted to 33, that is, an average of 2.7 persons dying per day. “In other words, one person is killed in Nicaragua every 9 hours as a result of government repression.” CENIDH, [CENIDH denuncia violaciones sistemáticas a los derechos humanos de los nicaragüenses por el régimen dictatorial de Daniel Ortega y Rosario Murillo en el período del 14 al 25 de julio del 2018](#), Report No. 5, p. 5.

¹⁰² Of this total, the National Police deemed that 230 were “common murders” owing to “personal disputes.” National Police, [Informe personas fallecidas en el período del 19 de abril al 25 de julio de 2018](#), Nicaragua, July 25, 2018.

Nicaragua reported that the number of people killed in the context of the conflict would amount to 269 people¹⁰³.

62. The IACHR reiterates that the violation of the rights to life and personal integrity, as a result of the failure to fulfill the duties to respect and guarantee, makes the state internationally responsible, on the basis of the acts or omissions by agents of any branch or entity of the state, regardless of its hierarchy, that have been carried out under cover of their official nature, even when they act outside the limits of their jurisdiction and in breach of the American Convention.¹⁰⁴ In connection with this, the Inter-American Court has pointed out that the state may be found responsible for acts by private individuals in cases in which, through actions or omissions by its agents when they are in the position of guarantors, the state fails to fulfill the obligations embodied in Articles 1.1 and 2 of the American Convention.¹⁰⁵

63. The IACHR reiterates that the state is duty-bound to dismantle repressive structures such as parapolice groups and armed third parties who acted in the country. The Commission also urges the state of Nicaragua to conduct prompt, impartial, and effective investigations in order to try and punish its agents and civilian third parties responsible for human rights violations and provide comprehensive redress to the victims and their next-of-kin.

D. Third stage: Judicial prosecution and criminalization of social protest

64. As of July 2018, the state of Nicaragua took over control again of the streets after the success of the clean-up operation, owing to which it was able to completely remove the roadblocks. In order to consolidate the process of normalizing activities in the country, the state established a strategy of judicial prosecution and criminalization against opponents of the government's regime, protesters, students, activists, and human rights defenders. The IACHR warned that a large number of students, protesters, victims and their next-of-kin, witnesses, human rights defenders, religious leaders, medical staff, indigenous peoples, among others, were forced to flee from their homes and in some cases from the country. In the context of this practice of criminalizing and prosecuting, the Commission observed the intensification of statements and pronouncements by state authorities who sought to promote an apparent climate of normality in the country.¹⁰⁶

65. Regarding the state practice of judicial prosecution and criminalization that started at this stage, the IACHR received information about hundreds of arbitrary detentions that took place throughout the country, both during the dismantling of the roadblocks and in weeks thereafter. These detentions were carried out violently by state agents and/or masked and armed riot squads. In addition, the IACHR was apprised of illegal searches and arrests that were conducted on the basis of lists drawn up on the basis of the intelligence work of the Citizen Power Councils (CPC). In these cases, police and parapolice groups had broken into homes using force and had taken persons without a court-issued arrest warrant.

66. The State, in its observations to the draft of this report, stated that in Nicaragua "there are no persecuted, accused or political prisoners, the accused persons are responsible for common crimes established in the Criminal Code, such as murder, terrorism, fire, torture, injury, theft, exposure of people to

¹⁰³ Comisión de la Verdad, Justicia y Paz, Nicaragua, [Segundo Informe Preliminar](#), October 15, 2018.

¹⁰⁴ I/A Court H.R. Case of González et al. ("Cotton Field") v. Mexico. Judgment of November 16, 2009. Series C, No. 205. para. 234; I/A Court H.R. Case of Cantoral Huamaní and García Santa Cruz v. Peru. Judgment of July 10, 2007. Series C, No. 167, para 79; and I/A Court H.R. Case of Kawas Fernández v. Honduras. Judgment of April 3, 2009 Series C, No. 196, paras. 72 and 73.

¹⁰⁵ I/A Court H.R. Case of "Mapiripán Massacre" v. Colombia. Series C, No. 134, paras. 111 and 112; Case of the Moiwana Community v. Suriname. Series C, No. 124, para. 211; Case of the Gómez Paquiyauri Brothers v. Peru. Judgment of July 8, 2004, Series C, No. 110, para. 91; Case of the 19 Merchants v. Colombia. Judgment of July 5, 2004, Series C, No. 109, para. 183; Case of Maritza Urrutia v. Guatemala. Judgment of November 27, 2003, Series C, No. 103, para. 71; Case of Bulacio v. Argentina. Judgment of September 18, 2003, Series C, No. 100, para. 111.

¹⁰⁶ IACHR, Press Release 169/2018- [CIDH verifica criminalización y persecución judicial en Nicaragua](#), Washington, D.C., August 2, 2018; IACHR, Press Release 183/2018, [CIDH expresa preocupación por situación de personas migrantes y refugiadas nicaragüenses y llama a los Estados de la región a adoptar medidas para su protección](#), Washington, D.C., August 15, 2018; IACHR, Press Release 187/2018, [CIDH urge al Estado de Nicaragua a cesar la criminalización de la protesta y a respetar a las personas privadas de libertad y sus familias](#), Washington, D.C., August 24, 2018.

danger, public services and damage [...]. The State of Nicaragua reiterates that no person has been accused of condemned for participating or supporting peaceful protests.¹⁰⁷

67. The information received indicates that the persons detained in various parts of the country had been the victims of violence, abusive treatment, and even torture in the police stations or precincts of the National Police where they had initially been taken before being transferred to the Judicial Assistance Department (*Dirección de Auxilio Judicial*) in Managua known as “El Chipote” and ultimately to the penitentiaries of “La Esperanza” and “La Modelo.” The IACHR also received information about the abusive treatment and even torture in the Judicial Assistance Department. Other common patterns refer to the excessive use of force during detention, absence of a court order, and the refusal to provide information on the cause of detention, failure to comply with the legal time-limits to bring the detainees before a judge, the attribution of false or disproportionate charges such as organized crime and terrorism, the refusal to inform next-of-kin about the place of detention, and the failure to provide access to a legal representative.¹⁰⁸

The pattern of criminalization in this stage was selected and was aimed at leaders, students, protesters, and any person identified as an opponent of the government for the purpose of discouraging the continuation of the social protest. Among other cases, the IACHR learned about the arbitrary detentions of Irlanda Jerez Barrera, one of the persons who are leaders of the self-convened tradesmen of the Mercado Oriental; Christian Rodrigo Fajardo Caballero and María Dilia Peralta Cerrato, leaders of the April 19 movement in Masaya; and Medardo Mairena and Pedro Mena, peasant leaders.¹⁰⁹ Likewise, in this period, the following universities were arrested: Edwin Carcache, Byron Corea Estrada, Christopher Nahirobi Olivas, Yaritzta Rostrán Mairena, Luis Arnulfo Hernández, Levis Josué Artola, Juan Pablo Alvarado, and Victoria Obando, a transgender woman and activist for the rights of LGBTI persons.¹¹⁰

68. The IACHR noted in this phase the generalization of the use of criminal proceedings with unfounded and disproportioned charges for the crimes of terrorism, organized crime and the obstruction of public services, among others. In addition, it reports the reformed of the criminal type of terrorism and the creation of other crimes through Law No. 977 against money laundering, financing of terrorism and financing the proliferation of weapons of mass destruction, published in the Official Gazette July 20, 2018, and whose wording allows a subjective application of them¹¹¹.

69. The State of Nicaragua, in its observations to the draft of this report noted that, the persons accused of terrorism were prosecuted under the Law No. 641 “Criminal Code of Nicaragua not under the Law No. 977, which came into effect on July 2018 and has not been applied retroactively. It was also noted by the State that this law was not created as a result of the crisis faced in the country, but in compliance to the recommendations made by the Financial Action Task Force (FATF)¹¹². However, in the same observations, the State expressed that its authorities have applied said legislation to denounce human rights organizations and human rights defenders¹¹³.

¹⁰⁷ State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag. 53.

¹⁰⁸ IACHR, Press Release 169/2018- [CIDH verifica criminalización y persecución judicial en Nicaragua](#), Washington, D.C., August 2, 2018.

¹⁰⁹ IACHR, Press Release 169/2018- [CIDH verifica criminalización y persecución judicial en Nicaragua](#), Washington, D.C., August 2, 2018;

¹¹⁰ Between August 24 and 25, civil society reported more than 50 arbitrary detentions, more than half of which pertained to students of the Coordination University for Justice and Democracy (*Coordinadora Universitaria por la Justicia y la Democracia—CUJD*), an organization that participates in the National Dialogue Group. Meso-American Human Rights Defenders Initiative (*Iniciativa Mesoamericana de defensoras de derechos humanos*), [Alerta detención de integrantes de la CUJD](#), August 26, 2018; IACHR, Press Release 223/2018, [CIDH alerta sobre nueva ola de represión en Nicaragua](#), Washington, D.C., October 18, 2018.

¹¹¹ CIDH, Comunicado de prensa 210/2018 - [Relatoría sobre los Derechos de Personas Privadas de Libertad realiza visita a Nicaragua](#), Managua / Washington DC, 24 de agosto de 2018.

¹¹² State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag. 57.

¹¹³ State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag. 52.

70. As addressed below, the IACHR observed a systematic pattern of violations of due process in the context of the deprivation of liberty of persons who participated in the protests, such as holding the detained person incommunicado, failure to notify the legal grounds for their detention, failure or obstruction of access to timely, technical, and adequate legal defense by perpetuating practices of holding hearings at unusual times or places in order to prevent the appearance of private defense attorneys, among others. The IACHR was also informed about the absence of due diligence by the National Police and the Public Ministry in the investigation into the criminal incidents committed in the protests, especially against protesters and government opponents. For example, the official version of the killing of the journalist Ángel Gahona has been severely questioned because of the failure to exhaust all lines of investigation and other irregularities committed in the criminal proceedings.¹¹⁴

71. In its observations to the draft of this chapter, the State of Nicaragua expressed that all the persons arrested were investigated "and accused, complying with the guarantees of due process and brought before the judicial authorities according to the law"¹¹⁵.

72. On September 18, according to public declarations made by the Deputy Minister of the Interior, a total of "184 men and 17 women, for a total of 204 prisoners" were being held in the National Penitentiary System for actions linked to the protests that began on April 18. Of the 204 persons detained, 7 had been convicted and 197 were in pre-trial detention.¹¹⁶ As for civil society, during the same period, it reported that the number of detained persons amounted to more than 300.¹¹⁷

73. In the stage of repression, the Commission observed the intensification of the statements and pronouncements by the highest-ranking authorities of the state aimed at smearing the persons who participated in the social protest activities, accusing them of "overthrowing the government" and of being "terrorists," among other severe attacks. In his speech of August 13, 2018, the Vice-President of the Republic referred to the protesters as "a handful of coup leaders, terrorists, and criminals," "insisting on continuing to kill Nicaraguans and attempting to continue destroying Nicaragua's economy."¹¹⁸ In addition, the Commission learned of pronouncements that incriminated human rights defenders, students, and leaders for incidents about which there were no court proceedings being filed and which had not been legally ascertained. For example, on the basis of a press release about the detention of Medardo Mairena, leader of the Peasant Movement, the National Police pointed out that, on July 13, 2018, the "terrorist Medardo Mairena Sequeira was caught while attempting to flee the country," assuring that the latter had perpetrated "cowardly" acts of "terrorism" and massacres.¹¹⁹

74. Regarding this, the Commission has indicated that the repetition of stigmatizing statements can contribute to aggravating the climate of hostility and intolerance among various sectors of the population, which can exert an adverse impact on the life and personal integrity of, for example, human rights defenders. The above is because public authorities or sectors of society could construe them to be instructions, instigations, authorizations, or support for the perpetration of actions against their life, personal safety, or other rights.¹²⁰

¹¹⁴ GIEI, Nicaragua, [Informe final sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo](#), 2018, p. 256.

¹¹⁵ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 38, 39.

¹¹⁶ According to statements by the Deputy Minister of the Interior, on September 18, a total of 204 prisoners remained in the National Penitentiary System because of incidents related to the protests that started on April 18. Of the 204 detainees, 7 had been convicted and 197 were being held in pre-trial detention. 19 Digital, [Entrevista al Viceministro de Gobernación Luis Canas](#), Managua, September 19, 2018.

¹¹⁷ IACHR, Press Release 210/2018, [Relatoría sobre los Derechos de Personas Privadas de Libertad realiza visita a Nicaragua](#), Managua / Washington, D.C., August 24, 2018.

¹¹⁸ *El 19 Digital*, [Rosario: "Estos son momentos para ver con claridad quiénes son los enemigos de los pobres en Nicaragua"](#), August 13, 2018.

¹¹⁹ National Police, Nicaragua, [Nota de Prensa 83-2018](#), July 13, 2018

¹²⁰ I/A Court H.R., Ríos et al. v. Venezuela. Preliminary Objection, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 194, para. 143.

75. As a result of the activation of various forms of judicial prosecution, criminalization, and stigmatization, a large number of students, protesters, victims and their next-of-kin, human rights defenders, religious leaders, medical and healthcare staff, indigenous peoples, among others, had been forced to flee from their homes or hide in safety houses. In the most severe cases, persons had been forced to migrate to other countries to seek international protection.¹²¹ In this context, the IACHR voiced its concern for the temporary closing of the central offices of the Nicaraguan Association for Human Rights (*Asociación Nicaragüense Pro Derechos Humanos—ANPDH*) and the departure from Nicaragua to Costa Rica of various of its members because of police harassment.¹²²

76. Between August and September, the protests continued throughout the country. The Commission noted the occurrence of violent incidents provoked by state agents and riot squads who were intent on dispersing the protests which led to an even higher number of deaths. Among other cases, the IACHR received information on the death of Lenin Mendiola which took place in an attack to disperse the social protests in Matagalpa¹²³; and of 16-year-old Matt Andrés Romero, who died of a gunshot wound during the attack on the participants of the march entitled “We are the Voice of Political Prisoners” (*Somos la Voz de los Presos Políticos*) on September 23.¹²⁴

77. On October 18, 2018, the Commission informed that the number of persons killed since April 18 amounted to 325 deceased persons, of whom 21 are police officers and 24 are children and adolescents.

E. Fourth stage: Shutdown of democratic forums

78. In December 2018, a new stage of repression was identified in Nicaragua, one characterized by the adoption of measures and decrees that, under the guise of legality and strict formality, illegitimately constrained the rights to freedom of expression, association, and assembly, which are essential for the effective functioning of every democratic society. In particular, the continuation of criminalization and prosecution of leaders and human rights defenders, the refusal to grant permits to hold social protests, the withdrawal of the legal status of civil society organizations, and the arbitrary expulsion—or threat of expulsion—of defenders who are naturalized Nicaraguan nationals or who hold a Nicaraguan residence permit. All of this points to a trend of the state aimed at silencing, intimidating, and criminalizing any voice that might be contrary to the government’s stance.

79. On September 28, the National Police stated that the protests of September 2, 15, and 23, 2018 were violent and illegal. In addition, it held those convening these protests responsible for “any alteration of the public order, offensive and criminal actions, and assaults.”¹²⁵ On October 13, in a new communiqué, the National Police established that any demonstration in any part of the country could be held only if the organizers requested the corresponding permit from police authorities and only if it was granted.¹²⁶ After these announcements, the National Police turned down requests made by civil society to hold memorial marches for the International Day for the Elimination of Violence against Women on November 25 and the 70th anniversary of the Universal Declaration of Human Rights on December 10.¹²⁷

80. In addition to forbidding marches, the state’s strategy to prevent any social protest consisted of occupying public spaces and continuing arbitrary and selective detentions against those who protest or

¹²¹ IACHR, Press Release 183/2018, [CIDH expresa preocupación por situación de personas migrantes y refugiadas nicaragüenses y llama a los Estados de la región a adoptar medidas para su protección](#), Washington, D.C., August 15, 2018;

¹²² Among them there was this organization’s Secretary, Álvaro Leiva Sánchez, beneficiary of precautionary measure [MC660/18](#) of the IACHR, because of threats and harassment by armed groups. IACHR, Press Release 183/2018, [CIDH expresa preocupación por situación de personas migrantes y refugiadas nicaragüenses y llama a los Estados de la región a adoptar medidas para su protección](#), Washington, D.C., August 15, 2018;

¹²³ National Police, Nicaragua, [Nota de Prensa 98-2018](#), September 6, 2018.

¹²⁴ IACHR, Press Release 223/2018, [CIDH alerta sobre nueva ola de represión en Nicaragua](#), Washington, D.C., October 18, 2018.

¹²⁵ National Police, Nicaragua, [Nota de Prensa 115-2018](#), September 28, 2018.

¹²⁶ National Police, Nicaragua, [Nota de Prensa 116-2018](#), October 13, 2018.

¹²⁷ National Police, Nicaragua, [Resolución No. 030-2018](#), December 10, 2018.

attempt to do so. Since September 23, the presence of armed state agents in spaces previously used for holding marches, such as the traffic circles, have limited any kind of protest. Among other cases, the IACHR received information about detentions in Somoto on November 21 and in a shopping center of Managua. The detained persons were criminally charged for singing the national anthem in a small ceremony of public protest and for taking photos of police agents deployed in the shopping center.¹²⁸ On October 14, the group convening the march “United for Freedom” (*Unidos por la Libertad*) led by the Blue & White National Unity (*Unidad Nacional Azul y Blanco—UNAB*) was detained and in addition the protest was obstructed by the broad deployment of riot squad agents.¹²⁹

81. Furthermore, the Commission voiced its concern about the increasing repressive measures and actions aimed at undermining the role played by human rights defenders and civil society organizations in Nicaragua. In addition to withdrawal of the legal status of 9 organizations, the IACHR was informed of the arbitrary detention of Haydée Castillo, Director of the Segovias Leadership Institute (*Instituto de Liderazgo de las Segovias—ILLS*), at the Managua City Airport in October.¹³⁰ On November 28, Ana Quirós, Director of the Health Information and Advisory Services Center (*Centro de Información y Servicios de Asesoría en Salud—CISAS*) and a naturalized citizen of Nicaragua was expelled from the country.¹³¹ On the same day, the Directorate General for Migration and Immigrants (*Dirección General de Migración y Extranjería—DGME*) withdrew the Nicaraguan identity card of the human rights defenders Ana María Ara Sorribas and María Jesús Ara Sorribas, who are Spanish nationals, and Bea Huber, a Swiss national.¹³²

82. Alongside this, in the context of the progressive deterioration of the human rights situation in the country, the IACHR notes the intensification of aggressions, attacks, and detentions against journalists and media workers in an attempt to silence them.¹³³ According to data provided by civil society, between October 20 and December 16, there were 117 attacks against the freedom of expression that were reported in the country as a result of acts of aggression, threats, intimidation, and harassment.¹³⁴ Among others, on December 14, the National Police occupied, with a court order, the newsroom of the newspaper *El Confidencial* and the program “Esta Semana” (This Week). On December 15, riot squad agents attacked

¹²⁸ Among other cases, the IACHR received information about the detentions in Somoto on November 21 and in a Managua shopping center. The persons detained were criminally charged for singing the national anthem at a small public protest and for taking photos of the police deployed in the shopping center. IACHR, Press Release 248/2018 - [MESENI de la CIDH expresa preocupación por estrategia de Nicaragua de impedir la protesta social](#), Washington, D.C./Managua, November 20.

¹²⁹ IACHR, Press Release 273/2018 - [CIDH denuncia agravamiento de la represión y el cierre de espacios democráticos en Nicaragua](#), Washington, D.C. / Managua, December 19, 2018. According to official government information, the detention of 38 persons was justified because they were “involved in activities of instigation and provocation that breach the right of Nicaraguan families to move about, circulate freely, and undertake economic, commercial, religious, sports, and leisure activities normally.” National Police, Nicaragua, [Resolución No. 030-2018](#), December 14, 2018.

¹³⁰ Haydée Castillo, a human rights defender beneficiary of precautionary measures granted to her by the IACHR, was arrested at the Augusto C. Sandino International Airport of Managua when she was attempting to travel in order to participate in an activity organized by the IACHR. IACHR, Press Release 223/2018, [CIDH alerta sobre nueva ola de represión en Nicaragua](#), Washington, D.C., October 18, 2018.

¹³¹ According to information found through the Special Monitoring Mechanism for Nicaragua (MESENI), Ana Quirós, Director of the Health Information and Health Advisory Services Center, feminist and sexual diversity leader, who is also the beneficiary of IACHR precautionary measures (Resolution No. 70/18), was detained and transferred to the Judicial Assistance Department of Managua, known as “El Chipote,” after responding to a subpoena issued by Nicaragua’s Directorate General for Migration and Immigrants (*Dirección General de Migración y Extranjería—DGME*) the morning of November 26, 2018. Hours after being detained, Ana Quirós was transferred overland by agents of the DGME to the border checkpoint of Peñas Blancas, Costa Rica, where she was handed over to Costa Rican authorities with a deportation order. From the time she was detained up to her deportation, Ana Quirós had been held incommunicado without her whereabouts reported by the authorities, and she had no opportunity to file an appeal with a competent judge or court regarding the legality of her detention and deportation, nor could she have any contact with her lawyers. According to information gathered by MESENI of the IACHR, Ana Quirós is a Nicaraguan national by naturalization 21 years ago. IACHR, Press Release 255/2018-[CIDH condena la expulsión arbitraria de defensora de derechos humanos de Nicaragua](#), Managua / Washington D.C, November 28, 2018.

¹³² IACHR, Press Release 255/2018, [CIDH condena la expulsión arbitraria de defensora de derechos humanos de Nicaragua](#), Managua / Washington D.C, November 28, 2018.

