

## CHAPTER IV. B NICARAGUA

### I. INTRODUCTION

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

2. From May 17 to 21, 2018, the Commission conducted a working visit to the country and issued its preliminary observations along with 15 initial recommendations addressed to the State.<sup>1</sup> On June 21, 2018, the IACHR published its Final Report: “Gross Human Rights Violations in the Context of Social Protests in Nicaragua,” reiterating its 15 earlier recommendations and issuing a few more.<sup>2</sup>

3. On June 24, 2018, the IACHR installed the Special Monitoring Mechanism for Nicaragua (MESENI) in Managua for the purpose of maintaining on-the-ground monitoring of the human rights situation and to follow up on both the recommendations resulting from the country visit and compliance with the precautionary measures granted in that context.<sup>3</sup> As of December 19, 2018, when the Government of Nicaragua temporarily suspended the presence of MESENI in the country, as well as IACHR visits, this Mechanism has been operating out of IACHR headquarters in Washington D.C. It also conducts working visits to different countries of the region to monitor the situation of Nicaraguans, who were forced to leave their country as a consequence of the crisis.

4. Additionally, on July 2, 2018, the Commission announced the installation of the Interdisciplinary Group of Independent Experts (GIEI from its Spanish language acronym), which was assigned the responsibility of assisting and supporting the investigations into the deaths, that took place in the context of the violent events in the country.<sup>4</sup> On December 21, 2018, the GIEI submitted its “Final Report on the Acts of Violence that Occurred between April 18 and May 30, 2018.” This report confirmed the findings of the IACHR visit and, additionally, concluded that certain conduct, such as incarceration or other deprivation of physical liberty, persecution, rape and torture, had taken place in the context of a widespread and systematic attack on the civilian population which, in accordance with international law, must be considered crimes against humanity.<sup>5</sup>

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<sup>1</sup> IACHR, Press Release No. 113/18, [Observaciones preliminares de la visita de trabajo de la CIDH a Nicaragua](#), Preliminary observations on the IACHR working visit to Nicaragua, Washington D.C., May 21, 2018.

<sup>2</sup> IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), Gross Human Rights Violations in the Context of Protests in Nicaragua, OEA/Ser.L/V/II, Doc. 86, June 21, 2018.

<sup>3</sup> IACHR, Press Release, 135/2018, [CIDH instala el Mecanismo Especial de Seguimiento para Nicaragua \(MESENI\)](#), IACHR Launches Special Monitoring Mechanism for Nicaragua, Washington D.C., June 25, 2018.

<sup>4</sup> IACHR, Press Release No. 121/2018, [CIDH anuncia la creación de Grupo Interdisciplinario de Expertos Independientes para coadyugar las investigaciones de los hechos recientes de violencia en Nicaragua](#), IACHR to Create Interdisciplinary Group of Independent Experts to Help Investigate Recent Violence in Nicaragua, Washington D.C., May 30, 2018.

<sup>5</sup> GIEI, [Informe final sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo de 2018](#), Final Report on the Acts of Violence that Occurred between April 18 and May 30, 2018, December 21, 2018, pgs. 228 and 229.

5. In 2019, the IACHR noted a persisting context which limits the free exercise of human rights in the country and, in turn, prevents the full restoration of the rule of law.<sup>6</sup> Additionally, there continues to be impunity for serious crimes, that are committed in the context of the State's violent response to the social protests, which has resulted in the deaths of at least 328 people, including at least 24 children and adolescents;<sup>7</sup> and more than 2,000 people injured.<sup>8</sup> As of December 31, at least 65 persons were still deprived of liberty as political prisoners;<sup>9</sup> 405 health care professionals have been dismissed.<sup>10</sup> Likewise, according to the data reported by the UNHCR, as a consequence of the crisis, since April 18, 2018, forced migration of Nicaraguans had surpassed 96,996 individuals; 77,502 of whom left for Costa Rica.<sup>11</sup>

6. In addition, the Commission has documented that gross human rights violations in Nicaragua persist under patterns suggesting a systematic nature. Particularly, the IACHR notes the State's efforts to do away with citizens' ability to file reports of such acts, as well as the protracted state of emergency put in place by the government, have led to an escalating deterioration of the situation of freedom of expression in the country, as well as worsening conditions of human rights defenders, persons deprived of liberty, the *campesino* population identified as anti-government, and of people who were released from custody as a result of the Negotiating Table (*Mesa de Negociación*) talks.