¹³³ IACHR, Press Release R267/2018, UN and Inter-American System freedom of expression experts condemn attacks on and threats to journalists and the media in Nicaragua, Washington, D.C., December 14, 2018; IACHR, Press Release 273/2018 - [CIDH denuncia agravamiento de la represión y el cierre de espacios democráticos en Nicaragua](#), Washington, D.C. / Managua, December 19, 2018,

¹³⁴ Violeta Barrios de Chamorro Foundation, [Violaciones a la libertad de prensa del 20 de octubre al 16 de diciembre](#), Nicaragua, December 17, de 2018.

journalists and workers of these media when they went to National Police stations to report the incidents.¹³⁵ On December 21, the National Police confiscated the assets of the *100%Noticias* TV station and it was also taken off the air. On the same day, the journalist Lucía Pineda and the station's director Miguel Mora, who are beneficiaries of precautionary measures, were detained. Miguel Mora was charged on December 22 with the crime of provoking, proposing, and plotting to perpetrate acts of terrorism.¹³⁶

83. As noted earlier, the IACHR warns that the serious human rights crisis in the country has continued for more than 8 months due to the de facto installation of a state of emergency characterized by the abusive use of public force to repress dissenting voices against the government, the raid, shutdown and censorship of the media, imprisonment or exile of journalists and social leaders, closure of civil society organizations without the guarantees of due process, as well as the executive branch's interference with and control over the other branches of government. The establishment of a de facto state of emergency has been deemed by the Commission to be a determining element for incorporating Nicaragua into this Chapter as it falls under the purview of subparagraph 6 b) of Article 59 of its Rules of Procedure.

84. Finally, in addition to shutting down democratic forums for freedom of expression, dissidence, and protest, the state of Nicaragua has not participated in the public hearings of the Commission for three years. In addition, after inviting the IACHR and the OHCHR to accompany the human rights situation in Nicaragua in June 2018, it shut its doors to international scrutiny in the field. As indicated previously, on August 30, 2018, the State reported the withdrawal of the invitation extended to UNHCHR and terminated its mission in Managua. Afterwards, on December 19, it communicated its decision to temporarily suspend the presence of the Special Monitoring Mechanism for Nicaragua (MESENI) in the country and IACHR's visits to Nicaragua as of that date. It also communicated the expiry of the time-limits, objective, and mission of the Interdisciplinary Group of Independent Experts (GIEI). The Commission voiced its regret at this decision taken by the State and reiterated that it would continue conducting monitoring activities in line with its mandate. It also stated its full willingness to dialogue with the state of Nicaragua and provide the technical cooperation available and needed to facilitate moving forward in fulfilling its international human rights obligations.

85. In its observations to the draft of this report, with respect to the installation and functions of the MESENI and the GIEI, the State of Nicaragua stated that "[t]he Government of Nicaragua acting in good faith, with the political will to seek a solution to the attempted coup of State, to resolve with the assistance of the dialogists at that time, of the coup leaders, invited the Inter-American Commission on Human Rights (CIDH), and signed an Agreement to form the Interdisciplinary Group of Independent Experts (GIEI) [...]. Both the IACHR and the GIEI, which had an agreed timeframe, overreached each other by attributing powers that were not previously agreed upon, implementing their own research-oriented methodology with the objective of discrediting the Government of Nicaragua, exposing facts, data, information lacking in veracity, especially with the aim of discrediting and generating damages before the international community¹³⁷.

III. ACCESS TO JUSTICE AND JUDICIAL INDEPENDENCE

86. The Commission received information referring to the absence of independence in Nicaragua's system for administering justice as a result of the executive branch's interference and the use of all of its structures for party politics. In turn, the failure to guarantee impartiality and independence has facilitated the manipulation of criminal law for the prosecution of voices criticizing or opposing the government and for obstructing the right of human rights violation victims to access to justice.

¹³⁵ IACHR, Press Release 273/2018 - [CIDH denuncia agravamiento de la represión y el cierre de espacios democráticos en Nicaragua](#), Washington, D.C. / Managua, December 19, 2018.

¹³⁶ *El Nuevo Diario*, Nicaragua, [Esposa de Miguel Mora relata como ocurrió su detención y allanamiento a 100% Noticias](#), December 22, 2018; *El Comercio*, Peru, [Régimen de Ortega detiene y acusa de "terrorismo" a dueño de canal 100% Noticias](#), December 22, 2018; *Euronews*, [Detenido el director de un canal de televisión en Nicaragua](#), December 23, 2018; *El 19 Digital*, [Acusan a Miguel Mora por fomentar e incitar al odio y la violencia](#), December 22, 2018.

¹³⁷ State of Nicaragua, [State's Observations on the "Chapter IV. B- Annual Report of the IACHR"](#), February 22, 2019. Pag. 7.

Public Ministry

87. The IACHR notes that the designation of persons with close ties to the President and members of his political party has entailed a progressive loss of independence and autonomy of the Public Ministry. In fact, according to observations made in the GIEI's Final Report, currently the "senior leadership" of the Public Ministry is entirely occupied by persons who had previously held high-ranking posts in the Police Force, namely: Attorney General Ana Guido (former General Police Commissioner), the Deputy Attorney General Julio González (former Senior Police Commissioner), and the Inspector General Douglas Vargas (former police captain). In particular, the appointment of the Attorney General—a woman well-known for her track record as a committed Sandinista—in 2014 had deeply impacted the Public Ministry's structure. Since then, contrary to domestic law, prosecutors are chosen on the basis of internal selection processes that are always for the benefit of persons with ties to the FSLN.¹³⁸

88. The State noted in its observations to the draft of this report, that as the representative of society and of the victim, he has acted based on the principles of objectivity, legality and proportionality in the investigation of the acts of violence that have occurred since April 18, 2018, in the presentation of accusations against persons for whom sufficient evidence has been found to demonstrate "in court their participation in the commission of serious criminal acts"¹³⁹.

89. In addition to the above, the IACHR notes that the Political Secretaries and the Sandinista Leadership Councils or Committees (*Consejos o Comités de Liderazgo Sandinista—CLS*), which are de facto political party structures installed at the heart of every institution, makes it easy for the executive branch to interfere in and control the Public Ministry. Among other things, its function makes it possible ensure the participation of civil servants in activities such as marches, occupation of traffic circles, and ongoing monitoring of civil servants who disagree with the government.¹⁴⁰ Regarding this, the IACHR also received information about lists being drawn up in the Forensic Medicine Institute (*Instituto de Medicina Legal*) in order to assign the autopsies to be performed on those who died in the protests to those employees who are members of the government's political party. Likewise, inside the Attorney General's Office, cases against protests shall only be assigned to "persons of trust."¹⁴¹

90. With respect to the proceedings filed against those who participated in the protests or who lent their support, including even those who provided humanitarian assistance such as food donations and medicines, the Attorney General's Office has been known to have pre-written accusation forms to charge these persons for severe crimes such as terrorism, organized crime, and other similar charges¹⁴²; and for drafting charges based on testimonies from civil servants or undercover agents who appear masked during

¹³⁸ This selection process was facilitated by the intervention of the Special Committee of the National Assembly—also comprised of an FSLN majority—as it turned down the candidacies of other persons. "Through this designation the FSLN policy of controlling the Public Ministry was consolidated, which started in 2007 with the National Assembly's election of Ana Julia Guido Ochoa as the Ministry's second highest-ranking authority, as well as an extension of her term of office by the issuance of Executive Decree 3/201030." GIEI, Nicaragua, [Informe final sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo](#), 2018, p. 47

¹³⁹ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 62.

¹⁴⁰ GIEI, Nicaragua, [Informe final sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo](#), 2018, p. 47. According to documentation from the International Crisis Group, "After the 18 April uprising the FSLN sent a mandatory request to public employees to provide information regarding all their social media accounts." International Crisis Group, [A Road to Dialogue After Nicaragua's Crushed Uprising](#), Report No. 72, 2018, p. 4. During its working visit, the Commission learned about the complaints of dismissals and threats to state workers who had supported the protests. Some workers indicated that there are persons from the government in charge of investigating the social media profiles of employees for the purpose of reporting any posting against the government. IACHR, *Gross Human Rights Violations in the Context of Social Protests in Nicaragua*, June 21, 2018, para. 166; *La Prensa*, [Despidos ilegales a trabajadores del Estado de Nicaragua](#), April 28, 2018; *La Prensa*, [Desatan persecución policial y laboral a estudiantes y empleados públicos que participaron en protestas](#), May 6, 2018; *La Prensa*, [Trabajadores del Estado asediados y corridos por oponerse al régimen](#), May 22, 2018.

¹⁴¹ Testimonies received by the IACHR on September 8 and 25 in Managua.

¹⁴² IACHR, Press Release 187/2018 - [CIDH urge al Estado de Nicaragua a cesar la criminalización de la protesta y a respetar a las personas privadas de libertad y sus familias](#), Managua / Washington, D.C., August 24, 2018.

court proceedings. According to information in the public domain, dozens of prosecutors have resigned from their posts because they did not agree with these practices.¹⁴³

91. In this regard, in its observations to the draft of this report, the State mentioned that the resignations from Prosecutors have taken place in usual contexts that occur in any institution, in particular, they have occurred for personal reasons and not for those mentioned in this report.¹⁴⁴

92. Furthermore, there are complaints filed by victims, next-of-kin, and civil society because of the absence of adequate investigation into the severe incidents of violence recorded over the past few months. The complaints received indicate that, in some cases, both the National Police and the Public Ministry are not launching ex officio investigations with due diligence into alleged criminal incidents, especially those perpetrated against protesters or opponents of the government.¹⁴⁵ In addition, the IACHR is concerned about the climate of widespread mistrust and fear among the victims, next of kin, and representatives when filing complaints with the institutions in charge of investigating crimes.¹⁴⁶

93. In certain cases, the victims themselves or their next-of-kin, especially mothers, have had to take the initiative of gathering evidence themselves because of the state's failure to act.¹⁴⁷ The Commission stresses that the investigation of the facts must be taken up by the state of Nicaragua as an inherent legal duty, not as a simple formality doomed to fail from the outset and which depends on the procedural initiative of the victims or their next-of-kin or on evidence provided by private sources.¹⁴⁸ These investigations must be conducted by all legal means available, and they must be aimed at ascertaining the truth. The state's obligation to investigate must be fulfilled diligently to prevent this type of incident from going unpunished and from being repeated.¹⁴⁹

94. During its working visit, the IACHR observed with great concern the fact that the next-of-kin of the victims, that is, the persons who died, were instructed to sign papers waiving the transfer of the bodies to the Forensic Medicine Institute and waiving their right to file complaints as a requirement for delivering the death certificates.¹⁵⁰ The IACHR recalls that autopsies based on documents, without any examination of the bodies, does not meet the minimum standards set by the inter-American human rights system,¹⁵¹ and that the state of Nicaragua can be held liable for neglecting to order, screen, or assess evidence that might be determining factors in duly clarifying the homicides.¹⁵²

95. The State in its observations on the draft of this report rejected that "the relatives of the deceased were "forced" to sign documents, pressured to renounce their right to file complaints or disclaim the responsibilities of the authorities." Added that "[o]n the contrary, in many cases we were pressured by the

¹⁴³ *El Confidencial*, "[Renuncian jueces y fiscales a justicia orteguista](#)", November 18, 2018; *La Prensa*, "[Renuncian fiscales del Ministerio Público en Nicaragua](#)", June 21, 2018.

¹⁴⁴ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 71, 72.

¹⁴⁵ IACHR, *Gross Human Rights Violations in the Context of Social Protests in Nicaragua*, OEA/Ser.L/V/II.Doc. 86, June 21, 2018, para. 234.

¹⁴⁶ IACHR, Press Release No. 113/18, "[Observaciones preliminares de la visita de trabajo de la CIDH a Nicaragua](#)", May 21, 2018.

¹⁴⁷ IACHR, *Gross Human Rights Violations in the Context of Social Protests in Nicaragua*, OEA/Ser.L/V/II.Doc. 86, June 21, 2018, para. 236; "[Presidenta de la Comisión Interamericana de Derechos Humanos realiza visita a Nicaragua](#)", November 16, 2018.

¹⁴⁸ I/A Court H.R., Case of Velásquez Rodríguez v. Honduras. Merits. Judgment of July 29, 1988. Series C No. 4, paras. 177 and 180; I/A Court H.R. Case of Osorio Rivera and Family v. Peru. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 26, 2013. Series C No. 274, para. 178

¹⁴⁹ I/A Court H.R., Case of Veliz Franco et al. v. Guatemala. Preliminary Objections, Merits, Reparations, and Costs. Judgment of May 19, 2014. Series C No. 277, para. 183.

¹⁵⁰ IACHR, *Gross Human Rights Violations in the Context of Social Protests in Nicaragua*, OEA/Ser.L/V/II.Doc. 86, June 21, 2018, para. 17; Amnesty International, *Shoot to Kill: Protest Repression Strategies in Nicaragua*, 2018.

¹⁵¹ I/A Court H.R. Case of Veliz Franco et al. v. Guatemala. Preliminary Objections, Merits, Reparations, and Costs. Judgment of May 19, 2014. Series C No. 277, paras. 193 and 194.

¹⁵² I/A Court H.R. Case of the "Street Children" (Villagrán Morales et al.) v. Guatemala. Merits. Judgment of November 19, 1999. Series C No. 63, para.349.

relatives to give them the corpse of their family member, desisting from carrying out the Legal Medical Autopsy, without this meaning the waiver of their right to file a complaint with the competent authorities¹⁵³.

96. In relation to conducting autopsies based on documents, the State expressed, in its observations on the draft of this report, that the autopsies are performed by forensic experts assigned to the Forensic Pathology Service, based on processes in accordance to national technical standards and applicable laws. Added that exceptionally post-mortem medical reports were made based on files in "a few cases" in which, by the will of the relatives of the deceased, the body was not accessed but there were hospital medical records with relevant information¹⁵⁴

97. Likewise, the IACHR received information from the next-of-kin of deceased persons who complained that, in hospitals where the bodies were located, they were required to sign a paper so that they could take the corpse. In that paper they had waived their right to file a complaint, given authorization for the bodies not to be taken to forensics for an autopsy, or released the authorities from any liability. In other words, it was reported that clinical files were being manipulated and medical certificates falsified.¹⁵⁵

98. The Commission deems that the relation of dependency that the prosecutors might have on other institutions can exert an impact on their capacity for independent action, both in terms of the effectiveness of the investigations and their impetus, as well as in terms of the implications this has for due process.¹⁵⁶ In that respect, the IACHR recalls that the duties of prosecutors—such as investigating crimes, overseeing the legality of investigations, and enforcing court rulings—are indispensable in order to eliminate impunity in cases of human rights violations.¹⁵⁷

Independence of the judicial branch

99. First of all, the Inter-American Commission observes that the state of Nicaragua does not have an independent judicial branch of government because of appointment procedures tainted by factors such as nepotism or influence and manipulation by the government's political party.¹⁵⁸ Since 2000, the Supreme Court of Justice was composed of 16 justices and 16 alternate judges were appointed to the court, which made it possible to distribute the seats to the country's two principal political forces. In 2010, President Daniel Ortega approved Presidential Decree 03/2010 that made it possible for the judges of the Supreme Court of Justice to keep their seats although their terms of office had expired.¹⁵⁹ In this context, in 2013, the then United Nations Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul, reported the huge political leverage involved in appointing the judges of the Supreme Court of Justice, and in particular because the government's political majority in the National Assembly made it possible to appoint state officials without the endorsement of any other political representation.¹⁶⁰ By 2014, the FSLN and judges close to the President held three of the four chambers of the judicial branch of government.¹⁶¹

¹⁵³ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 42.

¹⁵⁴ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 60

¹⁵⁵ IACHR, *Gross Human Rights Violations in the Context of Social Protests in Nicaragua*, OEA/Ser.L/V/II.Doc. 86, June 21, 2018, para. 147.

¹⁵⁶ IACHR, [Garantías para la independencia de las y los operadores de justicia. Hacia el fortalecimiento del acceso a la justicia y el Estado de Derecho en las Américas](#), 2008, para. 37.

¹⁵⁷ IACHR, [Garantías para la independencia de las y los operadores de justicia. Hacia el fortalecimiento del acceso a la justicia y el Estado de Derecho en las Américas](#), 2008, para. 17.

¹⁵⁸ U.S. State Department, [Nicaragua 2017 Human Rights Report](#), April 20, 2018, p. 8.

¹⁵⁹ Nicaragua, [Decreto Ejecutivo Nro. 3 de 2010](#), January 11, 2010.

¹⁶⁰ UN, [Informe de la Relatora Especial sobre la independencia de los magistrados y abogados. Gabriela Knaul. Consulta subregional sobre la independencia del Poder Judicial en América Central](#), April 2, 2013. In 2009, the Committee against Torture received allegations that "suggest that public bodies within the judicial system lack impartiality and independence, essential qualities for ensuring the effective application of the principle of legality. In particular, there have been allegations of irregularities in the appointment of judges, use of the judicial system for partisan ends and instances of corruption among judges and police officers." UN, [Committee against Torture](#), June 10, 2009, para. 14.

¹⁶¹ *El Confidencial*, [Instalan Corte Suprema de Ortega](#), April 23, 2014. See also *La Prensa*, [La Justicia al Estilo de Ortega](#), August 11, 2015.

100. In its observations on the draft of this report, the State of Nicaragua mentioned that “they have guaranteed “guaranteed a policy of appointment of judicial officials through selection processes, appointments and promotions in strict compliance with the principles of the Judicial Career Law (merit, impartiality, independence and specialty)”¹⁶².

101. Furthermore, the then Special Rapporteur observed that the National Judicial Administration and Service Council (*Consejo Nacional de Administración y Carrera Judicial*) did not abide by the selection and election procedures of merit-based competitive recruitment and that the Law on Judicial Service (*Ley de Carrera Judicial*) was not being enforced either with respect to job irremovability and stability.¹⁶³ In the same direction, the IACHR recently received information about practices such as arbitrary transfers or the unjustified dismissal of civil servants and operators of justice in retaliation for not adjusting to the politics of the current administration.¹⁶⁴ Among others, the IACHR was informed about the dismissal of Judge Indiana Gallardo on July 19, 2018, after he served notice to the authorities of the National Penitentiary System (*Sistema Penitenciario Nacional—SPN*) because they had removed three persons on trial from a hearing chamber without his authorization¹⁶⁵; the transfer of Judge Carlos Solís for ruling that the charges filed against Reynaldo Lira, promoter of the CPDH, were without merit; and the filing of punitive proceedings against judges who participated in the protests.¹⁶⁶

102. In August 2018, the Office of the United Nations High Commissioner contended that the irregularities committed in the criminal proceedings, among others, the failure to take detainees before a judicial authority within the legal time-limits, along with the irregularity in processing the writs of habeas corpus filed by the next-of-kin, the absence of access to adequate and timely legal defense, “highlight the absence of the basic guarantees of judicial independence and impartiality,” and therefore recommended to the State “to take urgent measures to guarantee the independence and impartiality of the judicial branch of government by refraining from exerting any undue interference, pressure, or influence,”¹⁶⁷ although the State had not adopted any measures to implement said recommendation.¹⁶⁸

103. In this context, the following are matters of special concern: the centralization of proceedings in Managua; the alleged appointment of judges with close ties to Sandinismo to hear the proceedings filed against protesters and government opponents;¹⁶⁹ and the statements made by the judges of the Supreme Court of Justice, which match the official narrative and publicly incriminate the persons charged, breaching the principle of presumption of their innocence. Thus, on November 29, the Chief Justice of the Supreme Court indicated that, in Nicaragua, there are no “political prisoners” and that “all those apprehended are brought to justice for having perpetrated a crime during the roadblocks in the months from April to July. In particular, the persons brought to justice perpetrated arson, killings with industrial and makeshift arms,

¹⁶²State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag 37.

¹⁶³ UN, [Informe de la Relatora Especial sobre la independencia de los magistrados y abogados](#), Gabriela Knaul, *Consulta subregional sobre la independencia del Poder Judicial en América Central*, April 2, 2013.

¹⁶⁴ Testimonies received by the IACHR on September 8 and 25 in Managua.

¹⁶⁵ *El Nuevo Diario*, [CSJ destituye a jueza Indiana Gallardo](#), July 19, 2018; *La Prensa*, [Corte Suprema descalifica a la juez Indiana Gallardo](#), July 21, 2018. According to an official government statement, the judge had been dismissed for misconduct. Judicial Branch of Government, [CSJ destituye a jueza Indiana Gallardo por actuar contra ley expresa](#), July 20, 2018.

¹⁶⁶ *El Confidencial*, [Renuncian jueces y fiscales a justicia orteguista](#), November 18, 2018; *La Prensa*, [CSJ sigue volando cabezas a jueces y magistrados opositores](#), October 23, 2018; *La Prensa*, [Los siete jueces que el orteguismo usa para reprimir a los manifestantes en Nicaragua](#), October 1, 2018.

¹⁶⁷ Regional Office for Central America of the United Nations High Commissioner for Human Rights, [Violaciones de Derechos Humanos y abusos en el contexto de las protestas en Nicaragua 18 de abril – 18 de agosto de 2018](#), August 2018, paras. 82 to 90 and Recommendation 7.

¹⁶⁸ Regional Office for Central America of the United Nations High Commissioner for Human Rights, [Seguimiento a la situación de derechos humanos en Nicaragua: Intensificación de la criminalización de las protestas](#), Monthly Bulletin No. 1, September 2018, p. 10; and [Seguimiento a la situación de derechos humanos en Nicaragua: Intensificación de la criminalización de las protestas](#), Monthly Bulletin No. 2, October 2018, pp. 6 and 7.

¹⁶⁹ *La Prensa*, [Los siete jueces que el orteguismo usa para reprimir a los manifestantes en Nicaragua](#), October 1, 2018.

used explosives against persons, public property, and means of transportation; we saw how they burned and kidnapped persons, subjecting the entire country to fear and terror.”¹⁷⁰

104. The State expressed, in its observations on the draft of this report, that “regarding to the presumption of innocence, this has been fully guaranteed, because those accused of these crimes have been treated as innocent throughout the trial and the people who have been convicted have been the result of evidence of charges and legal, practiced in Court that have formed the conviction of the Judge on their guilt for their participation in criminal acts”¹⁷¹.

105. In addition to the above, the IACHR notes the perpetuation of practices in connection with holding hearings at unusual times or places for the purpose of preventing and obstructing the appearance of private defense attorneys. The IACHR also observes that access of the public, next-of-kin of the detainees, and international human rights protection mechanisms to hearings of persons being tried for incidents associated with the protests has been restricted. On August 14, 2018, the Supreme Court ordered that any international body wishing to attend the hearings or trials must channel its request through the Ministry of Foreign Affairs. The above highlights the high degree subordination to the executive branch of government.¹⁷²

106. In connection with the state’s efforts to seek the truth, the Commission observes that the state established a Truth Commission,¹⁷³ whose reports have been challenged by civil society because of its lack of independence from the government, as well as for manipulating the facts and “attempting to make the actual perpetrators and those directly responsible disappear, by changing the dates, places, and circumstances of the offense.”¹⁷⁴

107. In its final report, the GIEI indicated that, of the 109 cases of violent deaths recorded between April 18 and May 30, only 9 have been brought to justice and 100 continue to go unpunished. In the 9 cases that have been brought to justice, 6 pertain to victims who have some kind of tie with the state of Nicaragua or the current administration’s political party. “In no case has any proceeding been filed against the state’s security forces, despite diverse evidence pointing to their potential responsibility.”¹⁷⁵

108. The principle of independence of the judicial branch has been recognized as “international custom and general principle of law.”¹⁷⁶ The independence of all body discharging duties of a jurisdictional nature is an indispensable presumption to enforce the rules of due process of law as a human right whose absence undermines the right to access to justice, in addition to creating mistrust and even fear, which discourages people from appealing to courts of justice.¹⁷⁷

109. The Inter-American Commission insists that the independence of the judicial branch and its clear separation from the other branches of government must be respected and guaranteed by both the executive branch and the legislative branch, based on the legal recognition of their independence and non-interference from other branches of government. For the IACHR, this guarantee, in addition to being

¹⁷⁰ Supreme Court of Justice, [Presidenta CSI: “en Nicaragua no hay presos políticos”](#), November 29, 2018. In the same direction, Judge Fátima Rosales González stated that “persons who obstruct circulation committed crimes and violated human rights such as the physical integrity of persons and perpetrated injuries, killings, murders, theft, torture, and obstruction of public services, which are illegal activities that impacted the activities of the citizenry, by preventing the population from moving about freely. With the roadblocks, they interrupted the free circulation of persons and denied the right to work, health, and education, which are common crimes for which the population is calling punishment.” Supreme Court of Justice, [Se administra justicia con estricto apego a la ley](#), December 20, 2018.

¹⁷¹ State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag 58.

¹⁷² Judicial Branch of Government, [CSI aclara sobre participación del GIEI en las audiencias y juicios](#), August 14, 2018.

¹⁷³ Truth, Justice, and Peace Commission, [Segundo Informe Preliminar](#), October 15, 2018, pp. 4 and 5.

¹⁷⁴ *El Confidencial*, Nicaragua, Association of the Mothers of April (*Asociación Madres de Abril*), Nicaragua [Pronunciamiento](#), September 3, 2018.

¹⁷⁵ GIEI, Nicaragua, [Informe final sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo](#), 2018, p. 47.

¹⁷⁶ United Nations, General Assembly, Human Rights Council. Report of the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, March 24, 2009, para. 14. 4

¹⁷⁷ IACHR, [Garantías para la independencia de las y los operadores de justicia. Hacia el fortalecimiento del acceso a la justicia y el Estado de Derecho en las Américas](#), 2008, para. 30.

enshrined in the regulatory framework in recognition of the principle of the separation of branches of government, must be put into practice.¹⁷⁸ The IACHR deems that independence of the judicial system must be assumed for the effective exercise of due process and access to justice. The judicial branch, in addition, plays an indispensable role in monitoring the constitutionality of the actions of other branches of government and the administration of justice. Judicial independence is, for that reason, a key feature to ensure the rule of law and democracy.¹⁷⁹

110. The IACHR urges the state of Nicaragua to investigate with due diligence the acts of violence since the start of the protests, to identify and, if appropriate, to try and punish those who were the masterminds and actual perpetrators of said incidents. To this end, the state must inform the next-of-kin in advance of said investigations. In addition, it must launch the administrative, disciplinary, and other proceedings of any kind in those cases where state agents have been involved, without detriment to the criminal investigation into the facts.

IV. SITUATION OF FREEDOM OF EXPRESSION IN NICARAGUA¹⁸⁰

111. In 2018, the Government of Nicaragua put into practice a series of repressive measures and actions aimed at restricting the exercise of protest and the right to demonstrate and at harassing independent journalism and the actions of human rights defenders, in the context of implementing various ways of persecuting the citizen movement that spearheaded the social protests that started on April 18. There is a persistent discourse that identifies those who protest as “terrorists” who wish to “overthrow the government,” which has been used to justify the repressive actions by the state’s security forces and paramilitary groups. Journalists, the independent media, and their managers have reported continuous aggressions, threats, surveillance, arbitrary detentions, and even attacks on media premises.

112. Regarding the killing of the journalist Ángel Gahona in the context of the protests, 2 young people were convicted and sentenced to 23 years 6 months of prison and 12 years 6 months of prison, respectively, as the perpetrators of the crime. Nevertheless, human rights organizations reported that the convicted persons had been arbitrarily charged without procedural guarantees, for the purpose of preventing the investigation into the possible responsibility of state agents. Moreover, the IACHR observes that the trial was conducted without any transparency or accountability and both the Group of Independent Experts (GIEI) and local and international media were prevented from gaining access to the hearings during the trial.

113. The IACHR and its Special Rapporteurship also express their grave concern over Police’s decision to declare the illegality of the protests or marches conducted by social movements, students, and organizations, as well as the decision to require prior authorization from that institution for any kind of protest in public spaces, in contravention of international standards that protect freedom of expression and assembly. Civil society organizations indicated that this measure seeks to discourage protest in the country and to criminally prosecute those calling for it.

A. Undue control over the media and interference

114. The Special Rapporteurship has observed, in its annual reports, that in Nicaragua a duopoly has been consolidated in the media, controlling the majority of television and radio broadcasting media. In fact, most audiovisual media is under the political control of the President’s family or of one businessperson with ties to the government. As a result, these media are highly biased and their journalists encounter obstacles when they wish to carry out their work independently. The IACHR observed that, during the protests that started on April 18, various journalists from these media received orders to restrict the

¹⁷⁸ IACHR, [Garantías para la independencia de las y los operadores de justicia. Hacia el fortalecimiento del acceso a la justicia y el Estado de Derecho en las Américas](#), 2008, para. 30.

¹⁷⁹ IACHR, [Democracia y derechos humanos en Venezuela](#), December 30, 2009, para. 183.

¹⁸⁰ The drafting of this chapter was assigned by the IACHR to the Office of the Special Rapporteur for Freedom of Expression.

broadcasting of information about the incidents, although a group of them resisted and reported said instructions.¹⁸¹

115. Regarding the state-owned media, that is, *Canal 6* and *Radio Nicaragua*, the IACHR documented that they are under the government's direct control and that they are used to stigmatize protesters.¹⁸² For example, the IACHR observes that *Canal 6* identifies Bishop Silvio Báez as the "principal promoter of the coup d'état in Nicaragua."¹⁸³ As for *Radio Nicaragua*, it reports about the situation and contexts of clashes, by putting emphasis on expressions such as "terrorists," "coup d'état terrorism," and "rightwing coup d'état."¹⁸⁴

116. By contrast, the independent media continued to confront harassment and pressure from the government in order to do their work. The Special Rapporteurship observes a systematic attempt to interfere on the part of the government in the information-gathering activities of these media, for the purpose of steering information broadcasting policies. The newsroom team of "Acción 10," one of the news agencies with the largest audience in Nicaragua, has been under pressure from the government since the beginning of the protests. For example, on August 20, an envoy who was allegedly the press chief of *Canal 8*, a media with close ties to the government, appeared at the main office of *Canal 10* in order to take over the newsroom of the "Acción 10" news agency, which had been agreed upon with the channel's owner. It was reported that the journalists of the news broadcast opposed the measure and reported the incident as a new attempt by the government to control the media's editorial policy. According to information received, in retaliation, the Financial Analysis Unit (*Unidad de Análisis Financiero—UAF*), a government institution of Nicaragua, started a "financial intelligence proceeding" against the general manager of *Canal 10*, Carlos Alberto Pastora Rossler, for alleged "money laundering" and a migration stop order had been issued to prevent him from leaving the country.¹⁸⁵

117. On August 22, Carlos Pastora entered the headquarters of the Honduran Embassy in Nicaragua and requested diplomatic protection from that country, of which he is also a national. He also requested protection from the actions taken by the state of Nicaragua against him and the risks to his life and personal integrity, because of the direct threats and persecutions that he reported he was a victim of.¹⁸⁶ The Secretariat of Foreign Affairs and International Cooperation of Honduras reported that, on December 3, Pastora finally left the Embassy on that date and was accompanied by a diplomatic mission that escorted him to the airport. Finally he took a flight to the United States of America.¹⁸⁷

118. The IACHR reiterates that this kind of measure severely undermines the freedom and independence of the media. It also reiterated its concern that private media must adopt measures to restrict information about the country's situation as a result of pressure from government sectors. According to principle 6 of the Declaration of Principles: "Journalistic activities must be guided by ethical conduct, which should in no case be imposed by the State."

119. The IACHR observes that government media must have guarantees to uphold their independence from the executive branch. In that respect they must be pluralistic and universally accessible. They must also benefit from funding adequate to the mandate provided for by law; and they must provide

¹⁸¹ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 202.

¹⁸² IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 199.

¹⁸³ *Canal 6*, "400 mil firmas exigiendo a Báez que se vaya del país", November 7, 2018.

¹⁸⁴ *Radio Nicaragua*, "[Policía Nacional informa ataques de la derecha golpista en contra de las familias](#)", September 23, 2018; *Radio Nicaragua*, "[Miles piden justicia para las víctimas del terrorismo golpista](#)", August 11, 2018; *Radio Nicaragua*, "[Terroristas matan y secuestran a policías y pobladores de Morrito](#)", July 12, 2018.

¹⁸⁵ Special Rapporteurship for Freedom of Expression, [Relatoría Especial condena ataques, presiones políticas y censura indirecta contra periodistas y medios de comunicación en Nicaragua](#), September 8, 2018.

¹⁸⁶ Special Rapporteurship for Freedom of Expression, [Relatoría Especial condena ataques, presiones políticas y censura indirecta contra periodistas y medios de comunicación en Nicaragua](#), September 8, 2018.

¹⁸⁷ State of Honduras. Secretariat of Foreign Affairs and International Cooperation. [Comunicado](#). December 3, 2018.

community participation and accountability mechanisms at the different levels of content production, distribution and receipt.¹⁸⁸

120. Because of the above, the IACHR reiterates to the state of Nicaragua that it must guarantee respect for the media's independence and must refrain from prior censorship applied by any state body, as well as any prior condition that might imply censorship on freedom of expression.

B. Jamming television signals and engaging in Internet attacks

121. Interference in the broadcasting of pay-TV channels has been another constant factor in Nicaragua. On April 18, Nicaraguan Telecommunications and Postal Services (*Instituto Nicaragüense de Telecomunicaciones y Correos—TELCOR*), the agency regulating audiovisual media, arbitrarily ordered all cable TV stations to suspend live transmission of the media that were providing coverage of the protests. The Special Rapporteurship observes that this measure was aimed at restricting information of public interest. In this context, the IACHR documented that *Canal 12*, *Canal de Noticias de Nicaragua* (CDNN23), *Telenorte*, and *Canal 51* were suspended for 24 hours. In addition the station *100% Noticias* was prevented from broadcasting for 6 days as a result of its refusal to bend to pressure from TELCOR to remove from broadcasting any programs identified or perceived as opposing the government.¹⁸⁹

122. After the IACHR's visit, on October 31, TELCOR ordered pay-television companies to restrict the reach and permanence of the station *100% Noticias* on their platforms. TELCOR had sent a communication to pay-television stations ordering them to broadcast *Canal 6* (state-owned station) on channel 15 of the UHF frequency over which the station *100% Noticias* broadcasts its programs. "It is an obligation of pay-television operators to include in their programming all national channels, whether analog or digital," added the communication from the institution.¹⁹⁰ The Special Rapporteurship observed that, for years now, the station *100% Noticias* has had private contracts with pay-television companies and would broadcast over channel 15, as a result of which the government measures to impose a state-owned channel on this slot would require, in the best of cases, relocating it, which in turn would affect its audience and coverage. *100% Noticias* and its director Miguel Mora have provided coverage of the protests and government measures in the face of the country's political crisis.¹⁹¹

123. In addition, the weekly *Confidencial* has sustained periodic jamming that has taken it off Internet, owing to attacks involving refusal to provide service when Internet traffic is at its highest in Nicaragua and abroad, as when it broadcast during the protests a list of 19 casualties, each one of which had been confirmed by the team of journalists of *Confidencial* and which had been broadcast widely both globally and nationally. On that same date as well, the web page of *La Prensa* sustained cyberattacks.¹⁹² Various media also reported that "there are discriminatory allocation practices for government advertising and the use of tax auditing as a mechanism for exerting economic pressure."¹⁹³ Finally, the IACHR stressed in its visit that "the absence of clear procedures with legal guarantees for the allocation of radio broadcasting is used by state authorities to pressure the media to withdraw from the air news programs that have airing time hired in these media because of their editorial viewpoints."¹⁹⁴

124. Furthermore, the Special Rapporteurship observes that social media and Internet continue to be an alternative means whereby persons can disseminate information of public interest, as well as voice and express all kinds of ideas and opinions. Nevertheless, according to information received, a group with ties

¹⁸⁸ IACHR, Special Rapporteurship for Freedom of Expression. Freedom of Expression Standards for Free and Inclusive Broadcasting. OEA/Ser.L/V/II CIDH/RELE/INF. 3/09 of December 30, 2009, §83.

¹⁸⁹ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 205.

¹⁹⁰ IACHR, [La Comisión Interamericana de Derechos Humanos y su Relatoría Especial manifiestan grave preocupación por nuevo intento del gobierno de Nicaragua de imponer restricciones al canal de televisión 100% Noticias](#), October 31, 2018.

¹⁹¹ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 207.

¹⁹² IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 208.

¹⁹³ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 209.

¹⁹⁴ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 209.

to the government focused on providing disinformation on these networks and smearing journalists and the media broadcasting information that was critical of the government.¹⁹⁵ Likewise, during the working visit to the country, the IACHR received testimonies reporting that the government had ordered the surveillance of social media profiles in order to identify those who participated in the protests or disseminated messages or information against the government.¹⁹⁶ The IACHR observes with concern that these persons can be the target of reprisals by the authorities. In addition, prior to the crisis that started on April 18, the Special Rapporteurships received information about the government's intention to submit a draft law that could seek to control social media for cases of "cyber-bullying."¹⁹⁷

125. The IACHR recalls that, according to Article 13 of the Convention, the right to freedom of expression "may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions."

126. The Declaration of Principles on the Freedom of Expression, adopted by the IACHR in 2000, provides the following in Principle 5: "Prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression." Principle 13 indicates that: "The means of communication have the right to carry out their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression."

127. The IACHR reiterates that "it is essential for Nicaragua to have an enforcement body that is truly independent and whose institutional framework benefits from sufficient guarantees to prevent the allocation, withdrawal, or non-renewal of the permits for discriminatory or arbitrary reasons."¹⁹⁸

C. Violence and attacks against journalists and media

128. During its working visit to the country, the IACHR observed that engaging in journalism entails severe risks in Nicaragua, which is reflected in the numerous violent attacks against journalists and the media since the start of the protests. These aggressions have come from both state agents and parapolice groups, and even from groups of protesters.

129. After the IACHR's visit, the Special Rapporteurship continued observing a context of aggression and restrictions against journalists and media that continue to provide coverage of the political and social crisis.¹⁹⁹ According to information received, dozens of media workers have been the victims of physical aggression, arbitrary detention, surveillance by state security bodies and parapolice elements, as

¹⁹⁵ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, paras. 214, 252, 264, 265, and 266.

¹⁹⁶ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, paras. 13 and 166.

¹⁹⁷ *Hoy*, "[Gobierno con pretensiones de controlar redes sociales](#)", March 13, 2018; *El Nuevo Diario*, "[Las redes sociales y la libertad](#)", March 19, 2018; *Confidencial*, "[La regulación de redes sociales: una ley para reducirnos libertad](#)", March 14, 2018.

¹⁹⁸ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 211.

¹⁹⁹ CENIDH, "[El CENIDH repudia agresiones contra medios de comunicación y periodistas independientes de Nicaragua](#)", December 4, 2018; *El Universal*, "[Periodistas y medios opositores denuncian ser objeto de ataques en Nicaragua](#)", December 5, 2018; *La Prensa*, "[Periodistas independientes bajo violentos ataques del orteguismo](#)", December 5, 2018; *Confidencial*, "[La libertad de prensa en gran peligro en Nicaragua](#)", December 5, 2018; *La Prensa*, "[Crítica situación del periodismo ante la Comisión Interamericana de Derechos Humanos](#)", December 6, 2018; *100% Noticias*, "[Periodismo independiente realiza plantón en solidaridad con el director de 100% Noticias, Miguel Mora](#)", December 3, 2018; *Confidencial*, "[Jefe policial de León dirigió operativo contra Radio Darío, afirma su director](#)", December 5, 2018.

well as the confiscation, theft, or destruction of their working equipment.²⁰⁰ In particular, those journalists who have been identified by the government or its supporters for their critical coverage of the country's situation and human rights are the target of constant harassment by government supporters or trolls on social media, death threats, smear campaigns, and defamation. Several of these journalists have had to leave the country for fear of suffering attacks against their life and personal integrity.²⁰¹

130. Likewise, according to reports from various organizations, a context of “aggression and smears against journalists in various parts of the country such as Managua, Nindirí, San Rafael del Sur, and León”²⁰² has been observed; one modality that is starting to be used is the interception and confiscation of the working equipment of various teams of journalists, for example, on June 19 during the protest in Veracruz by “masked para-policemen.”²⁰³

131. On July 2, the IACHR issued a precautionary measure for the benefit of Aníbal Toruño, owner and director of *Radio Darío* from the city of León whose premises were set on fire in the context of the protests that started on April 18.²⁰⁴ The precautionary measure was issued for the benefit of all radio workers. The IACHR indicated that the beneficiaries are in a situation of “risk after a series of threats, intimidation, and attacks received by the employees of the Radio, as well as its facilities, in the context of the protests in Nicaragua.”²⁰⁵ On December 3, 2018, the radio's premises were the target of a search in the afternoon. During the police operation, they ordered broadcasting to be stopped,²⁰⁶ seized the cellphones,²⁰⁷ and requisitioned the broadcasting station's working materials. In addition, four employees were detained²⁰⁸ at various times during the day, and the rest of the employees were interrogated²⁰⁹ by police officers.

132. The Special Rapporteurship received information that, on December 1, Miguel Mora, Director of *100% Noticias* Channel, was detained and required to remove his shoes and climb into a Police patrol car where a group of masked men placed a ski mask over his head and threatened to kill him. Likewise, on December 3, a complaint was filed against Mora with the Attorney General's Office, charging him with being one of the instigators of “hate” and accusing him of being responsible for the death of a person in Jinotepe and for the disappearance of another person.²¹⁰ In addition, according to information received, the entire group of journalists of *100% Noticias* had been the target of constant threats and various employees

²⁰⁰ *El Nuevo Diario*, “[Amenazan a periodista de Vos Tv que cubre crisis en Nicaragua](#)”, August 14, 2018; *100% Noticias*, “[Jaime Arellano y Luis Galeano amenazados de muerte y cárcel](#)”, August 22, 2018; *100% Noticias*, “[Al menos nueve periodistas de Nicaragua denuncian ataques, detenciones y amenazas](#)”, November 25, 2018; *La Prensa*, “[Régimen de Daniel Ortega ataca a periodistas independientes](#)”, November 25, 2018; *Confidencial*, “Police and paramilitary groups threaten journalist of *100% Noticias*,” September 8, 2018.

²⁰¹ Violeta Chamorro Foundation, “[La dictadura continúa el asedio contra periodistas y medios independientes](#)”, June 28, 2018; Violeta Chamorro Foundation, “[Condenamos las agresiones a periodistas independientes en Nicaragua](#)”, September 26, 2018; Violeta Chamorro Foundation, “[Condenamos censura a 100% Noticias y encarcelamiento del periodista Álvaro Montalván](#)”, November 6, 2018.

²⁰² CENIDH, [Informe No.3 CENIDH denuncia violaciones sistemáticas a los derechos humanos de los nicaragüenses por el régimen dictatorial de Daniel Ortega y Rosario Murillo en el periodo del 16 de mayo al 18 de junio del 2018](#), June 29, 2018.

²⁰³ CENIDH, [Informe No. 4 CENIDH denuncia violaciones sistemáticas a los derechos humanos de los nicaragüenses por el régimen dictatorial de Daniel Ortega y Rosario Murillo en el periodo del 19 de junio al 14 de julio del 2018](#), July 18, 2018.

²⁰⁴ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), 2018, para. 36.

²⁰⁵ IACHR, [Medidas cautelares No. 693-18. Aníbal Toruño Jirón y otros integrantes de la Radio “Darío” respecto de Nicaragua](#), July 2, 2018, para. 10.

²⁰⁶ CPJ, “[Policía nicaragüense allana la radioemisora independiente Radio Darío](#)”, December 6, 2018; *100% Noticias*, “[Policía Sandinista allana sin orden judicial las instalaciones de Radio Darío](#)”, December 3, 2018.

²⁰⁷ *El Nuevo Diario*, December 4, 2018. [Policía desmantela Radio Darío](#); *La Prensa*, December 3, 2018. [Policía Orteguita de León saca del aire a Radio Darío e intimida a sus trabajadores](#); *Article 66*, December 3, 2018. [Policía de León saquea instalaciones de Radio Darío y secuestra a cuatro periodistas](#).

²⁰⁸ *El Nuevo Diario*, “[Policía desmantela Radio Darío](#)”, December 4, 2018; *El Nuevo Diario*, “[Tras desmantelar Radio Darío, Policía amenaza a trabajadores](#)”, December 4, 2018.

²⁰⁹ *El Nuevo Diario*, “[Policía desmantela Radio Darío](#)”, December 4, 2018; *La Prensa*, “[Policía Orteguita de León saca del aire a Radio Darío e intimida a sus trabajadores](#)”, December 3, 2018; *Artículo 66*, “[Policía de León saquea instalaciones de Radio Darío y secuestra a cuatro periodistas](#)”, December 3, 2018.