7. As for the repression and violence against the media, the IACHR and its Special Rapporteurship for Freedom of Expression have expressed their concern over the escalation of attacks on the press and, recently, over signs of a systematic crackdown on the media, silencing, assaulting and leveling death threats against journalists.<sup>12</sup> Based on the information received, the facilities of the news channel 100%

<sup>6</sup> On August 6, 2019, the IACHR expressed regret over the State's decision to close down the dialogue and, particularly, its lack of willingness to effectively reinstate the fundamental rights and freedoms, that have been restricted in the context of the police state and serious institutional decline the country is experiencing. IACHR, Press Release No. 194/19, [CIDH expresa su preocupación ante el anuncio del Estado de Nicaragua de no continuar con el diálogo y llama al Estado a cumplir con sus obligaciones de garantía y respeto de los derechos humanos](#), IACHR Expresses Concern over Nicaragua's Announcement that it Will Not Continue Dialogue and Calls on the State to Comply with Its Obligations to Guarantee and Respect Human Rights. Washington D.C., August 6, 2019.

<sup>7</sup> According to figures of the Nicaraguan Coordinating Federation of NGOs that Work with Children and Adolescents (CODENI), a total of 29 children and adolescents were murdered. As of the present date, all of these cases have remained in impunity. Federación Coordinadora Nicaragüense de Organismos no Gubernamentales que trabajan con la Niñez y la Adolescencia (CODENI), Report on the Situation of the Rights of Children and Adolescents in the Socio-Political Context, April 2018-June 2019. IACHR archive.

<sup>8</sup> IACHR, Press Release No. 194/19, [CIDH expresa su preocupación ante el anuncio del Estado de Nicaragua de no continuar con el diálogo y llama al Estado a cumplir con sus obligaciones de garantía y respeto de los derechos humanos](#), IACHR Expresses Concern over Nicaragua's Announcement That It Will Not Continue Dialogue and Calls on the State to Comply with Its Obligations to Guarantee and Respect Human Rights. Washington D.C., August 6, 2019.

<sup>9</sup> Information provided to MESENI from the IACHR in the context of the process of ongoing collaboration and information sharing with human rights organizations, organizations of the family members of detainees, and civil society, to draw up and crosscheck the lists of people who have been detained and prosecuted in the context of the crisis in Nicaragua. In IACHR archive.

<sup>10</sup> Unidad Médica Nicaragüense, Information submitted to the Inter-American Commission on Human Rights regarding "arbitrary and unlawful dismissals of physicians and expulsion of medical students from public universities, in the context of the socio-political crisis starting on April 18, 2018 in Nicaragua." In IACHR archive.

<sup>11</sup> UNHCR, [Monthly Report Americas](#), October, 2019, p. 4.

<sup>12</sup> IACHR, Press Release No. 26/19, [CIDH denuncia escalada de ataques a la prensa y persistencia de violaciones a los derechos humanos en Nicaragua](#), IACHR Condemns Increasing Attacks on the Press and Ongoing Human Rights Violations in Nicaragua. Washington, D.C., February 6, 2019. IACHR, Press Release No. R212/19, [Nicaragua: Debe poner fin a las represalias contra los periodistas, dicen expertos en derechos humanos](#), Nicaragua: Must stop reprisals against journalists, say human rights experts. Washington D.C., Geneva, August 26, 2019. At its 173<sup>rd</sup> Session, the IACHR held a public hearing addressing the situation of beneficiaries of precautionary measures belonging to the media outlets Radio Darío, El Confidencial, and la Costeñísima (MC-693-18, MC-1606-18 and MC-399-19). At that hearing, the representatives and the beneficiaries themselves emphasized that the government of Nicaragua continues to restrict the exercise of freedom of expression of independent journalists. They decried the lack of guarantees for the exercise of freedom of the press and described further incidents of harassment, threats and intimidation against journalists. They further complained that seized media outlets have not been returned and they decried harassment through indirect means, such as blocking access to news print and ink, as well as tax audits conducted by the government's internal revenue service. IACHR, 173<sup>rd</sup> Regular Session, hearing "[Cumplimiento de medidas cautelares de protección a favor de periodistas en Nicaragua](#)", Compliance with precautionary measures on behalf of journalists in Nicaragua, Washington D.C., September 25, 2019.