²¹⁰ *El Nuevo Diario*, “[Presentan acusación contra director de 100% Noticias](#)”, December 3, 2018; *Metro*, “[Esto dice la acusación contra director de 100% Noticias](#)”, December 3, 2018.

had been the target of aggression in various places and coverages.²¹¹ On December 21, 2018, the facilities of *100% Noticias* channel were occupied and their assets seized by National Police personnel; in addition, the channel signal was removed from the air. That same day, journalist Lucía Pineda and the Director of the channel Miguel Mora who is also beneficiary of precautionary measures, were detained. On December 22, Miguel Mora was accused for the crimes of provocation, proposition and conspitation to commit terrorist acts. On the next day, Lucía Pineda was accused for similar crimes²¹².

133. The State in its observations on the draft of this report stated that, although in Nicaragua "journalists exercise the right to inform" and that "no journalist has suffered imprisonment or persecution for exercising" the aforementioned right, some journalists and media communication encouraged "violence, hatred, misinformation and manipulation", in the context of the crisis faced the country, adding that "the law does not grant journalism professionals immunity against the commission of common crimes"²¹³.

134. The Special Rapporteurship also received information on the deportation of the journalist Carl David Goette-Luciak who was reporting for various foreign media. Regarding this specific matter, the IACHR and its Special Rapporteurship voiced their concern over the expulsion without any known charge having been filed.²¹⁴ According to the information, the expulsion occurred because of various publications and his coverage of the country's situation, which the government was trying to silence.²¹⁵ In this regard, the State of Nicaragua, in its observations on the draft of this report, pointed out that Goette-Luciak violated the condition of authorization to enter the country as a tourist, by developing political activities and paid journalism which, according to the internal regulations, was the basis of his deportation²¹⁶.

135. At the 169 period of sessions of the IACHR in Boulder, Colorado, from September 30 to October 5, 2018, at the hearing "Reports on repression and violence in contexts of protests in Nicaragua," civil society organizations informed the IACHR about the absence of safety guarantees for those who speak out

²¹¹ Document provided by the Violeta Chamorro Foundation, Washington, D.C., December 2018. Available at: Archive of the Special Rapporteurship for Freedom of Expression.

²¹² El 19 Digital, "[Presentan al juez a Lucía Pineda Ubau](#)", December, 23, 2018.

²¹³ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 78.

²¹⁴ IACHR, [CIDH y Relatoría Especial para la Libertad de Expresión expresan profunda preocupación por decisión de declarar ilegales las protestas en Nicaragua](#), October 9, 2018.

²¹⁵ The Special Rapporteurship received the journalist's testimony, which illustrates the treatment given to journalists providing coverage of the incidents that is independent from the official government narrative "(I have been) living and working for three years in Nicaragua. After the outbreak of protests in April, I started to provide coverage of the Nicaraguan crisis for media such as the Washington Post, The Guardian, the BBC, and others. I covered various controversial issues with respect to human rights abuses perpetrated by Nicaraguan authorities, among which the killing of Ángel Gahona, the Mother's Day massacre of May 30, and the killing of the Velásquez family, who were burned alive in their home.

"On September 17, pro-government social media accounts published photos of me, including my name and address in Managua, accusing me of being a CIA agent who had provided arms to rebels and encouraging government supporters to find and attack me. I had to flee from my home that very morning and stay in hiding for two weeks, because I received death threats on Sandinista web pages and accounts, while my personal information continued to be widely broadcast in a massive harassment, intimidation, and smear campaign. On October 1, I was arrested by the Nicaraguan police, which took me to a police car with hardly any shoes or shirt on, they handcuffed me and took me to a room where I was interrogated for 6 hours. They threatened to torture me if I did not provide them with the passwords to unblock the electronic devices that they had confiscated or if I did not give them information about the whereabouts of opposition figures or the names of student activists. Nicaraguan authorities made it clear that my treatment at their hands was because I held "false opinions" and "shared inappropriate opinions" through my work as a journalist. Ultimately, I was deported from the country without any of my belongings.

"Because of my long history working in Nicaragua and my coverage of Nicaragua in the field, I can speak personally about the threats to freedom of expression and about the repression of the press in the country, having been the target of reprisals by the government because of my work as an independent journalist. My story is being shared by countless Nicaraguans who have recently encountered intense harassment, repression, and violence because of their opinions or work, whether as activists, journalists, or community leaders."

Email received by the Special Rapporteurship for Freedom of Expression on November 1, 2018. Available at: Archive of the Special Rapporteurship for Freedom of Expression.

²¹⁶ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 47-48.

against the government. They also voiced their concern over the constant threats made to journalists and their next of kin and possible government reprisals for exposing the facts in the public hearing.²¹⁷

136. According to information received from civil society organizations, at a public ceremony held on September 22 in Managua, President Daniel Ortega had voiced a general threat against groups opposing his administration and he accused them of the death of government supporters. According to what was published, he stated the following:

*When we invited the bishops to engage in a dialogue, as a condition they requested that the Police be confined to their stations and we did not think that, in this country, there were criminals that would take advantage of that to torture our brothers, burn them, and dance around them; that is a provocation, but we are patient but they should not continue provoking us, because we cannot allow them to continue perpetrating these kinds of crime.*²¹⁸

137. The IACHR emphasizes that: "The [...] kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation." The IACHR has stated that violence against journalists not only violates, in an especially drastic way, the freedom of thought and expression of the affected person, but also the collective dimension of this right. Acts of violence perpetrated against journalists (term understood to cover a broad definition, from a functional perspective) or media workers and those who are related to their profession violate both the individual's right to express and impart ideas, opinions, and information, as well as the rights of citizens and societies as a whole to express opinions and criticisms and to receive and seek information and ideas of any nature.²¹⁹

138. In that respect, the IACHR and its Special Rapporteurship reiterate that, in the context of the demonstrations and situations of severe social unrest, the work of journalists and media workers, as well as the free flow of information through alternative media such as the social networks, is essential to keeping the public informed of the events. At the same time, it plays an important role in reporting on the conduct of the state and of law enforcement authorities toward the protesters, preventing the disproportionate use of force and the abuse of authority.²²⁰ The state is duty-bound to ensure that journalists and media workers reporting on public demonstrations are not arrested, threatened, assaulted, or limited in any manner in their rights as a result of practicing their profession.²²¹

139. In its observations on the draft of this report, the State said that, in relation to freedom of expression, that this right is fully exercised in Nicaragua, which is "manifested in the actions of multiple written, oral, social, digital and television media , many of which are contrary to government policy and report without prior censorship and without any restriction. The State added that in the country "there is absolute freedom of expression, and a prove of that is that some of the media and people through abuse on

²¹⁷ IACHR, 169 Period of Sessions, Hearing on "Reports on repression and violence in contexts of protests in Nicaragua," October 2, 2018. Available for consultation at: https://www.youtube.com/watch?v=XECN6LBEUU&list=PL5QlapyOGhXtcMOpg35GCa2M7dIo_QVh&t=0s&index=2

²¹⁸ *El Nuevo Diario* "Discurso de Daniel Ortega en acto de los sandinistas", September 22, 2018; *Metro*, "Ortega brinda discurso en acto del FSLN en Managua", September 22, 2018; *Noticias Nicaragua 24*, "Ortega brinda discurso en acto del FSLN en Managua", September 22, 2018.

²¹⁹ I/A Court H.R., *Case of Vélez Restrepo and Family v. Colombia. Preliminary Objection, Merits, Reparations, and Costs*. Judgment of September 3, 2012. Series C No. 248, paras. 142 to 149; IACHR, Special Rapporteurship for Freedom of Expression. Special Study on the Status of Investigations into the Murder of Journalists during the 1995-2005 Period for Reasons that may be Related to their Work in Journalism. March 8, 2008, para. 67.

²²⁰ United Nations (UN) Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. [Joint declaration on violence against journalists and media workers in the context of protests](#). September 13, 2013.

²²¹ United Nations (UN) Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. [Joint declaration on violence against journalists and media workers in the context of protests](#). September 13, 2013.

social media, spreading fake news that seek to keep the population in distress, provoke and instigate criminal acts and promote violence and hatred”²²².

140. The IACHR notes that the state has not fulfilled its obligation to ensure the exercise of journalism free of violence in the context of the social protests. This duty is not confined to guaranteeing that its agents refrain from perpetrating acts of violence against journalists. It also includes the obligation to create the necessary conditions to mitigate the risks of exercising their profession in such situations.²²³ The state must also launch an independent, rapid, and effective investigation that would make it possible to judge in impartial and independent courts both those who perpetrated these acts of violence and the masterminds behind them.

D. Prohibition and illegality of the protests

141. After the IACHR’s visit, on October 9, 2018, the IACHR and its Special Rapporteurship voiced their extreme concern over the decision taken by the National Police of Nicaragua to declare the protest demonstrations illegal and to hold their organizers criminally liable.²²⁴ This measure has been qualified by the Special Monitoring Mechanism for Nicaragua (MESENI) as a strategy to prevent social protest.”²²⁵

142. According to information gathered by the MESENI, the National Police, in a press release on September 28 (Release 115-2018), declared that unauthorized demonstrations were violent and illegal and that it would hold those who convene and organize them responsible for “any alteration of the public order, offensive and criminal actions and aggressions,” indicating that said responsibility would be prosecuted in court. In another press release (Release 116-2018), it mentioned that, according to Nicaragua’s constitutional regulatory framework, “any demonstration in any part of the country must be held only after the organizers have requested the corresponding Permit from police authorities and only when the latter has been granted.” It also mentioned that “[t]he National Police reiterates that it shall not permit any action that violates the right of Nicaraguan families to Peace and Life and cautions that any action that provokes, instigates, and is violent shall be punished in accordance with the Political Constitution and Laws of Nicaragua. The National Police fulfills its duty to protect the security, tranquility, peace, and life of all of Nicaragua.”²²⁶ In another communiqué, the Police indicated the imprisonment of 30 persons “who convened and participated in a Public Demonstration without the proper police permit, altering the peace and normal coexistence of our people.”²²⁷

143. In this context, the Police refused a permit for a demonstration scheduled for November 25 by a group called the “Blue & White National Unity.” The document points out that, among the petitioners, it identified 5 persons “who engage in practices of vandalism.” It also points out that “the mere communication of an event is not viewed as a request or permit.” It also points out that the purpose of the demonstration is “to continue promoting acts of vandalism and terrorism” and also points out that “it does not authorize and shall not authorize Persons, Associations, or Movements that participated and are being investigated for their actions in the failed attempt to overthrow the government to hold Public Demonstrations.”²²⁸

144. On the basis of the above, the IACHR observes that the declaration that anti-government protests are illegal because violent actions occurred in them and that, a priori, responsibility for them is attributed to those convening and organizing them, in addition to being a clear breach of the principle of

²²² State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag. 32.

²²³ United Nations (UN) Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. [Joint declaration on violence against journalists and medi workers in the context of protests](#). September 13, 2013.

²²⁴ IACHR, [IACHR and the Special Rapporteurship for Freedom of Expression express deep concern over decision to declare protests in Nicaragua illegal](#), October 9, 2018.

²²⁵ IACHR, [MESENI de CIDH expresa preocupación por estrategia de Nicaragua de impedir protesta social](#), November 20, 2018.

²²⁶ State of Nicaragua, National Police, [Nota de Prensa No. 116-2018](#), October 13, 2018.

²²⁷ State of Nicaragua, National Police, [Nota de Prensa No. 117-2018](#), October 14, 2018.

²²⁸ State of Nicaragua, National Police, [Resolución N° 029-18](#), November 23, 2018.

innocence, implies an arbitrary restriction on the right to social protest and, because of that, it violates international human rights standards.

145. In its observations on the draft of this report, the State indicated that "the Government of Nicaragua has reaffirmed that it is not State Policy to repress social protests and less the excessive and arbitrary use of force by the National Police. Multiple marches have occurred in the country, in which no one was reported dead, injured or detained".²²⁹

146. On that matter, the IACHR has considered that the exercise of the right to assembly for social protest must not be subject to authorization from authorities nor subject to excessive requirements that make it difficult to hold them.²³⁰ The legal requirements that provide the grounds for forbidding or restricting a meeting or demonstration, for example, by requiring a prior permit, are not compatible with the right to assembly²³¹ nor with freedom of expression under the inter-American legal framework.

147. Regarding this, the Commission recalls that "in a democracy, the states must act on the basis of the legality of the protests or public demonstrations and under the assumption that they do not constitute a threat to public order." In this regulatory context, the restrictions on the right to participate in meetings and public demonstrations must be considered as exceptional and subject to strict compliance with certain requirements, in accordance with Articles 13, 16, and 23 of the American Convention. This presumption of legitimacy of public protests must be clearly and explicitly set forth in the legal systems of the states and must be applied without discrimination. If the legal provisions are not clear, they must be clarified or, when applicable, interpreted for the benefit of those who exercise the right to freedom of peaceful assembly and freedom of expression.

E. Conclusion

148. The IACHR notes that acts of direct or indirect censorship, as well as incidents of violence against the press as documented in the present report, blatantly violate the right of persons to express themselves without fear of suffering from reprisals, as well as the basic right of Nicaraguan society to receive information from a plurality of sources without any kind of censorship. The IACHR reiterates that, as indicated on various opportunities, in circumstances of political crisis and social unrest, it is indispensable to ensure the unrestricted exercise of the right to freedom of expression that guarantees a broad and robust public debate.²³² It is an obligation of the state to ensure that all journalists and media, regardless of their editorial viewpoints, will have the possibility of expressing their ideas and broadcasting the information they have gathered without being subject to undue constraints.

V. SITUATION OF ECONOMIC, SOCIAL, CULTURAL, AND ENVIRONMENTAL RIGHTS (ESCER)

149. Regarding the domain of economic, social, cultural, and environmental rights (ESCER), it must be stressed that the Special Rapporteur on ESCER was a member of the working team visiting Nicaragua on May 17 to 21, 2018, because of the incidents of violence and human rights violations in the context of the social protests taking place in April 2018. In particular, she visited hospitals, as well as morgues and prisons, and took countless statements, and was in charge of gathering information on the guarantee of the right to health, labor rights, and other social rights that were impacted in that context.

²²⁹ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 34.

²³⁰ IACHR, Criminalization of the work of human rights defenders, December 31, 2015, para. 129.

²³¹ In the report quoted above, the IACHR found that legislation that required a police permit which had to be requested 10 days in advance for any public event, assembly, election, conference, parade, congress, or sports, cultural artistic, or family event constituted a restriction that was incompatible with the right to assembly. See IACHR, *Annual Report 1979-1980*, October 2, 1980, pp. 119 to 121.

²³² IACHR. Country Report, [Honduras: Derechos Humanos y Golpe de Estado](#). Chapter V. F "Right to Freedom of Expression," 2009, para. 511.

150. The IACHR received extensive information and reports on the irregularities and refusal to provide medical care and the obstruction of humanitarian work to help injured and wounded persons in the context of the acts of violence and repression taking place in the country since April 18, 2018. The IACHR has a record of the reports, at least against the Blue Cross Hospital (*Hospital Cruz Azul*), which belongs to the Nicaraguan Social Security Administration (*Instituto Nicaragüense de Seguridad Social—INSS*) and the following hospitals: Antonio Lenin Fonseca, Alemán Nicaragüense, Manolo Morales, Roberto Calderón, Oscar Danilo Rosales Argüello Teaching Hospital, and San Juan de Dios de Estelí, which all belong to the Ministry of Health. They also identified many cases where persons did not go to state-owned health centers because of mistrust and fear of reprisals, thus remaining without any medical assistance or resorting to private hospitals, makeshift health centers, and medical volunteers, firefighters, or medical school students, among others. According to testimonies received and public information, even schools, private homes, and parishes were accommodated to receive injured persons.²³³

151. Along that line, it must be indicated that it was possible to witness, on a constant basis, repeated practices of failing to provide medical care, unwarranted delays, or inadequate care to patients as a form of retaliation for the anti-government demonstrations. Nevertheless, the state indicated that these statements “are aimed at supporting an ongoing campaign to discredit the care being provided in the health units.”²³⁴ Despite this declaration, one of the cases of the utmost gravity is the death of Álvaro Conrado, who died from a gunshot wound and was not attended by the staff in the Blue Cross Hospital when he was still alive. Therefore, reports indicating that the government had ordered that no medical care should be given to the wounded in state-owned hospitals are a matter of special concern. According to the testimonies of medical students, instructors, and physicians of the Óscar Danilo Rosales Argüello Teaching Hospital, health authorities had facilitated conditions for students who were demonstrating to be attacked in the vicinity of the hospital and that no care would be given to the wounded by preventing them from gaining access to the facilities and expelling medical school students involved in them.²³⁵

152. In its observations on the draft of this report, the State rejected the assertion that patients were denied care in the health units. The State expressed that: “[...] we affirmed that the health units immediately organized the care. Likewise, it was available free of charge, the necessary supplies to treat patients who came injured, according to the level of severity, ensuring the constitutional mandate and preserve the lives of Nicaraguan citizens”²³⁶.

153. Information was received about orders to restrict the entry and transit of ambulances and humanitarian aid staff, such as firefighters and Red Cross staff, as well as medical and paramedical staff, medical school students, and volunteers. As for the state, it reported that those restricting the exercise of free circulation of the ambulances and humanitarian aid were “groups of vandals” and their actions were preventing the free flow of transport of patients. In that respect, the IACHR observes with special concern the reports about the entry and takeover of the Santiago Regional Hospital in Jinotepe by para-state groups at dawn on June 12, 2018, for the purpose of preventing and obstructing the entry of injured persons.²³⁷

154. In the same situation, the IACHR received information about recurring threats and possible violations of social rights in the framework of the follow-up on the severe human rights crisis occurring in Nicaragua since April 18, 2018. In particular, during the past weeks, reports have been filed about arbitrary dismissals and harassment of students and staff from the health and education sectors, as well as the adverse impacts on the health of patients who are not receiving healthcare because of the absence of specialist physicians.²³⁸

²³³ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), p. 50

²³⁴ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), p. 51

²³⁵ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), p. 51

²³⁶ State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag. 40.

²³⁷ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), p. 54

²³⁸ IACHR-SRESCER, [Comunicado de Prensa No. 203/18](#), September 10, 2018

155. According to information in the public domain, as of July 27, health professionals have been dismissed in various hospitals of the country. Among these, dismissals have been recorded in the Oscar Danilo Rosales Argüello Teaching Hospital in León, the Santiago Regional Hospital in Jinotepe, the Humberto Alvarado Hospital in Masaya, the Health Center of Monimbó, and the San Juan de Dios Hospital in Estelí. According to the complaints received, these dismissals were in retaliation for the medical care these professionals had given to injured persons who were protesting against the government or who had criticized the government in the context of the crisis that the country has been living.²³⁹ It must be stressed that it does not involve doctors only, but also nurses and operating room staff. In that matter, it was indicated that the dismissals were aimed specifically at the staff who attended the injured persons during the protests and against those who refuse to participate in pro-government marches.²⁴⁰ Likewise, at the beginning of December, a judge refused the return of 23 physicians who requested going back to their jobs in the city of Estelí. In that context, it was indicated that, for that month, according to figures from the Nicaraguan Medical Association, the total number of dismissed physicians amounts to at least 300.²⁴¹

156. In its observations on the draft of the present report, the State denied the dismissals in retaliation for the support of "actions against the Government". It stated that there is "sufficient evidence in the labor files of workers who have been separated from their positions, due to disciplinary offenses committed by them"²⁴².

157. In addition to the severe violations indicated, the executive branch proposed to the National Assembly a cutback of 235 million dollars to the General Budget of the State. The government assured that the reasons for these changes involve adjustments because of the alleged failed attempt to overthrow the government.²⁴³ Nevertheless, according to external sources, these measures would not offset the drop in the state's revenue collection capacity. With this measure, it is understood that the government is looking for government debt mechanisms to bridge the fiscal gap, which by 2022 could be compromising up to 73.22 percent of the country's gross domestic product (GDP). The acquired debt would primarily focus on financing the National Social Security Administration (INSS) on the basis of the issuance of financial stabilization bonds. Nevertheless, because of the high yields with which the bonds are issued so that they can be attractive on the international market, they will entail a higher financial burden for the country, especially when bearing in mind that there will be a 3.4 percent economic downturn the following year.²⁴⁴ Nevertheless, there is information that, in the proposal, security bodies such as the National Police and the army will not be affected, but rather it plans to include a 14-million-dollar increase for their budget.²⁴⁵

158. In that regard, on the basis of received information, the growth rate for the economy in 2018 would be -2.0 percent compared to 2017 (downturn), which accounts for a loss of US\$916 million in terms of the economy's added value. As for employment, by the end of the year there will have been a loss of 150,000 jobs. These considerations are highly optimistic because it is assumed that the agricultural and financial sectors do not exert a significant impact in this context. If these two sectors were substantially affected, however, the drop in real GDP growth would be steeper.²⁴⁶ Likewise, taking into account the impacts of the national stoppage on all transportation services and transport of merchandise, as well as the suspension of operations of companies and impacts on state revenues and services, a national strike would entail losses of

²³⁹ IACHR-SRESCER, [Comunicado de Prensa No. 203/18](#), September 10, 2018

²⁴⁰ *El Nuevo Diario*, [Aumenta el despido de médicos en Nicaragua](#), September 15, 2018.

²⁴¹ *El Nuevo Diario*, [Juez niega reintegrar a 23 médicos en Estelí](#), December 3, 2018

²⁴² State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 42.

²⁴³ *Agencia de Noticias EFE*, [Ortega propone un recorte presupuestario en medio de la crisis](#), August 10, 2018.

²⁴⁴ *El Nuevo Diario*, [Recortes presupuestarios no compensan caída de ingresos tributarios](#), September 25, 2018.

²⁴⁵ *Deutsche Welle*, [Nicaragua recorta drásticamente su presupuesto por crisis](#), August 14, 2018.

²⁴⁶ Nicaraguan Foundation for Economic and Social Development, [Impacto económico de los conflictos sociales en Nicaragua 2018](#), June 6, 2018

added value of about \$18 million per day, amounting to a loss of US\$127 million per week of strike, in other words about 1.0 percent of GDP.²⁴⁷

159. In educational institutions the impacts are also diverse. To date at least 41 regular school days for the school year have been lost. In that regard, 58 teachers and instructors ranging from preschool to universities were identified as having been dismissed for reasons related to the protests. Likewise, to date 144 university students registered in various career streams have been expelled from the National Autonomous University of Nicaragua. To this must be added that the budget proposal includes a 78 percent cutback (C\$483.9 million), of the total amount of the cutback (C\$623.3 million), aimed at elementary schools (44 schools impacted, out of a total of 56). This modality encompasses about 50 percent of the country's total school enrollment.²⁴⁸

160. The Commission has observed that in Nicaragua there is a systematic pattern of repression involving the refusal to grant access to rights and their full realization. This means that, in order to uphold a state structure of absolute control by the executive branch of government, it was possible to confirm that basic services (such as emergency medical care) are taken away on the basis of the affected person's political affiliation. Likewise, health professionals are not allowed to freely exercise their profession, as a result of which their work is being constrained for political reasons. In that respect, it is matter of concern that the state has not taken any corrective measures to prevent this situation and continues to promote these kinds of coercive measures that prevent physicians from doing their job and students from attending school regularly. To this must be added the fact that a marked economic downturn would hamper the suitable funding of state programs focusing on fulfilling economic, social, cultural, and environmental rights (ESCER) in the territory, which would lead to an institutional crisis in major sectors, such as health, education, among others.

VI. SITUATION OF HUMAN RIGHTS DEFENDERS

161. The Commission indicates its concern about the special risk situation of human rights defenders, student and religious leaders, as a result of the aggression, threats, acts of harassment, criminalization, surveillance, monitoring, and surveillance against them, especially since the start of the protests. In addition, in the context described above of criminalization and judicial prosecution of government opponents, the IACHR condemns the rise in repression for the purpose of silencing human rights defenders who are trying to report the human rights situation in Nicaragua, both in the country and globally, and obstructing the work of those who represent the persons detained for their participation in the demonstrations.

162. In its observations on the draft of this report, the State noted that "it has guaranteed the promotion and defense of human rights of all Nicaraguans, and that during the period of April 18, 2018 to date, human rights defenders have carried out their work without any limitation, visiting the institutions of the State where they have been attended according to their condition". The State added that "there is no government policy in Nicaragua to persecute, threaten, harass or assassinate human rights defenders" and that it has not prevented or impeded the defense of rights. The State also pointed out that it has adopted two regulations, Circular MP-FGR-006-2017 of the Public Prosecutor's Office and the "Protocol on special measures for the protection and safety of human rights activists" of the National Police and invited human rights organizations to denounce; however, to date none of the institutions of the State has received any complaint or information in this regard²⁴⁹.

²⁴⁷ Nicaraguan Foundation for Economic and Social Development, [Impacto económico de los conflictos sociales en Nicaragua 2018](#), June 6, 2018

²⁴⁸ Strategic Studies and Public Policies Institute, ["Propuesta de reforma presupuestaria afectará metas y desafíos de la calidad educativa en Nicaragua"](#), August 20, 2018

²⁴⁹ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 34-35.

A. Aggression, attacks, and threats

163. Since the Final Report of its working visit, the IACHR has widely documented various aggressions, attacks, and threats against human rights defenders and other social and religious leaders by both state agents and armed third parties in the context of the protests.²⁵⁰ The IACHR condemns the continuation of these acts, including against defenders who benefit from precautionary measures.

164. In fact, on July 9, 2018, the IACHR adopted resolution 50/2018 whereby it requested the state of Nicaragua to adopt precautionary measures to protect the rights to life and personal integrity of Félix Alejandro Maradiaga Blandón, Director of the Strategic Studies and Public Policies Institute (*Instituto de Estudios Estratégicos y Políticas Públicas—IEEPP*).²⁵¹ The IACHR also requested granting precautionary measures to members of CENIDH, CPDH, and ANPDH as a result of alleged death threats, surveillance, and harassment of which they have been the target because of their work defending human rights in the context currently being experienced in Nicaragua.²⁵² On August 5, 2018, the ANPDH announced that several of its members have left Nicaragua for Costa Rica because of threats and harassment by armed groups.²⁵³

165. In this context of aggression and threats against defenders, the IACHR has received information of concern about the situation of women defenders in the country. The inequality of power and the fact that they challenge traditional gender stereotypes expose woman defenders and their families to harassment by parapolice groups, death threats, physical and verbal aggression, insults, and intimidation, and death threats.²⁵⁴ Among the women defenders who have publicly reported that they are victims of these acts, the following are noteworthy: Azahálea Solís, feminist attorney; Mónica López Baltodano, attorney and advisor to the University Coordination Office for Democracy and Justice (*Coordinadora Universitaria para la Democracia y la Justicia—CUDJ*); Sandra Ramos, Executive Director of the “María Elena Cuadra” Women’s Movement; and Haydée Castillo, Director of the Segovias Leadership Institute, identified in a video as responsible for acts of terrorism and assassination. All of them are beneficiaries of the Commission’s precautionary measures.²⁵⁵

166. As for the religious leaders who played a key role in the National Dialogue, the IACHR received information about aggression sustained by various members of the Catholic Church in Diriamba on July 9, where they were attacked by at least 100 persons, who insulted, threatened, and hit them. On September 3, the Bishop of the Diocese of Matagalpa, Rolando Álvarez, was insulted and harassed by groups

²⁵⁰ *La Prensa*, [Así te contamos las agresiones orteguistas a la resistencia ciudadana en Managua](#), April 18, 2018. Among others, the Commission took note of the attack against Ana Quirós, Director of the Health Information and Advisory Services Center (CISAS), who was attacked by the so-called pro-government riot squads when she was participating in the protests of April 18, 2018 in Managua. The CENIDH also received a complaint from Sara Henríquez, a women’s human rights defender, who reported that, after being assaulted during the protest of April 18 in León by pro-government young people and the National Police, a group of young people being transported in a minibus belonging to the University Center of the National University (*Centro Universitario de la Universidad Nacional*), which is considered by some sectors to be pro-government, and in two pickup trucks, arrived at her house and threw stones at it, shouting “Sara Henríquez traitor, Sara Henríquez betraying her homeland.” IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), p. 252 and following.

²⁵¹ After notification of the resolution, on July 11, 2018, while Mr. Maradiaga was at a meeting with members of the April 19 Movement (*Movimiento 19 de Abril*) in León, masked persons came into the locale where he was at the meeting and beat him. As a result of his injuries, Félix Maradiaga was taken to the Vivian Pellas Hospital of Managua. At present, Mr. Maradiaga is in exile. IACHR, Press Release 150/2018, [CIDH anuncia nuevas medidas cautelares adoptadas a partir del MESENI y condena ataque contra Félix Maradiaga](#), Washington, D.C., July 12, 2018.

²⁵² IACHR, Resolution 38/18 Precautionary Measures 660-18, [Edwin Heriberto Román Calderón y Álvaro Leiva Sánchez](#), Nicaragua, June 5, 2018; IACHR Resolution 46/18, MC 921/16, and 520/18 - [Marco Antonio Carmona y otros \(personas defensoras de derechos humanos\)](#), Nicaragua, July 2, 2018; IACHR Resolution 59/18, MC 847-18, 738-18, 737-18, and 736-18, [Adelaida Sánchez Mercado y otros. Nicaragua](#), August 8, 2018.

²⁵³ IACHR, [Comunicado de prensa 183/18 - CIDH expresa preocupación por situación de personas migrantes y refugiadas nicaragüenses y llama a los Estados de la región a adoptar medidas para su protección](#), August 15, 2018.

²⁵⁴ Information received by the IACHR through the Nicaraguan Women’s Human Rights Defenders Initiative (*Iniciativa Nicaragüense Defensoras de Derechos Humanos de Mujeres*), “Mapping of Risk of Nicaraguan Defenders as of the Repression in April,” 2018.

²⁵⁵ IACHR, Press Release 223/2018, [CIDH alerta sobre nueva ola de represión en Nicaragua](#), Washington, D.C., October 18, 2018.

with close ties to the government in a National Police checkpoint in the presence of state agents. On September 9, pro-government elements burst into the church of La Merced in Granada, insulting and threatening the priest who was saying mass. On that same day, the priest Edwin Román Calderón was assaulted and harassed by government supporters in the vicinity of the church of San Miguel in Masaya.²⁵⁶

167. The human rights protection bodies of the inter-American system have repeatedly pointed out that human rights defenders from various sectors of civil society and, in some cases, from state institutions, provide essential contributions to upholding and strengthening democratic societies. Because of this, the respect for human rights in a democratic state depends, to a large measure, on the effective and adequate guarantees enjoyed by defenders to freely carry out their activities.²⁵⁷

168. The Commission recalls that attacks on the life of human rights defenders have a multiplier effect that goes beyond the impact on the defenders themselves, because when the aggression is perpetrated in retaliation for their activity, it produces a chilling effect that spreads to those who defend similar causes.²⁵⁸ The Inter-American Court has indicated that the fear caused by acts against life can directly undermine the possibilities for defenders “to exercise their right to defend human rights [...]”²⁵⁹

169. Finally, the IACHR is concerned about the refusal to authorize members of the Center for Justice and International Law (CEJIL) to enter the country in order to participate in a meeting on October 26 with the MESENI and the President of IACHR. Openness to international scrutiny is a favorable condition to guarantee democracy and the rule of law in society. In that regard, it urges the state to facilitate the visit to the country of international community stakeholders who are dedicated to promoting and protecting human rights, especially those who discharge the important duty of helping victims of human rights violations.

B. Harassment and smear campaign

170. The IACHR notes the constant use of social media and other information media to disseminate messages smearing and discrediting human rights defenders. From the start of the protests, human rights defenders, student and religious leaders have suffered from various finger-pointing incidents from state authorities and non-state stakeholders where they are harassed, discredited, and smeared, both for reporting human rights violations occurring in the context of the state’s repression of the protests and for allegedly encouraging the population’s participation in the demonstrations.²⁶⁰ In recent months, the Commission observes that human rights defenders are being pointed out and individually identified for the purpose of associating them with criminal activities.

171. Among others, the IACHR notes the defamation against the human rights defender Vilma Núñez, beneficiary of the IACHR’s precautionary measures and founder and president of CENIDH. On May 9, 2018, the article “The IACHR will be supporting those overthrowing the government” was published on Internet, including the photo of Vilma Núñez.²⁶¹ On December 19, at a press conference by the National Police on the alleged explanation of the “heinous assassination, terrorism, and arson in the Barrio Carlos Marx,” Vilma Núñez was accused of keeping in hiding the survivors of the fire against their will, “instigating them to accuse the Government of Nicaragua and the National Police by promising to process a United States and

²⁵⁶ IACHR, Press Release 223/2018, [CIDH alerta sobre nueva ola de represión en Nicaragua](#), Washington, D.C., October 18, 2018. National Police, Press Release No. 117-2018, October 14, 2018.

²⁵⁷ IACHR, Report on the Situation of Human Rights Defenders in the Americas, March 7, 2006, paras. 20 to 41.

²⁵⁸ IACHR, Report on the Situation of Human Rights Defenders in the Americas, March 7, 2006, para. 43; I/A Court H.R., Case of Kawas Fernández v. Honduras. Merits, Reparations, and Costs. Judgment of April 3, 2009. Series C No. 196, para. 153; Case of Huilca Tecse v. Peru. Judgement of March 3, 2005. Series C No. 121, para. 78.

²⁵⁹ I/A Court H.R., Case of Valle Jaramillo et al. v. Colombia. Merits, Reparations, and Costs. Judgment of November 27, 2008. Series C No. 192, para. 96.

²⁶⁰ State of Nicaragua. Observations of the State of Nicaragua regarding the draft report of the Inter-American Commission on Human Rights, June 21, 2018.

²⁶¹ World Organization against Torture (OMCT), [Nicaragua: Difamación en contra de Vilma Núñez de Escorcía, fundadora y presidenta del CENIDH](#), May 16, 2018. See also Nicaleaks, [La CIDH vendría a acuerpar a los golpistas](#), May 9, 2018.

Costa Rican visa for them and offering to pay for their living expenses in either of these two countries.”²⁶² On December 10, the National Police refused to give CENIDH the permit to hold a demonstration on that same day and, in its decision, it identified the organization presided by Vilma Núñez as a participant in the “failed attempt to overthrow the government, which has left behind a trail of trauma, bereavement, and pain among Nicaraguan families.”²⁶³

172. The human rights defender Haydée Castillo has also reported that she is a victim of a campaign that accuses her “of being the instigator, provocateur, and guilty of the violence unleashed over the past few days,” referring to the protests in which she has participated together with other persons.²⁶⁴ On April 23, the house of Ileana Lacayo, journalist and social activist, was searched and her belongings examined without anything being stolen. The journalist has received threats and accusations smearing her reputation on social media where she is accused of being an “assassin” because of her work as a journalist and especially as a result of the information she has given regarding the killing of Ángel Gahona, which questions the official version of the incident.²⁶⁵

173. In this context, the Commission stresses that civil servants must refrain from making statements smearing defenders or that suggest that organizations are acting improperly or illegally simply because they are doing their work of promoting and defending human rights.²⁶⁶ Furthermore, the Commission has indicated that the repetition of smear declarations may contribute to aggravating the climate of hostility and intolerance on the part of various sectors of the population, which could impact the life and personal integrity of defenders, heightening their vulnerability, because public authorities or sectors of society might construe them to be instructions, instigations, authorizations, or endorsements to perpetrate acts against their life, personal safety, or other rights.²⁶⁷

174. In view of the above, the IACHR voices its concern about the fact that high-ranking authorities and other officials of the state of Nicaragua have undertaken or participated in campaigns smearing and discrediting human rights defenders in the country. The Commission urges the state to provide precise instructions to its civil servants to refrain from making statements smearing human rights defenders and by so doing aggravating their risk situation.²⁶⁸ The state must also effectively implement the precautionary measures granted by the IACHR.

C. Criminalization

175. The Commission observes with concern that human rights defenders are in a situation of constant risk because of reprisals that use the penal system against them. The information received by the IACHR points out the use of ambiguous criminal charges such as “incitement to rebellion,” “terrorism,” “sabotage,” “instigation to delinquency,” “attacks against or resistance to public authority” to criminalize the work of human rights defenders in Nicaragua.²⁶⁹

²⁶² *El 19 Digital*, [Policía Nacional esclarece asesinato atroz, terrorismo e incendio en Barrio Carlos Marx](#), December 19, 2018

²⁶³ National Police, Nicaragua, [Resolución No. 030-2018](#), December 10, 2018.

²⁶⁴ Nicaraguan Human Rights Center (CENIDH), [CENIDH denuncia violaciones sistemáticas a los derechos humanos de los nicaragüense por el régimen dictatorial de Daniel Ortega y Rosario Murillo](#), May 4, 2018, p. 19.

²⁶⁵ *La Prensa*, [Extraños ingresan a casa de periodista activista de autoconvocados en Bluefields](#), April 24, 2018; Meso-American Initiative of Women Human Rights Defenders, [#AlertaDefensoras NICARAGUA / Agresiones generalizadas contra mujeres defensoras de DDHH y estudiantes](#), April 28, 2018.

²⁶⁶ IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, December 31, 2011, para. 124 and Recommendation No. 5.

²⁶⁷ I/A Court H.R., *Ríos et al. v. Venezuela*. Preliminary Exception, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 194, para. 143.

²⁶⁸ IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, OEA/Ser.L/V/II. Doc. 66, December 31, 2011, para. 124 and Recommendation No. 5.

²⁶⁹ IACHR, 153 Regular Period of Sessions, ex officio hearing on the [“Uso indebido del derecho penal para criminalizar a defensoras y defensores de derechos humanos”](#), held on October 31, 2014.

176. The State in its observations on the draft of this report pointed out that in the country there is no persecution of "human rights defenders for their work, there is freedom for people to promote and defend their human rights, however, being a human rights defender does not exclude the criminal responsibility that these persons have when committing criminal acts contemplated in the Criminal Code of Nicaragua".²⁷⁰

177. Since the start of the protests, the Commission has received information on the arbitrary detention and criminalization of Jaime Ramón Ampié Toledo, Julio José Ampié Machado, William Efraín Picado Duarte, and Reynaldo Antonio Lira Luquez, respectively, coordinator and members of the Permanent Human Rights Commission (*Comisión Permanente de Derechos Humanos—CPDH*), in the department of Boaco.²⁷¹ At the hearing of September 13, 2018, Jaime Ramón Ampié Toledo, Julio José Ampié Machado, and William Efraín Picado Duarte were convicted and sentenced to 10 years of prison for "attempted murder."²⁷² Regarding this, the IACHR recalls that states are duty-bound to take all necessary measures to prevent bringing persons who are legitimately calling for respect and protection of human rights to unfair or groundless trials. The start of criminal investigations or judicial complaints without grounds against human rights defenders not only has the effect of discouraging them from doing their work, it also can lead their work of defending human rights to a standstill because they must spend time, resources, and energy focusing on defending themselves.²⁷³ In that regard, Nicaragua must ensure that its authorities or third parties are not manipulating the state's punitive power and its justice entities to harass those who are dedicated to legitimate activities, as in the case of human rights defenders.²⁷⁴

178. The IACHR also received information about the National Police pointing its finger at Félix Maradiaga Blandón, Executive Director of the Strategic Studies and Public Policies Institute (IEEP) in Nicaragua, accused of being the ringleader of a terrorist and organized crime network, claiming he allegedly has ties with a criminal structure."²⁷⁵ In addition, as indicated, on October 14, the IACHR was informed of the arbitrary detention of Haydée Castillo, Director of the Segovias Leadership Institute (ILLS), at the Managua City Airport.²⁷⁶ On November 28, Ana Quirós, Director of the Health Information and Advisory Services Center (CISAS) and a naturalized Nicaraguan was expelled from the country.²⁷⁷ On that same day, the defenders Ana María Ara Sorribas and María Jesús Ara Sorribas, Spanish nationals, and Bea Huber, a Swiss national, were summoned to the Directorate General for Migration and Immigration. There, the authorities withdrew their

²⁷⁰ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 79.

²⁷¹ According to information received, on May 30, 2018, the human rights defenders travelled to the municipality of Rivas to verify the reports made at the border checkpoint with Costa Rica. During these actions, they were detained by the Army and handed over to the National Police in Rivas. According to the charges, the three defenders had allegedly been present at the place of the killing of Jorge Gastón Palacios, a member of a group of Sandinista demonstrators, who had died of a gunshot wound in the chest at a roadblock at the intersection of Boaco on May 25. As for the defenders, they alleged they did not know the person accused of being the perpetrator of said crime by the Attorney General's Office. International Human Rights Federation (FIDH), *Llamado Urgente, Nicaragua: Detención arbitraria y criminalización de los Sres. Jaime Ramón Ampié Toledo, Julio José Ampié Machado y William Efraín Picado Duarte*, June 7, 2018.

²⁷² 100% Noticias, [Condenan a 10 años de cárcel a promotores de la CPDH](#), September 13, 2018; *El Nuevo Diario*, [Promotores de la CPDH condenados a 10 años de cárcel](#), September 13, 2018.

²⁷³ See IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, December 31, 2011, para. 76.

²⁷⁴ See IACHR, Report on the Situation of Human Rights Defenders in the Americas, Recommendation 11.

²⁷⁵ National Police of Nicaragua, [Presentación agrupación delincuencia "VIPER"](#), June 5, 2018, p. 3.

²⁷⁶ Haydée Castillo, human rights defender beneficiary of precautionary measures granted by the IACHR, was detained at the Augusto C. Sandino International Airport of Managua when she was attempting to travel to participate in an activity organized by the IACHR. IACHR, Press Release 223/2018 - [CIDH alerta sobre nueva ola de represión en Nicaragua](#), Washington, D.C., October 18, 2018.

²⁷⁷ According to information found through the Special Monitoring Mechanism for Nicaragua (MESENI), Ana Quirós, Director of the Health Information and Health Advisory Services Center, feminist and sexual diversity leader, who is also the beneficiary of IACHR precautionary measures (Resolution No. 70/18), was detained and transferred to the Judicial Assistance Department of Managua, known as "El Chipote," after responding to a subpoena issued by Nicaragua's Directorate General for Migration and Immigrants (DGME) the morning of November 26, 2018. Hours after being detained, Ana Quirós was transferred overland by agents of the DGME to the border checkpoint of Peñas Blancas, Costa Rica, where she was handed over to Costa Rican authorities with a deportation order. From the time she was detained up to her deportation, Ana Quirós had been held incommunicado without her whereabouts having been reported by the authorities and she had no opportunity to file an appeal with a competent judge or court regarding the legality of her detention and deportation, nor could she have any contact with her lawyers. According to information gathered by MESENI of the IACHR, Ana Quirós is a Nicaraguan national by naturalization 21 years ago. IACHR, Press Release 255/2018 - [CIDH condena la expulsión arbitraria de defensora de derechos humanos de Nicaragua](#), Managua / Washington, D.C., November 28 2018.

Nicaraguan identity cards and required them to sign a document indicating that they are forbidden to participate in any political events.²⁷⁸

179. Between November 29 and December 13, 2018, the National Assembly of Nicaragua withdrew, on the basis of decrees, the legal status of 9 organizations.²⁷⁹ On December 14, the Ministry of the Interior informed that the movable assets and real estate property and any other assets of all organizations that had been sanctioned would be transferred to the administration of the state of Nicaragua to create the Comprehensive Services and Reparations Fund for the Victims of Terrorism. However, since early dawn, the National Police had occupied, without a court order, the premises of the majority of these organizations.²⁸⁰

180. In its observations on the draft of this report, the State mentioned that State noted that in the cancellation of the legal personalities of the nine organizations referred to, there was no "violation of human rights, since the Department of Registration and Control of Associations, acted in accordance with the law 147 General Law on Non-Profit Legal Entities ; thus guaranteeing the right of association consigned in article 49 of the Political Constitution of Nicaragua; right that has been guaranteed to 7,095 Organizations registered in the Department of Registration and Control of Associations of MIGOB". The State added that, in the report sent to the National Assembly, it was detailed how these organization have been carrying out activities that seriously violated the laws and their objectives, expressed in their respective deeds, promoting the commission of unlawful acts and the alteration of public order²⁸¹.