Noticias, the offices of the digital media outlet Confidencial and of the television programs “Esta Semana” and “Esta noche” are still being held by the government. On September 27, the arbitrary withholding of newsprint and other necessary supplies for the publication of newspapers led to the closure of the daily newspaper “El Nuevo Diario.” As a consequence of this withholding, the daily newspaper La Prensa, the country’s oldest, is barely able to get by.<sup>13</sup>

8. In relation to the situation of human rights defenders, the IACHR notes that the nine civil society organizations, whose legal status was revoked as of December 2018, have not been reinstated and their property has not been returned. This has a chilling effect on other organizations and victims groups, that continue to operate in the country. Furthermore, the Nicaraguan State continues to deploy police in the vicinity of human rights defender organization offices, thereby perpetuating a feeling of intimidation and surveillance, that terrifies both victims and defenders alike. The information available to the IACHR also reflects an escalation in the number and intensity of acts of intimidation, harassment and pressure against human rights defenders and attorneys of persons released from prison or who remain in custody because of acts linked to the protests beginning on April 18, 2018.<sup>14</sup>

9. In 2018 and 2019, the IACHR granted several precautionary measures on behalf of human rights defenders after ascertaining the risk they face in Nicaragua.<sup>15</sup> Subsequently, on June 27, 2019, the IACHR requested the Inter-American Court of Human Rights to adopt provisional measures to protect the rights of the members of the Nicaraguan Center for Human Rights (CENIDH) and the Permanent Human Rights Commission (CPDH), who could be facing an even greater risk because of the role they are playing in reporting and verifying human rights violations, as well as in providing legal counsel to victims of violence.<sup>16</sup> These urgent measures were granted under a Resolution of the President of the IA Court of HR on July 12, 2019.<sup>17</sup>

10. Moreover, since early 2019, the IACHR has been receiving information and testimonies relating to the escalation of arbitrary detentions and judicial persecution against people who took part in roadblocks and demonstrations. This practice of criminalization was especially used against social and university leaders, and even against well-known independent media journalists.<sup>18</sup> As of February 15, 2019, civil

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<sup>13</sup> El Periódico, [Nicaragua: cierra el periódico El Nuevo Diario](#), [‘Nicaragua: closes down the daily newspaper El Nuevo Diario’], September 27, 2019; Inter-American Press Association, [Cese de publicación de El Nuevo Diario de Nicaragua, una vergüenza para el mundo libre](#), [‘End of publication of Nicaragua’s El Nuevo Diario a shame for the free world’], September 27, 2019. El Sol de México, [La prensa de Nicaragua enfrenta sombrío futuro](#), [‘The Nicaraguan press faces a grim future’], October 12, 2019.

<sup>14</sup> IACHR, Press Release No. 220/19, [CIDH denuncia la persistencia de la represión y expresa su preocupación por incremento de hostigamiento contra personas defensoras de derechos humanos y excarceladas en Nicaragua](#), [IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison.], Washington D.C., September 6, 2019

<sup>15</sup> Among other ones, the IACHR has granted the following precautionary measures to human rights defenders since the start of the crisis of April 18, 2018: PM 660/18 - Edwin Heriberto Román Calderón and Álvaro Leiva Sánchez; PM 921/16 and 520/18 - Marco Antonio Carmona et al (human rights defenders); PM 847-18, 738-18, 737-18, and 736-18 – Adelaida Sánchez Mercado et al; PM 939/18 and 1067/18 - Yerling Marina Aguilera Espinoza et al (seventeen human rights defenders); PM 1130/18 –Mónica López Baltodano and family members; PM 921/16 – Twenty-four members of the Permanent Human Rights Commission (CPDH).