181. The State also noted that both the search of the establishment and the occupation of property of the Communications Research Center (CINCO), one of the organizations whose legal personality was canceled, was carried out by the National Police pursuant to a complaint made by the Director of Registration and Control of Non-Profit Organizations of the Ministry of the Interior and that said police action was judicially validated.²⁸²

182. The Commission reiterates that the right to association is characterized by empowering persons to create or participate in entities or organizations for the purpose of acting collectively to achieve the most diverse of goals, as long as they are legitimate. The Commission also recalls that restrictions on the right of association must, in addition to being provided for by law, pursue a legitimate purpose and, ultimately, turn out to be necessary and proportional in the framework of a democratic society. In that regard, the Commission notes with concern that the grounds for issuing the decrees are based on provisions that are overly vague and imprecise, without prior due process, and grant a broad discretionary margin to lawmakers for their enforcement against civil society in retaliation for their work in the country.

183. On the basis of the facts described above, the IACHR calls upon the state to refrain from making statements that publicly incriminate defenders for alleged crimes for which no legal proceedings have been filed. Likewise, the IACHR reiterates that the state is duty-bound to cease harassing and criminalizing human rights defenders and social leaders, as well as to guarantee the conditions so they can fully carry out their work and exercise their rights, in particular, freedom of expression, assembly and association. Seen in this light, the authorities must declare null and void all decrees withdrawing the legal status of civil society organizations that were passed without guaranteeing due process for the affected persons.

²⁷⁸ IACHR, Press Release 255/2018- [CIDH condena la expulsión arbitraria de defensora de derechos humanos de Nicaragua](#), Managua / Washington D.C, November 28, 2018.

²⁷⁹ Strategic Studies and Public Policies Institute (IEEPP), Let's Do Democracy Association (HADEMO), Health Information and Advisory Services Center (CISAS), Nicaraguan Human Rights Center (CENIDH), Segovias Leadership Institute (ILLS), Institute for the Development of Democracy (IPADE), Foundation for the Conservation and Development of Southeastern Nicaragua (*Fundación del Río*), Communication Research Center (CINCO), and Popol Na Foundation for Municipal Promotion and Development. IACHR, Press Release 265/2018, [CIDH condena la cancelación de la personalidad jurídica de organizaciones de derechos humanos](#), Managua / Washington, D.C, November 28, 2018.

²⁸⁰ Ministry of the Interior, Nicaragua, [MIGOB cancela personería jurídica de ONGs que incumplieron los requerimientos legales para su funcionamiento](#), December 14, 2018.

²⁸¹ State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 44-45 and 49.

²⁸² State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 52-53.

VII. SITUATION OF PERSONS DEPRIVED OF LIBERTY

184. The Inter-American Commission has monitored the severe violations of human rights of persons deprived of liberty for incidents associated with the protests that began on April 18, 2018. Below, the Commission describes the patterns of human rights violations that were identified at the time of detention, during the transfer to judicial offices or police stations, and at the penitentiary centers.

185. The Rapporteur on the Rights of Persons Deprived of Liberty of the IACHR, Commissioner Joel Hernández García, visited Nicaragua from September 18 to 20, 2018. Among other activities, the Rapporteur held various meetings with representatives of civil society, defense attorneys and relatives of persons deprived of their liberty. The Commission regretted that the State did not allow the Rapporteur to access to detention centers, and that no meetings were held with relevant public authorities. In this context, and based on the information obtained during the visit, the Rapporteur made several recommendations to the State. Inter alia, the Rapporteur recommended suppressing the practice of detentions without a court order; present detainees in due time before the judicial authority within the legal deadlines; verify that the use of pretrial detention is carried out in accordance with international standards; ensure due process for people detained in the context of the crisis; guarantee dignified treatment to the inmates; provide the required medical assistance; create the necessary conditions to make effective the contact of detainees with their families. Likewise, the IACHR called for the Judicial Branch to fully exercise its independence to judge accused persons under the highest international standards in the matter²⁸³.

A. Illegality and/or arbitrariness of the detentions

186. Since April 18, the IACHR has received information indicating a systematic pattern of violations of the principle of due process in the context of the deprivation of liberty of those persons who participated in the protests and demonstrations, which include, among others, the following: holding the detainee incommunicado, failure to notify the legal grounds for their detention, the absence or obstruction of access to timely, professional, and adequate legal defense, delays or failure in being taken to a competent judicial authority, and the refusal to provide information about the legal situation and health condition of the detainees.²⁸⁴

187. In its observations on the draft of this report, the State expressed that through its judicial authorities “it has guaranteed to each accused person the appointment of a defense lawyer of their choice, failing which a public defender has been appointed. Also, the defense and relatives have had access to public hearings as established by the law”²⁸⁵.

188. The IACHR also notes that, in some cases, the detentions have been carried out by parapolic groups or masked civilians. Likewise, it is matter of concern that the amount of information received indicates that persons are being detained in various parts of the country for several hours in clandestine detention centers—such as the premises of municipalities or belonging to the government’s political party—before being transferred to police facilities or the Judicial Assistance Department in Managua.²⁸⁶

189. In this context, the Commission recalls that detentions made by security forces in the context of social protests must strictly meet all the requirements set forth by international standards in the matter.²⁸⁷ The Commission stresses that the state is obliged to guarantee that, in the act of detaining someone, the

²⁸³ IACHR, Press Release 210/2018, [Rapporteurship on the Rights of Persons Deprived of Liberty Visits Nicaragua](#), Managua / Washington DC, September 26, 2018.

²⁸⁴ IACHR, *Gross Human Rights Violations in the Context of Social Protests in Nicaragua*, OEA/Ser.L/V/II.Doc. 86, June 21, 2018, para. 193; IACHR, [CIDH denuncia el deterioro, profundización y diversificación de la represión en Nicaragua y expresa preocupación por la situación de los niños, niñas y adolescentes en el país](#), July 11, 2018; IACHR, [CIDH verifica criminalización y persecución judicial en Nicaragua](#), August 2, 2018; IACHR, [CIDH urge al Estado de Nicaragua a cesar la criminalización de la protesta y a respetar a las personas privadas de libertad y sus familias](#), August 24, 2018.

²⁸⁵ State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag. 31.

²⁸⁶ IACHR, [Relatoría sobre los Derechos de Personas Privadas de Libertad realiza visita a Nicaragua](#), September 26, 2018.

²⁸⁷ IACHR, [Informe Anual. Capítulo IV. A “Uso de la Fuerza”](#), 2014, para. 121.

general principles regarding the use of force are respected. The force used by police officers to detain someone, especially in a demonstration, must be strictly proportional to the purpose it must achieve and shall only be applied to the extent needed, in accordance with the resistance offered by the person against whom this force has to be used. States must also refrain from engaging in the practice of massive, collective, or indiscriminate detentions.²⁸⁸ A detention based exclusively on the act of participating in a protest or public demonstration is in itself arbitrary and incompatible with the state's international obligations.

190. Another aspect of the concern consists of the widespread failure to abide by the 48-hour legal time-limits to bring detainees before a judicial authority as provided for in Article 33, subparagraph 2.2, of the Political Constitution of Nicaragua,²⁸⁹ as well as in Article 95, subparagraph 9, of the Criminal Procedures Code.²⁹⁰ Regarding this, the Commission reiterates that, according to Article 7.5 of the Convention, any detained person must be brought promptly before a judicial authority.

191. Civil society organizations and next-of-kin informed the IACHR of the widespread, and virtually without exception, use of preventive detention on the basis of criminal classifications and without any consideration for the principles governing its application. Regarding this, the Commission recalls that the mandatory application of pre-trial detention on the basis of the type of crime is contrary to the American Convention and constitutes an interference of lawmakers in the authority to appraise which falls under the jurisdiction of the judicial authority. The establishment of pre-trial detention must be based on the right to presumption of innocence and must be applied respecting the principles of exceptionality, legality, necessity, and proportionality.²⁹¹

192. Furthermore, the Commission expresses concern about the possible criminal proceedings filed for the crimes of terrorism and financing of terrorism, amended by Law No. 977 against money laundering, financing of terrorism, and the financing of the proliferation of weapons of mass destruction, published in the *Official Gazette* on July 20, 2018, whose wording facilitates its subjective enforcement, which is contrary to international standards.²⁹²

193. Likewise, there is a special concern about the reports claiming severe irregularities regarding legal defense and the publication of legal proceedings. In that respect, the Commission received information about the absence of access of detainees to their legal representatives before judicial hearings, and their only contact is limited at the hearings themselves. Court-appointed defense attorneys widely suggest self-incrimination as a defense strategy. Hearings are held at unusual times or places, preventing or obstructing the appearance of private defense attorneys. Hearings are held so as to prevent access of the public and sometimes the detainees' next-of-kin themselves. The Commission also observes a practice of centralizing criminal proceedings and trials against persons who are opponents and protesters in the courts of Managua, although in many cases the incidents being investigated took place in other municipalities.²⁹³

194. The Commission underscores that the states have the obligation to immediately inform the detainees, their next-of-kin, and representatives of the grounds and reasons for the detention. They must also inform them of the place of detention. This duty is a mechanism aimed at preventing arbitrary or illegal

²⁸⁸ IACHR, [Informe Anual. Capítulo IV. A "Uso de la Fuerza"](#), 2014, para. 121.

²⁸⁹ "Article 33. No one can be subjected to arbitrary detention or imprisonment, nor deprived of his or her liberty, except for causes established by law in accordance with a legal proceeding. As a result: [...] 2. Every detainee has the right: [...] 2.2 To be released or taken before a competent authority within 48 hours after his or her detention."

²⁹⁰ "Article 95. Rights. The person charged or accused shall have the right: [...] 9. Be taken before a competent judicial authority within 48 hours after the beginning of the detention [...]."

²⁹¹ IACHR, Press Release 210/2018, [Relatoría sobre los Derechos de Personas Privadas de Libertad realiza visita a Nicaragua](#), Washington, D.C., September 26, 2018.

²⁹² IACHR, [CIDH urge al Estado de Nicaragua a cesar la criminalización de la protesta y a respetar a las personas privadas de libertad y sus familias](#), August 24, 2018; IACHR, Press Release 210/2018, [Relatoría sobre los Derechos de Personas Privadas de Libertad realiza visita a Nicaragua](#), Washington, D.C., September 26, 2018.

²⁹³ IACHR, [CIDH urge al Estado de Nicaragua a cesar la criminalización de la protesta y a respetar a las personas privadas de libertad y sus familias](#), August 24, 2018.

detentions from the moment of the deprivation of liberty and, in turn, guarantees the right to a defense.²⁹⁴ Likewise, Article 7 of the Convention requires prompt and effective judicial oversight of the detention entities in order to protect the integrity of the detainees.²⁹⁵

195. Furthermore, the IACHR expresses its concern about the reports of the failure to abide by the orders issued by judicial authorities to set free at least 10 persons who participated in the protests in Nicaragua. Among the cases that were documented there are Guillermo Sobalvarro and Bernard Monroe, who had been acquitted on October 15; in addition, their defense attorney had filed protection appeals and a criminal complaint for contempt of court. Nevertheless, the authorities of the National Penitentiary System have not permitted their release. Alex Vanegas was also detained and charged for public scandal, although on December 5 a release order was issued, which has not been implemented by the authorities of the Judicial Assistance Department. Likewise, the 16-year-old adolescent Jonathan Francisco Lira Matey is in El Chipote despite four release orders.

196. According to information provided by civil society, up until February 15, 2019, 777 persons continue to be detained and charged for incidents in connection with the protests that started in April. Of these, 407 would be prosecuted and 138 convicted. The State, for its part, reported that the number of detainees amounted to 372 (345 men and 27 women).²⁹⁶

197. The Commission calls upon the state to ensure strict enforcement of the law and other procedural guarantees for all detainees, in conformity with international standards in this matter. The state of Nicaragua must promptly release all persons detained arbitrarily on the basis of groundless charges. In addition, it reiterates that the state must disseminate a public register with detailed information about the persons detained because of the protests that started on April 18, including the number of persons who were released from prison. The information must also include aspects in connection with the gender, age, and occupation of the persons.

B. Cruel, inhuman, or degrading treatment or punishment and torture

198. Since its visit to Nicaragua and after the installation of the MESENI, the IACHR received many testimonies indicating most of the persons detained in the context of the protests that started on April 18 had been the target of various forms of cruel, inhuman, and degrading treatment when they were apprehended and while they were deprived of their liberty. From the allegations that were received, it was concluded that some of these treatments come close to torture because of their constitutive elements.²⁹⁷

199. The facts that were reported include, among others, forced stripping, holding prisoners incommunicado, humiliations and physical assaults. These acts had allegedly been committed during the transfers to the detention centers and the facilities of these centers. Furthermore, the Commission notes that the detention and deprivation of liberty of detainees in the context of the protests have been characterized by beatings, threats, and offenses inflicted upon detainees and involved subjecting them to humiliating and degrading conditions, which constitute abuse and therefore actions that are contrary to inter-American human rights standards. In particular, the IACHR notes the existence of practices such as threats of torture or death threats, beatings, and threats of aggression to next-of-kin, aimed at obtaining information on other persons linked to the protests or movements against the current government administration.²⁹⁸

²⁹⁴ IACHR, [Informe Anual, Capítulo IV. A "Uso de la Fuerza"](#), 2014, para. 122. See also I/A Court H.R. *Case of Juan Humberto Sánchez V. Honduras*. Judgment of June 7, 2003. Series C No. 99, para. 96.

²⁹⁵ In that respect, as the Court has pointed out on several occasions, "since the State is the institution responsible for detention establishments, it is the guarantor of these rights of the prisoners." I/A Court H.R., *Case of Neira Alegría et al. v. Peru*. Judgment of January 19, 1995. Series C No. 20, para. 60; *Case of Cantoral Benavides v. Peru*. Judgment of August 18, 2000. Series C No. 69, para. 87.

²⁹⁶ IACHR, Press Release 51/2019, [IACHR Calls for Conditions that Enable the Enjoyment of Human Rights during Nicaraguan Dialogue](#), Washington, D.C., February 28, 2019.

²⁹⁷ IACHR, *Gross Human Rights Violations in the Context of Social Protests in Nicaragua*, June 21, 2018, paras. 184 to 189.

²⁹⁸ IACHR, [Informe sobre los derechos humanos de las personas privadas de libertad en las Américas](#), December 31, 2011, para. 342; IACHR, Communiqué on [CIDH alerta sobre nueva ola de represión en Nicaragua](#), October 18, 2018.

200. The Commission forcefully condemns any form of torture or other cruel, inhuman, or degrading treatment or punishment and reiterates the state's obligation to launch ex officio and immediately—regardless of the filing of complaints—an effective investigation that would make it possible to identify, try, and punish those responsible.²⁹⁹ In particular, the Commission urges the state to conduct this investigation using all the legal means available, for the purpose of ascertaining the truth within a reasonable time.³⁰⁰ This investigation must be governed by the principles of independence, impartiality, competence, due diligence, and promptness.³⁰¹

C. Detention conditions

201. The Commission has received information about the precarious conditions of detention in which persons deprived of liberty are living, especially those detained, charged, processed, or convicted for crimes supposedly perpetrated in the context of subsequent protests or demonstrations. The information received refers in particular to the detention conditions in the Judicial Assistance Department, known as “El Chipote,” La Modelo Penitentiary System, and the Integral Women’s Penitentiary System known as “La Esperanza.”

202. According to information received by the IACHR, detention conditions include solitary confinement characterized by virtually total segregation, inadequate ventilation, confiscation of belongings, overcrowding, insufficiency of beds, mattresses, and blankets, and authorization to spend time outside their cells only twice a week. Furthermore, the testimonies indicate unsanitary conditions, negligible medical care, obstruction of visits, and the enforcement of maximum security rules without any objective criteria for applying them.³⁰²

203. The detainees in “El Chipote” are held in their underwear in high-temperature environments and without being able to wash regularly or change clothes. Likewise, both in “La Modelo” and in “La Esperanza,” persons detained are subject to differentiated treatment applied on a discretionary basis with respect to criteria for the permission to be provided with food, medicines, and other basic supplies such as personal hygiene products, mainly provided by their next-of-kin. In particular, the constraints upon these persons to receive water from their next-of-kin are of special concern, as well as adequate and specialized medical care for persons suffering from severe health problems, even when, in certain cases, there are court orders instructing the provision of the medical care required.³⁰³

204. The penitentiary system and detention conditions to which persons deprived of liberty are subjected to in this context also affect the rights of their next-of-kin. In that respect, according to the information received, there is no guarantee of privacy when next-of-kin visit nor are there conjugal visits, and both visitors and inmates are photographed by the authorities and the photos are then published in government newspapers. Likewise, the supply of basic personal hygiene products, food and drink is mainly ensured by the next-of-kin, who on occasion cannot travel to the detention centers because they are far from their place of residence, which becomes a disproportionate responsibility and burden for many families, who

²⁹⁹ IACHR, [Informe sobre los derechos humanos de las personas privadas de libertad en las Américas](#), December 31, 2011, para. 334. I/A Court H.R., Case of Tibi v. Ecuador. Judgment of September 7, 2004. Series C No. 114, para. 159; and Case of Vélez Loo v. Panama. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 23, 2010. Series C. No. 218, para. 240.

³⁰⁰ IACHR, [Informe sobre los derechos humanos de las personas privadas de libertad en las Américas](#), December 31, 2011, para. 345.

³⁰¹ IACHR, [Informe sobre los derechos humanos de las personas privadas de libertad en las Américas](#), December 31, 2011, para. 345, and I/A Court H.R., Case of Bueno Alves v. Argentina. Judgment of May 11, 2007. Series C. No. 164, para. 108.

³⁰² IACHR, *Gross Human Rights Violations in the Context of Social Protests in Nicaragua*, June 21, 2018, paras. 11, 185, 186, and 188; IACHR, Press Release 210/2018, [Relatoría sobre los Derechos de Personas Privadas de Libertad realiza visita a Nicaragua](#), Washington, D.C., September 26, 2018; IACHR, Press Release [Mecanismo Especial de Seguimiento para Nicaragua \(MESENI\) completa tercera semana de trabajo y constata intensificación de represión y operativos por la policía y grupos parapoliciales](#), July 19, 2018; IACHR, Press Release 223/2018, [CIDH alerta sobre nueva ola de represión en Nicaragua](#), Washington, D.C., October 18, 2018; IACHR, Press Release 245/2018, [Presidenta de la Comisión Interamericana de Derechos Humanos realiza visita a Nicaragua](#), Managua/Washington, D.C., November 16, 2018.

³⁰³ IACHR, Press Release 210/2018, [Relatoría sobre los Derechos de Personas Privadas de Libertad realiza visita a Nicaragua](#), Washington, D.C., September 26, 2018.

in addition to taking time off from their jobs and having the dynamics of their nuclear family altered, in certain cases they have reported they are the victims of threats and harassment in these places because they are the next-of-kin of “terrorists” or “coup leaders.”³⁰⁴

205. In its observations on the draft of this report, the State indicated several conditions and treatments that benefit those detained in the context of the crisis. The State affirmed that infrastructure conditions comply with the “minimum conditions” of the national and international human rights standards and therefore there is no overcrowding. The State established that the pertinent medical evaluations and treatments are provided, and informs about the penitentiary services to persons deprived of liberty for crimes against public order, such as sun activities, visits, care, valuations and medical examinations, telephone calls and others, which amount to 23,642 between May 23, 2018 and February 1, 2019.³⁰⁵ The State also reported that the right to food is guaranteed, by providing breakfast, lunch and dinner daily, in addition to allowing the provision of food by the families themselves, as well as the provision of drinking water by the taps of the prison facilities. Family and intimate visits are guaranteed every 21 days regardless of the legal status of the detained person.³⁰⁶

206. The Commission reiterates the State’s obligation to guarantee decent detention conditions for persons deprived of liberty, as well as an adequate and planned system for visits. In particular, the authorities must adopt measures aimed at ensuring that persons receive medical care in line with their specific health conditions; providing detainees with sufficient food with a high nutritional value; reducing overcrowding; stopping the use of solitary confinement as a punishment; and attending persons deprived of liberty who are in a special situation of risk.

VIII. INTERNALLY DISPLACED PERSONS, MIGRANTS, ASYLUM SEEKERS, REFUGEES, AND BENEFICIARIES OF ADDITIONAL PROTECTION

207. The Commission has been monitoring the internal displacement and forced exit of thousands of Nicaraguans from their country, as a result of the environment of violence, their political opinions, and the severe human rights violations stemming from the protests starting on April 18, 2018, as well as the activation of practices of prosecution and criminalization by the Nicaraguan state and other non-state parties, such as parapolice groups.³⁰⁷ The Commission has observed that the persons who have been forced to resort to internal displacement or to migrate are, for the most part, students who participated in the demonstrations and protests; human rights defenders; leaders of social and peasant movements; persons who have contributed to and supported these persons by providing them with food, safe houses, and medicines; and physicians, journalists, and former servicemen and police officers who have refused to participate in the repressive actions ordered by the government.³⁰⁸

208. In its Report on *Gross Human Rights Violations in the Context of Social Protests in Nicaragua*, the Commission raised the alert about the internal displacement of many persons who were forced to move to other places inside their city or to move to other cities. In that regard, the Office of the UN High Commissioner for Human Rights has established that the level of persecution is such that many of those who participated in the protests, defended the rights of demonstrators, or expressed a dissident opinion have been forced to go into hiding, leave Nicaragua, or are in the process of doing so.³⁰⁹ In fact, during its visit to Costa Rica on October 14 to 18, 2018, the Commission received 259 testimonies from Nicaraguan asylum seekers

³⁰⁴ IACHR, [CIDH urge al Estado de Nicaragua a cesar la criminalización de la protesta y a respetar a las personas privadas de libertad y sus familias](#), August 24, 2018.

³⁰⁵ State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag. 80-85.

³⁰⁶ State of Nicaragua, State’s Observations on the “Chapter IV. B- Annual Report of the IACHR”, February 22, 2019. Pag. 83.