<sup>16</sup> IACHR, Press Release No. 162/19, [CIDH solicita medidas provisionales a la Corte Interamericana a favor de los integrantes del Centro Nicaragüense de Derechos Humanos \(CENIDH\) y la Comisión Permanente de Derechos Humanos \(CPDH\) ante extrema situación de riesgo en Nicaragua. Washington](#), IACHR Asks IA Court to Adopt Provisional Measures in Favor of Members of the Nicaraguan Center for Human Rights (CENIDH) and the Permanent Commission on Human Rights (CPDH) in Response to the Extreme Risk They Are Facing in Nicaragua.], Washington D.C., June 27, 2019.

<sup>17</sup> IA Court of HR, [Asunto Integrantes del Centro Nicaragüense de Derechos Humanos \(CENIDH\) y de la Comisión Permanente de Derechos Humanos \(CPDH\)](#), [‘Matter of Members of the Nicaraguan Center for Human Rights (CENIDH) and the Permanent Human Rights Commission (CPDH)’], Resolution of the President of July 12, 2019.

<sup>18</sup> At the hearing “[Situación General de Derechos Humanos en Nicaragua](#)” [‘General Situation of Human Rights in Nicaragua’], the participating civil society organizations reported to the IACHR that they have assisted 1,531 persons for illegal detentions and 756 persons deprived of liberty since April 18, 2018. The criminal charges most often leveled in the context of the crisis are terrorism, possession of

society organizations reported that 777 people remained deprived of liberty. Furthermore, prior to the start of the Negotiation Table talks, the State acknowledged that a total of 372 people remained incarcerated and were being prosecuted.<sup>19</sup>

11. In addition to the signs of arbitrary detention, as well as of systematic violations of due process rights, the human rights of persons deprived of liberty were further violated as a consequence of the conditions of their detention and retaliation taken by the government, both against those remaining in “La Modelo” prison, and women deprived of liberty at “La Esperanza” facility.<sup>20</sup> Over 2019, the IACHR spoke out against recurring operations, in which anti-riot police unexpectedly stormed into cells to beat up and kick inmates, at times using their batons to assault them.<sup>21</sup> On May 16, the IACHR condemned the death of Eddy Montes during a police operation conducted in the cell blocks of “La Modelo” prison, where the “political prisoners” were being held.<sup>22</sup>

12. Additionally, the IACHR has been noticing increased violence in rural areas and in the interior of the country. In 2019, civil society organizations reported to the IACHR murders taking place in municipalities of northern Nicaragua and decried targeted persecution against the peasant population and members of the *Campesino* Movement (Movimiento Campesino).<sup>23</sup> With respect to that information, the IACHR has noticed that family members’ mistrust in the institutions of the State, the lack of independence of the judiciary, as well as a climate of intimidation against the independent media and human rights organizations, are all factors hampering access to accurate information about the circumstances in which it is all unfolding.<sup>24</sup>

13. On September 20, 2019, in its Report on Forced Migration of Nicaraguans to Costa Rica, the IACHR concluded that the forced migration of Nicaraguans, both internally and across international borders, represents a scenario of gross human rights violations, wherein the civilian population regarded as opposing the Nicaraguan government, has been arbitrarily obligated to leave, “by force and on a large scale, the root cause of which is and continues to be a context of repression, persecution, abuses and systematic and widespread violence.” The acts triggering this forced migration were decided on and endorsed by the highest authorities of the country.<sup>25</sup>

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and carrying weapons, organized crime, torture and murder. IACHR, 171<sup>st</sup> Regular Session, public hearing “[Situación General de Derechos Humanos en Nicaragua](#)” [General Situation of Human Rights in Nicaragua], February 14, 2019.

<sup>19</sup> IACHR, Press Release 51/2019, [CIDH insta a asegurar condiciones propicias para el goce de los derechos humanos en Nicaragua ante proceso de diálogo](#), [IACHR Calls for Conditions that Enable the Enjoyment of Human Rights during Nicaraguan Dialogue], Washington, D.C., February 28, 2019.