³⁰⁷ IACHR, [Comunicado de prensa 183/18 - CIDH expresa preocupación por situación de personas migrantes y refugiadas nicaragüenses y llama a los Estados de la región a adoptar medidas para su protección](#), August 15, 2018.

³⁰⁸ IACHR, [Comunicado de prensa 233/18. Observaciones preliminares sobre la visita de trabajo para monitorear la situación de personas nicaragüenses que se vieron forzadas a huir a Costa Rica](#), November 1, 2018.

³⁰⁹ OHCHR, [Violaciones de derechos humanos y abusos en el contexto de las protestas en Nicaragua, 18 de abril – 18 de agosto de 2018](#), p. 8.

who need international protection; the majority of these persons reported that they were internally displaced before deciding to leave their country and their homes, hiding in the homes of next-of-kin, friends, or safe houses.³¹⁰

209. Regarding this, the Commission reiterates the obligation to respect and guarantee the right to freedom of movement and residence, including the prohibition of arbitrary displacement as provided for in Article 22.1 of the American Convention on Human Rights.³¹¹ The Inter-American Court has established that said right may have been breached when a person is a victim of threats or harassment and when the state does not provide enough guarantees for the person to move about and reside freely in the territory being referred to, even when the threats and harassment come from non-state agents. Likewise, the failure to effectively investigate incidents of violence, as well as the situation of impunity, can undermine the trust of victims in the justice system and contribute to conditions of insecurity. In addition, said situation of impunity may propitiate or perpetuate an exile or forced displacement.³¹²

210. The Commission received information about the militarization of border checkpoints on the Nicaraguan side of the border where authorities have lists of names of persons identified as government opponents for the purpose of detaining them and preventing them from leaving the country.³¹³ Because of the above, many of the persons who have been forced to flee Nicaragua have crossed the border at illegal crossing points called “blind spots” along the border with Costa Rica.³¹⁴ Regarding this, the Commission reiterates the right of any person to leave his or her country’s territory freely, as provided for in Article 22.2 of the American Convention on Human Rights. In addition, the prohibition to leave one’s own territory is a breach of the right to seek and receive asylum, as set forth in Article 22.7 of the American Convention on Human Rights.

211. In that respect, the United Nations High Commissioner for Refugees (UNHCR) has observed a substantial rise in the departure of Nicaraguans to other countries, as well as requests for asylum in countries such as Costa Rica, Panama, Mexico, and the United States.³¹⁵ Regarding this, the Commission received information during its visit to Costa Rica, which estimates that, from January to September 2018, about 52,000 persons entered Costa Rica. Furthermore, 40,386 persons indicating they need international protection in Costa Rica have been recorded.³¹⁶

³¹⁰ IACHR, [Comunicado de prensa 233/18. Observaciones preliminares sobre la visita de trabajo para monitorear la situación de personas nicaragüenses que se vieron forzadas a huir a Costa Rica](#), November 1, 2018.

³¹¹ I/A Court H.R., Case of Manuel Cepeda Vargas v. Colombia. Preliminary Objections, Merits, Reparations, and Costs. Judgment of May 26, 2010. Series C No. 213; and I/A Court H.R., Case of Valle Jaramillo et al. v. Colombia. Merits, Reparations, and Costs. Judgment of November 27, 2008. Series C No. 192.

³¹² I/A Court H.R., Case of V.R.P., V.P.C. et al. v. Nicaragua. Preliminary Objection, Merits, Reparations, and Costs. Judgment of March 8, 2018, para. 309.

³¹³ IACHR, [Comunicado de prensa 233/18. Observaciones preliminares sobre la visita de trabajo para monitorear la situación de personas nicaragüenses que se vieron forzadas a huir a Costa Rica](#), November 1, 2018.

³¹⁴ IACHR, [Comunicado de prensa 233/18. Observaciones preliminares sobre la visita de trabajo para monitorear la situación de personas nicaragüenses que se vieron forzadas a huir a Costa Rica](#), November 1, 2018.

³¹⁵ UNHCR, [ACNUR aumenta su repuesta a medida que miles de personas huyen de la violencia en Nicaragua](#), July 31, 2018.

³¹⁶ IACHR, [Comunicado de prensa 233/18. Observaciones preliminares sobre la visita de trabajo para monitorear la situación de personas nicaragüenses que se vieron forzadas a huir a Costa Rica](#), November 1, 2018.

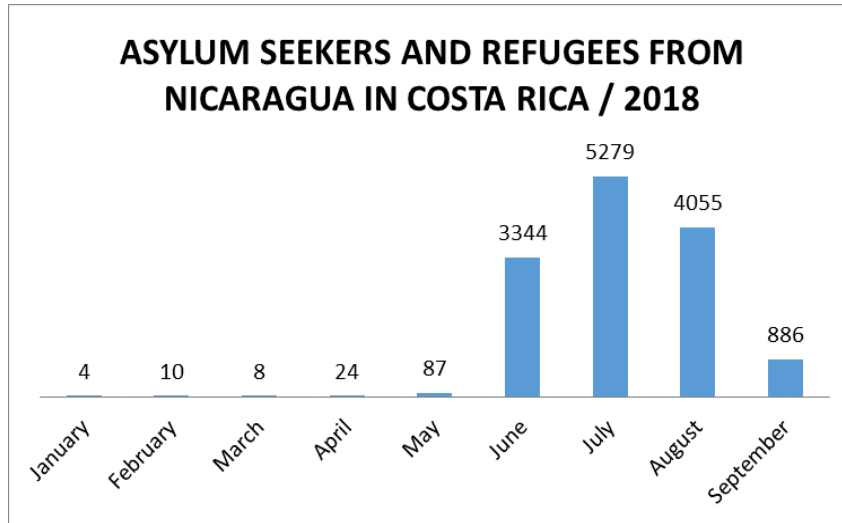


Chart drawn up by IACHR based on information provided by the Costa Rican government during the visit

212. According to figures gathered annually by UNHCR, the IACHR observes that, in 2017, there were 1,478 refugees and 2,735 asylum seekers who were Nicaraguan nationals. In that respect, the IACHR observes with the utmost concern how various forms of persecution taking place in Nicaragua after the start of state repression of the protests in April 2018 have led, up to September 2018 and in Costa Rica alone, to a 1,376 percent rise in the number of Nicaraguan asylum seekers compared to the global level in 2017.³¹⁷

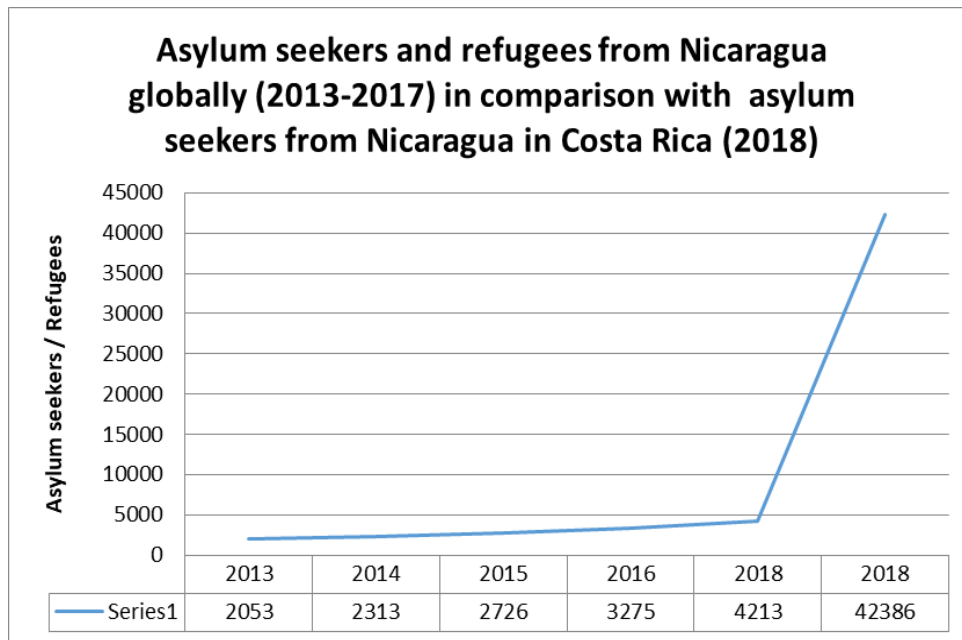


Chart drawn up by IACHR based on information from UNHCR, Global Trends 2015 to 2017, and from the Costa Rican government provided during the visit

³¹⁷ IACHR, [Comunicado de prensa 233/18, Observaciones preliminares sobre la visita de trabajo para monitorear la situación de personas nicaragüenses que se vieron forzadas a huir a Costa Rica](#), November 1, 2018.

213. Finally, the Commission observes that, according to the Nicaraguan Foundation for Economic and Social Development (*Fundación Nicaragüense para el Desarrollo Económico y Social—FUNIDES*), the severe crisis that Nicaragua is undergoing has jeopardized between 20,000 and 150,000 jobs. This situation could lead to forced departures as a survival strategy, in the search of jobs or better living opportunities.³¹⁸

214. The IACHR urges the state to immediately stop acts of persecution against persons who might have been identified as opponents or to adopt effective protection measures for persons who are in situations of persecution and risk. Likewise, the authorities must provide the necessary guarantees so that persons can move about and reside freely in Nicaragua, which necessarily requires refraining from continuing criminalization actions and from creating causes that lead to the forced displacement of Nicaraguans.

IX. OTHER ESPECIALLY AFFECTED GROUPS

215. Women, children, and adolescents, lesbian, gay, bisexual, transgender and intersex persons (LGBTI), and indigenous, Afrodescendant, and peasant communities have been impacted disproportionately by the context of state violence and repression of the protests. Although the climate of criminalization and harassment has hampered the work of civil society organizations to freely document the specific problems of these groups, the Commission continues to monitor and receive information about the differentiated impacts that the crisis starting on April 18 has had on the rights of these groups, as described below:

216. In connection with women's rights, the IACHR received information about cases of sexual violence and even rape perpetrated by state agents during the clean-up and roadblock dismantlement operations, as well as in the facilities of Judicial Assistance.³¹⁹ According to complaints filed by civil society, sexual violence has been used as an interrogation technique. Among some of the complaints received, it was reported that detained women had been forced to strip naked and to do squats in front of their captors, and in some cases the latter have groped and raped them in order to obtain information.³²⁰

217. The IACHR reiterates that it is the duty of the authorities to adopt necessary and comprehensive measures so that the rights of detained women are effectively respected and guaranteed, so that they will not suffer from any discrimination, and so that they will be protected from all forms of violence that might arise from their gender. Likewise, the state of Nicaragua must adopt the necessary measures to guarantee that cases of gender-based violence are investigated with due diligence and in a timely, thorough, and impartial way, that those responsible are duly punished, and that the victims benefit from comprehensive reparations.

218. In addition, the Commission is concerned about the detention conditions for women deprived of liberty because of incidents associated with the protests in Nicaragua, which would tend to be marked by cruel, inhuman, or degrading treatment or punishment and mainly consisting of unsanitary conditions, negligible medical care, obstruction of visits, the enforcement of maximum security conditions without any objective criteria for doing so, and violations of their privacy and intimacy. According to information received through the MESENI, women with critical health conditions are not receiving adequate or timely medical care, among whom Brenda Muñoz Martínez. The IACHR also learned about the assaults perpetrated by state agents on October 26 against various women detained in the prison "La Esperanza."³²¹

³¹⁸ FUNIDES, [Impacto económico de los conflictos sociales en Nicaragua 2018](#), June 28, 2018.

³¹⁹ IACHR, Press Release No. 223/2018, [CIDH alerta sobre nueva ola de represión en Nicaragua](#), October 18, 2018. In the same direction, Amnesty International received allegations of sexual torture in El Chipote from C.D., a 19-year-old woman from an area close to Managua. Amnesty International, [Sembrando el Terror: de la letalidad a la persecución en Nicaragua](#), 2018, p. 38.

³²⁰ Information received by the IACHR from the Nicaraguan Women's Human Rights Defenders Initiative, "Assault on defenders in Nicaragua," November 2018.

³²¹ The aggression had taken place at night on Friday, October 26, when after cutting off the electricity of the premises, a group of allegedly masked security guards entered the cells and beat a group of women who protested the transfer of one of their fellow inmates. At least 16 women ended up injured. Press Release 245/2018, [Presidenta de la Comisión Interamericana de Derechos Humanos realiza visita a Nicaragua](#), Managua/Washington, D.C., November 16, 2018.

In this context, the IACHR decided to grant precautionary measures to protect the rights of 7 women deprived of liberty who are in a grave and urgent situation.³²² In addition, the Commission voices its concern about the harassment against the mothers of detainees by state authorities, because on the basis of discriminatory gender-based stereotypes, these women are being held responsible for the violence inflicted upon their children for “not having raised them properly.”

219. Another structural problem for the enjoyment of women’s rights in Nicaragua continues to be the criminal prosecution of the voluntary termination of pregnancy,³²³ even in cases of therapeutic abortion.³²⁴ The Commission reiterates the adverse impact of laws that criminalize abortion with absolute priority over women’s rights to life, personal integrity, and health and their right to live a life without violence or discrimination. To that extent, the IACHR calls upon the state to adopt legislation aimed at guaranteeing the right of women to effectively exercise their sexual and reproductive rights, in the understanding that the denial of voluntary termination of pregnancy under specific circumstances constitutes a violation of the basic rights of adult women, girls, and adolescent women.³²⁵

220. In 2018, the IACHR voiced its concern about the context of violence against adult women, girls, and adolescent women in Nicaragua. According to information in the public domain, on February 20, 2018, a 12-year-old girl was found hacked to death with machetes, including signs pointing to rape, in the locality of Los Llanos.³²⁶ These incidents take place in a context where there is an absence of accurate reliable statistics³²⁷ and where there are deficiencies in the prevention, investigation, and punishment of these crimes.³²⁸ In this context, the Commission received distressing information about the prevalence of sexual violence against girls and adolescent women in Nicaragua, which account for 80 percent of all cases of sexual violence against women that are reported.³²⁹

221. The IACHR reasserts that, because of their status as persons who are in a stage of development and growth, states have a duty to provide special, adapted, and reinforced protection for girls and adolescent women. The IACHR recalls that, in cases of gender-based violence against adult women, girls, and adolescent women, the general obligations set forth in the American Convention are supplemented and reinforced by the obligations stemming from the Belém do Pará Convention, in particular Article 7.b) of said Convention, which specifically requires states parties to use due diligence to prevent, punish, and eliminate violence against women and, in the framework of their obligation of due diligence, they have the duty to effectively, independently, and impartially investigate, try, and punish, using a gender perspective, any act of gender-based violence against adult women, girls, and adolescent women.

222. The IACHR expresses deep concern about the special way that the crisis has impacted the rights of children and adolescents. The information and testimonies received by the IACHR highlight that children and young people were particularly vulnerable victims of the state’s repressive violence during and after the protests. In particular, according to information documented by the Commission, 24 boys, girls, and adolescents had been violently killed in the context of repression of the demonstrations and others had been injured.³³⁰ In addition, according to date from the Nicaraguan Federation Coordinating NGOs that Work for

³²² IACHR, [Resolución 84/18 MC 1133/18 – Amaya Eva Coppens Zamora y otras \(Privadas de Libertad en el Centro Penitenciario La Esperanza\)](#), Nicaragua, November 11, 2018. IACHR, [Situación de personas defensoras de derechos humanos en Nicaragua: denuncias de detenciones arbitrarias y falta de acceso a la justicia](#), 169th Ordinary Session, October 2, 2018.

³²³ Human Rights Watch. Nicaragua: [Prohibición del aborto supone riesgo para la salud y la vida](#), July 31, 2017; Amnesty International, [La Prohibición total del Aborto en Nicaragua](#), July 2009.

³²⁴ Law No. 641 punishes reckless abortion, abortion without consent, and abortion with the consent of the pregnant woman.

³²⁵ IACHR, Press Release 042/2018, [CIDH urge a El Salvador a terminar con la criminalización total del aborto](#), March 7, 2018.

³²⁶ IACHR, [CIDH llama a Nicaragua a erradicar la violencia contra las mujeres, niñas y adolescentes](#), March 28, 2018.

³²⁷ Since 2016, CENIDH has denounced a state policy of concealing the figures on violence against women and femicides in the country. CENIDH, [Informe Anual 2016](#), pp. 121 and following.

³²⁸ IACHR, [CIDH llama a Nicaragua a erradicar la violencia contra las mujeres, niñas y adolescentes](#), March 28, 2018.

³²⁹ IACHR, [CIDH llama a Nicaragua a erradicar la violencia contra las mujeres, niñas y adolescentes](#), March 28, 2018.

³³⁰ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), June 21, 2018, paras. 102, 107, 118 to 121, and 129; Testimonies received by the IACHR in Masaya on May 19, 2018; Observations from the State of Nicaragua on the draft report of the Inter-American Commission on Human Rights, June 21, 2018; CODENI, Report on Human Rights Violations

Children and Adolescents (*Federación Coordinadora Nicaragüense de ONG que Trabaja con la Niñez y la Adolescencia—CODENI*), a total of 29 children and adolescents were killed between April and end of November, and the principal cause of death has been gunshot wounds in the head, neck, and chest.³³¹

223. The figures for children or adolescents who died in the context of protests reflect the failure to meet appropriate standards for the special protection of children and adolescents. Indeed, it is clear that the population of children and adolescents is especially impacted by the various forms of repression and criminalization in Nicaragua.³³² The Commission recalls that states must protect and guarantee the rights of all members of society and provide a context of security that would enable persons to develop with the lowest level possible of threats to their life and personal integrity.³³³ In particular, for children and adolescents, the state must adopt all necessary measures of special protection, adopted and reinforced in Articles 19 of the American Convention and Article VII of the American Declaration of Human Rights,³³⁴ and that these are justified and based on the differences, respect of the adults, in terms of the possibilities and challenges for the effective exercise, the full validity and the defense of their rights. Likewise, both the Commission and the Court have repeatedly pointed out that contexts of widespread insecurity and violence cannot be alleged by the states to justify violations of the right to life and personal integrity.³³⁵

224. In its *Report on Gross Human Rights Violations in the Context of Social Protests in Nicaragua*, the Commission expressed concern and took note of the detention of 65 adolescents in detention centers designed for the exclusive housing of adult men over 18 years of age.³³⁶ According to CODENI, more than 80 cases of illegally detained adolescents and 18 adolescents charged without fulfilling guarantees provided by law have been reported.³³⁷ In particular, the IACHR records more than 200 adolescents deprived of liberty, during the first days of the protests, regarding which various human rights organizations have pointed out irregularities in the proceedings for their release. These organizations indicated that dozens of young people were not handed over to their families and were abandoned in the streets close to the penitentiaries or delivered to the Catholic Church with notable signs of mistreatment and torture, without clothing, their heads shaved, and hungry. Along this same line, on June 3, the National Police reported the detention of 2 adolescents who were subsequently “released owing to the intermediation of the Catholic Church.”³³⁸

225. The Commission recalls that the deprivation of liberty of adolescents is governed by the principle of exceptionality, which means that their detention must be carried out only as means of last resort and for the shortest appropriate time possible.³³⁹ In the event of deprivation of liberty and in order to protect their personal integrity and in accordance with their best interests, adolescents must be housed in places that are other than those for adults.³⁴⁰ Furthermore, the Commission observes with concern the reports of cases of cruel, inhuman, or degrading treatment perpetrated by the state’s security agents against children and adolescents.³⁴¹

against Nicaraguan Children and Adolescents, May 18, 2018; World Movement for Children, Highlighting the Situation of children, adolescents, and young people during the social crisis in Nicaragua – April 2018, May 20, 2018; National Police, [Nota de Prensa No. 12-2018](#), of April 19, 2018; IACHR, [MESENI-Nicaragua](#), November 29, 2018.

³³¹ CODENI, [Pronunciamiento #8: CODENI condena amenazas con arma de fuego a estudiantes](#), November 23, 2018. Managua.

³³² IACHR, Press Release No. 223/2018: [CIDH alerta sobre nueva ola de represión en Nicaragua](#), October 18, 2018.

³³³ IACHR, [Seguridad ciudadana y derechos humanos](#), para. 23.

³³⁴ IACHR, [Violencia, niñez y crimen organizado](#), para. 272.

³³⁵ IACHR, [Violencia, niñez y crimen organizado](#), para. 297. See also Case of Bustios Saavedra, para. 59; Case of Chumbivilcas, pp. 147 to 148.

³³⁶ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), June 21, 2018, paras. 173 and 174; IACHR, Press Release No. 148/2018: [CIDH denuncia el deterioro, profundización y diversificación de la represión en Nicaragua y expresa preocupación por la situación de los niños, niñas y adolescentes en el país](#), July 11, 2018; IACHR, Press Release No. 223/2018, [CIDH alerta sobre nueva ola de represión en Nicaragua](#), October 18, 2018.

³³⁷ CODENI, [Pronunciamiento #8: CODENI condena amenazas con arma de fuego a estudiantes](#), November 23, 2018. Managua.

³³⁸ National Police, [Nota de Prensa No. 38 – 2018](#), June 3, 2018.

³³⁹ IACHR, [Justicia Juvenil y Derechos Humanos en las Américas](#), July 13, 2011, paras. 75 to 80.

³⁴⁰ IACHR, [Justicia Juvenil y Derechos Humanos en las Américas](#), July 13, 2011, para. 408; and IACHR. Report No. 41/99, Case 11.491, Admissibility and Merits, Detained minors, Honduras, March 10, 1999, paras. 125 and 126.

³⁴¹ IACHR, Press Release No. 169/2018, [CIDH verifica criminalización y persecución judicial en Nicaragua](#), August 2, 2018; IACHR, Press Release No. 223/2018 - [CIDH alerta sobre nueva ola de represión en Nicaragua](#), October 18, 2018.

226. The Commission notes with concern that, in practice, adolescents continue to be processed in the penal system for adults,³⁴² which denies them the protection provided by a specialized system, and they are subjected to the serious consequences of this, such as punishments for adults and more burdensome sentencing,³⁴³ but also the enforcement of measures of deprivation of liberty in centers for adults. The IACHR stresses that the state has the obligation of guaranteeing that adolescents are dealt with by a specialized juvenile system of justice, based on the model of restorative justice, with due guarantee of their rights and taking into account their best interests. Submitting adolescents to a specialized system of justice is expressly provided for in Article 5.5 of the American Convention and also in Article 40.3 of the Convention on the Rights of the Child.³⁴⁴ In addition, the Commission has repeatedly indicated the need for adolescents deprived of liberty to be housed in places other than those for adults, in line with the provisions of Article 37.c of the Convention on the Rights of the Child.³⁴⁵

227. Furthermore, the Commission is concerned about the impacts that the country's political and social crisis have had on the right to education. In that regard, the Commission has received distressing information indicating that, after the start of the protests, student attendance in high schools had declined³⁴⁶ and that various schools had suspended classes or that they were being given intermittently for the safety of the students.³⁴⁷ Civil society organizations reported political indoctrination actions in certain public schools; the alteration of school schedules and calendars because of the crisis, and higher dropout rates because of the rise in child labor. Likewise, children and adolescents have witnessed the impact on their rights to rest, leisure, playing, and culture because of the presence of armed agents in the communities and public spaces.³⁴⁸ The Commission reiterates that the right to education is essential for the progressive development of children and adolescents, regarding what is enshrined in Article 28 of the Convention on the Rights of the Child, and the state's duty to adopt measures to promote regular school attendance and reduce dropout rates.³⁴⁹

228. In connection with the acts of violence against LGBTI persons in the context of the protests that started on April 18, 2018, the Commission received information about the detention of the transgender activist Victoria Obando (legal name: Víctor Obando), a human rights activist and student of the National Autonomous University of Nicaragua in Managua, who was detained on August 25 in León along with 6 other students and presented by government authorities as a terrorist to the media on August 29, 2018.³⁵⁰ In addition, the Commission has received information of complaints regarding the treatment received by the student Victoria Obando during her detention. Regarding this, civil society organizations and digital media have indicated that Victoria is detained in the same place as men, in addition to which she is obliged to spend all day in her underwear and undergo humiliating and degrading treatment. Likewise, civil society reports that the failure to recognize the gender identity of transgender persons deprived of liberty exposes them to transphobic treatment by state agents in charge of their custody.³⁵¹

229. In its observations on the draft of this report, the State pointed out that the police and prison officials have been sensitized on the human rights of the LGBTI persons and shows the greatest advances in

³⁴² IACHR, Press Release No. 187/2018, [CIDH urge al Estado de Nicaragua a cesar la criminalización de la protesta y a respetar a las personas privadas de libertad y sus familias](#), August 24, 2018.

³⁴³ IACHR, [Justicia Juvenil y Derechos Humanos en las Américas](#), July 13, 2011, para. 88.

³⁴⁴ IACHR, [Justicia Juvenil y Derechos Humanos en las Américas](#), July 13, 2011, paras. 81 and 82.

³⁴⁵ IACHR, [Justicia Juvenil y Derechos Humanos en las Américas](#), July 13, 2011, para. 408.

³⁴⁶ *La Prensa*, [Mined tendrá que ajustar el calendario escolar para recuperar las clases perdidas](#), June 7, 2018.

³⁴⁷ IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), June 21, 2018, para. 169; *El Nuevo Diario*, [Estudiantes de secundaria, los más perjudicados por la crisis](#), May 27, 2018; *Agencia EFE*, [La universidad más grande de Nicaragua suspende clases de forma indefinida](#), May 7, 2018. *El Nuevo Diario*, [Estudiantes controlan la UNAN en Managua y Matagalpa, y protestan en Estelí y León](#), May 8, 2018.

³⁴⁸ IACHR, Press Release No. 223/2018, [CIDH alerta sobre nueva ola de represión en Nicaragua](#), October 18, 2018.

³⁴⁹ Convention on the Rights of the Child, Article 28(e).

³⁵⁰ *El Nuevo Diario*, [Policía de Nicaragua acusa de terrorismo a estudiantes detenidos en León](#), August 28, 2018.

³⁵¹ *Nicaragua investiga*, [Presidenta de organización trans dice que por su género está más expuesta a abuso sexual, burlas y maltrato](#), August 30, 2018; *Hoy*, [Acusan a siete jóvenes de terroristas](#), August 30, 2018.

the matter in the Central American region, "by guaranteeing equality and not discrimination against this community".³⁵²

230. On various occasions, the Commission has expressed its concern over the recurring acts of violence encountered by LGBTI persons—or those who are perceived as such—who are deprived of liberty. In that regard, the Commission reiterates that the state of Nicaragua must not only refrain from committing acts of torture of cruel, inhuman, or degrading treatment against persons deprived of liberty, including those motivated by prejudices about sexual orientation or gender identity, but it also has the obligation to protect the life and personal integrity of these persons, with respect to actions by other persons deprived of liberty.³⁵³

231. Furthermore, the indigenous peoples of the North Caribbean Coast of Nicaragua have been encountering, for many years, problems associated with encroachment of their lands and natural resources by "settlers" or by the building of megaprojects. These problems have fostered a context of violence and insecurity because of the constant clashes and attacks against the indigenous communities in the region and their inhabitants.³⁵⁴ Among the severe acts of violence that have occurred in the region of the North Caribbean Coast, prior to the April 18 crisis, there are the alleged kidnappings, killings, sexual aggression, threats, setting houses on fire, theft, ambushes, and attacks on local dwellers, the investigation of which by the state has still not yielded any results to placate the source of the social conflict.³⁵⁵

232. The IACHR received information about the intensification of patterns of repression against indigenous and Afrodescendant persons motivated by the protests that started on April 2018.³⁵⁶ In particular, during her meeting with the members of the organizations of Nicaragua's Atlantic Coast, the President of the Commission received information about the actions of political persecution, harassment, and threats in retaliation for the anti-government demonstrations. The IACHR also observes that state authorities had obstructed the exercise of their right to assembly when they prevented a public memorial ceremony from being held to commemorate the death of the journalist Ángel Gahona scheduled to take place in the vicinity of the town hall of Bluefields.³⁵⁷

233. Also, the Commission warns with special preoccupation the situation of risk that afrodescendent women, girls and adolescents would be in Nicaragua. Taking into account the historical discrimination they have suffered based on the intersection of various factors such as their cultural identity, sex and gender, age and others, Afro-descendant women would be susceptible to acts of physical and sexual violence, as well as other violations of their civil, political, economic, social, and cultural rights.

234. The IACHR urges the state to immediately cease acts of harassment, intimidation, and violence against indigenous communities and their members perpetrated by its own state agents. The IACHR recalls that the state is duty-bound to ensure that activities carried out by security forces in the context of the defense of indigenous peoples and communities of their ancestral territories are in line with their

³⁵² State of Nicaragua, State's Observations on the "Chapter IV. B- Annual Report of the IACHR", February 22, 2019. Pag. 83, 88 and 112.

³⁵³ IACHR, [Violencia contra Personas Lesbianas, Gay, Bisexuales, Trans e Intersex en Américas](#), November 12, 2015, para. 162.

³⁵⁴ Tom Lantos Human Rights Commission, U.S. Congress, [Statement George Henriquez Cayasso](#), September 27, 2018.

³⁵⁵ IACHR, Press Release 179/2018 - [CIDH solicita a Corte IDH ampliar medidas provisionales a favor de los pobladores de las comunidades del pueblo indígena Miskitu en Nicaragua](#), August 10, 2018.

³⁵⁶ On October 14, 2015, the IACHR granted precautionary measures in connection with the situation of the communities of the North Caribbean Coast Region of Nicaragua, because of the constant cycles of violence, killings, threats, and acts of harassment allegedly perpetrated by the "settlers" in the territories of the communities in the context of a territorial conflict and the betterment processes conducted by the State in said territories. Afterwards, in August 2018, the Commission requested the Inter-American Court to broaden these provisional measures for the benefit of the inhabitants of certain communities of the indigenous Miskito people of the North Caribbean Coast Region of Nicaragua, in order to include, among the beneficiaries, the defender Lottie Cunningham and the defender José Coleman, who are working for the rights of the Miskito people. At present, five communities are protected by precautionary measures granted by the IACHR. In addition to that, 7 other communities are protected by provisional measures ordered by the Court. IACHR, [CIDH solicita a Corte IDH ampliar medidas provisionales a favor de los pobladores de las comunidades del pueblo indígena Miskitu en Nicaragua](#), August 10, 2018.

³⁵⁷ IACHR, [Presidenta de la Comisión Interamericana de Derechos Humanos realiza visita a Nicaragua](#), November 16, 2018.

fundamental role of protecting the rights to life, liberty, and security of persons. In addition, the indigenous communities have the right to be protected by the state in response to any attack or aggression perpetrated by third parties or agents from outside their community.

235. For several years now, the Inter-American Commission has been receiving information on state repression of the peasant movement organized against building the Interoceanic Canal.³⁵⁸ This movement joined the demonstrations spearheaded by the students. The IACHR notes that its past history of open opposition to the government had motivated a more intense reaction from the state against its members. In that regard, some of the more violent incidents occurring in the framework of the clean-up operation took place in peasant areas such as Morrito in the department of Río de San Juan, and San Pedro Lóvago in Chontales.³⁵⁹ At present, virtually all leaders of the movement who participated in the National Dialogue Group continue to be detained, among whom, Medardo Mairena, Lener Fonseca, Freddy Navas, Víctor Díaz, and Pedro Mena.

236. Finally, the IACHR notes that repression in the rural areas and hinterland might be more severe than in the capital. According to information received, in certain areas the repression of the protests and the practice of massive and selective detentions against persons who participated in the demonstrations and roadblocks are continuing. On September 9, pro-government groups had taken firearms to shoot at the demonstrators in Jalapa, Nueva Segovia, leading to injuries for at least 2 persons.³⁶⁰ In October, there were reports of dozens of detentions taking place on the Island of Ometepe.³⁶¹ The IACHR notes that the absence of access to the media, the context of insecurity, and the refusal to let IACHR travel to various parts of the country have made it difficult to record and document human rights violations in Nicaragua's hinterland region.

237. The Commission urges the state to adopt all the necessary measures to guarantee the right to life, integrity, and security of persons living in the country's rural areas and hinterland. In addition, it urges the state to cease prosecuting and criminalizing peasant leaders. In particular, Nicaragua's authorities must order the immediate release of those who continue to be in prison in retaliation for the role played during the demonstrations and protests that started in April.

X. RECOMMENDATIONS

238. According to the preceding review and the special follow-up that the IACHR has conducted on the human rights situation, the Commission makes the following recommendations to the state of Nicaragua:

General recommendations

- Reestablish full respect for the rule of law by guaranteeing the principle of independence and separation of branches of government.
- Comply with and implement the recommendations made in the Final Report on the Inter-American Commission's working visit to Nicaragua:
 - Release people who have been detained illegally or arbitrarily.

³⁵⁸ In 2015, civil society reported that the 37 marches carried out the preceding year had been repressed by law enforcement forces. IACHR, Hearing on building the Grand Transoceanic Canal and its impact on human rights in Nicaragua. 154 Regular Period of Sessions. March 16, 2015

³⁵⁹ OHCHR, [Violaciones de derechos humanos en el contexto de las protestas en Nicaragua](#), 2018, para. 9.

³⁶⁰ IACHR, Press Release 223/2018 – [CIDH alerta sobre nueva ola de represión en Nicaragua](#), Washington, D.C., October 18, 2018.

³⁶¹ *La Vanguardia*, [Denuncian la detención de 11 personas en la isla de Ometepe](#), October 21, 2018; *El Metro*, [¿Cuántos manifestantes capturó la policía en la Isla de Ometepe?](#), October 9, 2018; *El Nuevo Diario*, [Buscan a manifestante herido en Ometepe](#), October 10, 2018.

- Immediately stop arbitrary detentions as a form of retaliation against those who criticize the government, human rights defenders, and social leaders.
 - Declare null and void all measures obstructing the right to freedom of expression and freedom of assembly and association.
 - Dismantle parapolice groups and adopt measures to prevent armed third-party groups that attack and harass the civilian population from continuing to operate.
 - Urge state authorities to refrain from making public statements smearing protesters, human rights defenders, and journalists or using state-owned media to conduct public campaigns instigating violence against persons because of their opinions.
 - Ratify all international human rights instruments that are still pending ratification, especially the Inter-American Convention on the Forced Disappearance of Persons.
 - Remain open to international scrutiny and, in that regard, facilitate the visit of all those human rights protection mechanisms of the Inter-American and United Nations systems, as well as other relevant stakeholders of the international community.
- Ratify the Rome Statute of the International Criminal Court, to ensure that crimes against humanity do not go unpunished and as a guarantee of non-repetition; and accept the competence of the International Criminal Court to hear crimes against humanity perpetrated since April 18, 2018.

Specific recommendations

Administration of Justice and Judicial Independence

- Guarantee the independence and impartiality of the judicial branch of government from all kinds of pressure, which are necessary conditions to fulfill its duty of investigating, processing, and punishing those who violate human rights.
- Establish a mechanism for the assignment of cases using objective criteria. These criteria must be public and sufficiently precise to avoid manipulation in case assignments.
- Establish predictable procedures and objective criteria for transfers from courts, the promotion and career advancement of operators of justice, taking into account the merits and professional capacity of the operators of justice. In the case of a transfer, take into account the opinion of the operator of justice himself or herself.
- Revise Law 586 in order to establish and guarantee, in regulatory terms, the procedures for public selection and appointment, using objective criteria aimed at selecting and designating operators on the basis of their merit and professional capabilities.
- To the judicial branch, fully exercise its independence to hear the accused on the basis of the highest international and inter-American human rights standards, taking into account the conditions for detention and the crimes that are part of the charges and making it possible for those being charged to exercise their right to a defense.
- Guarantee the right of victims and their next-of-kin to know the truth. In particular, ensure that they have the information about the causes of the injuries that occurred and/or death, as well as the truth about the circumstances, events, and reasons that led to them.
- Adopt the necessary measures so that, in line with obligations of due diligence, the appropriate forensic medical expertise is provided in all cases of victims of violence in the context of the protests. Also ensure that said expertise meets inter-American standards and faithfully documents the circumstances in which the deaths and injuries of the protesters occurred and thoroughly and effectively clarifies the incidents of violence.

Freedom of Expression

- Remove the obstacles to the legitimate exercise of the right to protest, in particular, by eliminating the requirement for prior authorization to hold demonstrations and the express establishment of the general presumption for the exercise of the right to assembly and freedom of expression.
- Guarantee respect for the independence of the media and refrain from applying prior censorship by a state body, as well as any prior condition that might entail censorship of the freedom of expression.
- Urge state authorities to refrain from making public statements that stigmatize protesters, human rights defenders, and journalist or use state-owned media to conduct public campaigns that might instigate violence against persons because of their opinions. Also effectively protect defenders and journalists who are in a situation of risk.
- Terminate all court legal proceedings against journalists and media that have been filed arbitrarily to repress, sanction, and punish the right to freedom of expression. And release the journalists and media workers who were detained in retaliation for their work.

Human Rights Defenders

- Cease harassing and criminalizing human rights defenders and social leaders, guarantee conditions so that they can fully carry out their work and exercise their rights, in particular, to freedom of expression, assembly and association.
- Declare null and void all decrees withdrawing the legal status of civil society organizations that were passed without guaranteeing due process for the affected persons. Immediately terminate all administrative and criminal investigations against the organizations themselves.
- Prevent killings, threats, and intimidations against human rights defenders, journalists, communicators, and social leaders and opponents by the proper and efficient implementation of the precautionary measures granted by the IACHR.

Persons Deprived of Liberty

- Draw up and disseminate a public registry containing the following information: (a) number of persons who have been detained since the start of the protests on April 18; (b) causes for the detention; (c) duration of the deprivation of liberty; (d) place of detention; (e) number of persons who are currently being detained because of the protests that started on April 18; and (f) number of persons released from prison. The information must include aspects related to gender, age, and occupation of the persons.
- Eliminate the practice of detaining persons without a written order issued by a government official expressly authorized by law, not even in cases of flagrante delicto, in breach of Article 33, subparagraph 2, of the Political Constitution of Nicaragua.
- Present the detainees before a judicial authority within the legal time-limits of no longer than 48 hours—in accordance with the provisions of Article 33 of the Constitution and Article 95 of the Criminal Procedures Code—in order to resolve their legal situation.
- Immediately verify if pre-trial detention has been carried out in accordance with international standards on the matter, that is, exceptionality, legality, proportionality, and reasonableness. If this measure is governed by criteria other than procedural ones—such as flight risk or obstruction of the investigation—the application of alternative measures must be determined.
- Reassess the charges of terrorism that were filed, taking into account the purpose of Law 977.

- Guarantee due process for the detainees. In particular, immediately inform the detainees, their next of kin, and representatives about the causes and reasons for their detention. Likewise, an adequate defense must be ensured, one that would enable persons charged to have regular contact with their legal representative and to be involved in preparing their respective hearings. In addition, it is essential for their legal representatives to have unrestricted access to these hearings. Persons charged have the right not to be obliged to make statements against themselves or declare themselves guilty.
- Guarantee the decent treatment of persons in the custody of the state. In particular, ensure that they benefit from medical care services in line with their specific health conditions, receive enough food with a high nutritional value, and are living in sanitary conditions.
- Create the necessary conditions to effectively ensure the contact of persons deprived of liberty with their next-of-kin, by ensuring the establishment of an adequate, regular, and foreseeable system of visits. In that respect, the visits must be carried out at least in line with the periodicity set forth in the Penitentiary Regulations and take place in a dignified manner and in conditions that will in no way be degrading to the persons deprived of liberty. The state must also guarantee the supply of medicines, food, and personal hygiene products.
- Use solitary confinement associated with maximum security systems on an exceptional basis, after an individualized risk assessment, restricted to the shortest time possible and as a last resort. Orders for solitary confinement must be authorized by the authority having jurisdiction and must be subject to an independent review.

Women

- Adopt necessary measures to guarantee that cases of gender-based violence are investigated with due diligence on a timely basis, thoroughly, and impartially, and to make sure those responsible are duly punished and that victims receive comprehensive reparations.
- Ensure that the State adopts protective measures to guarantee the personal, physical and sexual integrity of all women, adolescents and girls, without distinction of race, ethnicity, religion, age, cultural identity, social status.
- Adopt a comprehensive, coordinated, and adequately funded state policy to ensure that victims of violence have full access to adequate judicial protection and that acts of violence are adequately prevented, investigated, punished, and redressed.
- Adopt all necessary and comprehensive measures for the rights of detained women to be effectively respected and guaranteed, so they will not suffer from any discrimination and will be protected against all forms of violence that might arise from the gender status.
- Adopt investigation protocols to prevent the revictimization of adult women, girls, and adolescent women, as well as facilitate their access to comprehensive support services and adapted medical care, including the timely and safe legal termination of pregnancies resulting from sexual violence.

Lesbian, Gay, Bisexual, Transgender, and Intersex Persons (LGBTI)

- Adopt the necessary measures to ensure that the decision about where to house transgender persons (who are in detention centers, including prisons and police stations) is taken on a case-by-case basis, considering the risk that they may be exposed to, with due respect for their personal dignity and, whenever possible, after consulting with the transgender person involved.
- Implement measures to prevent violence against LGBTI persons deprived of liberty, including but not confined to: effective and independent reporting procedures to denounce acts of sexual violence or other abuse; designing personalized risk assessments upon entry; carefully gathering data and

statistics on LGBTI persons deprived of liberty and the types of violence inflicted upon them, respecting the principles of confidentiality and privacy.

- Adopt effective measures to ensure due diligence when investigating, filing charges, and punishing acts of torture and other cruel, inhuman, or degrading treatment of LGBTI persons deprived of liberty.
- Provide training to police officers and security staff in prisons, police stations, immigration detention centers, and other detention places to ensure that said agents adequately protect the life and personal integrity of LGBTI persons—adolescents and adults—who are deprived of liberty.

Children and Adolescents

- Adopt measures to reduce the violence directly impacting children and adolescents, including the avoidance of the excessive use of force.
- Adopt measures to guarantee the right to life and personal integrity of all persons, but especially of children and adolescents, in fulfillment of the principle of special protection.
- Guarantee that all adolescent offenders are subject to a specialized juvenile justice system, separate from the adult criminal system. Also guarantee due process and the right to a fair trial as provided for in domestic and international human rights law.
- Design and implement a contingency protocol for the continued access to education for children and adolescents, mitigating the impacts stemming from the suspension of school and educational activities. Adopt measures to reduce school truancy, dropouts, and all forms of child labor.

First-nation Communities

- Guarantee the right of first-nation peoples to territory as the first step to safeguard their basic rights, bearing in mind the special importance that inter-American human rights law has given to recognition of the territorial rights of the peoples and the key role that territories play in the enjoyment and guarantee of their rights.
- Adopt all legislative measures to enforce the right to consultation and prior, free, and informed consent of the first-nation communities, in line with international standards.
- Guarantee the right to a life without violence for the first-nation communities and their defenders against threats, aggression, and other acts of intimidation by third parties or corporations in their territories.

Internally displaced Persons, Migrants, Asylum Seekers, Refugees, and Beneficiaries of Subsidiary Protection

- The IACHR reminds the state that it must immediately refrain from and cease to carry out acts of persecution against persons who are identified as opponents and adopt effective measures to protect persons who are in situations of persecution and risk.
- Provide necessary guarantees so that persons can move about and live freely in Nicaragua, which necessarily implies refraining from continuing acts of criminalization and from creating reasons for the forced displacement of Nicaraguan persons.
- Protect and provide humanitarian aid to persons who have been or shall be forced to displace themselves internally in the country, as well as investigate and punish violent incidents and incidents leading to internal displacement.

- Guarantee that all persons can leave the Nicaraguan territory freely and that their right to seek and receive asylum in a foreign country is respected, in accordance with the provisions of Article 22.2 and 22.7 of the American Convention on Human Rights.

239. Finally, the Inter-American Commission hereby adopts the recommendations made by its Interdisciplinary Group of Independent Experts (GIEI) to the state of Nicaragua to overcome the country's current crisis. In that respect, it shall monitor the progress made to comply with them.