<sup>20</sup> Request for a thematic hearing on the situation of the rights of women deprived of liberty in the context of the human rights crisis in Nicaragua, submitted by different civil society organizations at the 171<sup>st</sup> Session of the IACHR. IACHR archive.

<sup>21</sup> IACHR, Press Release No. 51/19 - [CIDH insta a asegurar condiciones propicias para el goce de los derechos humanos en Nicaragua ante proceso de diálogo](#), [IACHR Calls for Conditions that Enable the Enjoyment of Human Rights during Nicaraguan Dialogue], Washington, D.C., February 28, 2019.

<sup>22</sup> IACHR, Press Release No. 122/19, [CIDH condena los hechos violentos y la muerte de una persona en cárcel de Nicaragua](#), [IACHR Condemns Acts of Violence and the Death of One Person at a Nicaraguan Prison], Washington D.C., May 20, 2019.

<sup>23</sup> IACHR, 173<sup>rd</sup> Regular Session, public hearing “[Persecución, represión, criminalización y judicialización a la población campesina de Nicaragua y desplazada forzadamente](#)” [Persecution, repression, criminalization and prosecution of the *campesina* and forcibly displaced population of Nicaragua], Washington D.C., September 25, 2019;

<sup>24</sup> IACHR, Press Release No. 194/19, [CIDH expresa su preocupación ante el anuncio del Estado de Nicaragua de no continuar con el diálogo y llama al Estado a cumplir con sus obligaciones de garantía y respeto de los derechos humanos](#), [IACHR Expresses Concern over Nicaragua’s Announcement That It Will Not Continue Dialogue and Calls on the State to Comply with Its Obligations to Guarantee and Respect Human Rights], Washington D.C., August 6, 2019.

<sup>25</sup> IACHR, Press Release No. 234/19, [CIDH presenta el Informe sobre Migración Forzada de Personas Nicaragüenses a Costa Rica](#), [IACHR presents Report on Forced Migration of Nicaraguans to Costa Rica], Washington D.C., September 20, 2019, IACHR, [Informe sobre Migración Forzada de personas nicaragüenses a Costa Rica](#), [Report on Forced Migration of Nicaraguans to Costa Rica], OAS/Ser.L/V/II, Doc. 150, September 8, 2019, par. 11.

14. The IACHR notes that, despite State efforts to spread a narrative of its apparent return to normalcy,<sup>26</sup> the international community has repeatedly voiced its condemnation of the continuing crisis of rule of law and its concern over the serious human rights situation of the Nicaraguan people. In the regional arena, on May 21 and June 28, 2019, the OAS Permanent Council and the General Assembly, respectively, reiterated the concern of the Inter-American community over the deterioration of democratic institutions and human rights in Nicaragua, in light of the process and the steps set forth in Articles 18, 19 and 20 of the Inter-American Democratic Charter.<sup>27</sup>

15. Additionally, on January 21, 2019, the Council of the European Union condemned recent measures targeting civil society organizations and independent media, on the grounds that “they constitute another blow to democracy, human rights and civic freedoms aggravating the political and social crisis.”<sup>28</sup> On March 19, 2019, the United Nations Human Rights Council expressed its concern over the growing restrictions on civic engagement and dissent in Nicaragua. It further urged the government to guarantee an exhaustive and transparent process of accountability in order to make sure that the victims of human rights violations and abuses are able to have access to justice.<sup>29</sup>

16. After assessing the human rights situation in Nicaragua, the IACHR decided to include Nicaragua in the instant Chapter, on the grounds of meeting the requirements set forth under subparagraphs 6.a.i and 6.b. of Article 59 of its Rules of Procedure, which read as follows:

- a. 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; [...].
- b. The free exercise of the rights guaranteed in the American Declaration or the American Convention has been unlawfully suspended, totally or partially, by virtue of the imposition of exceptional measures such as declaration of a state of emergency, state of siege, suspension of constitutional guarantees, or exceptional security measures.

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<sup>26</sup> Particularly in the framework of the universal periodic review of Nicaragua and in different statements before the United Nations Human Rights Council, the State of Nicaragua argued at the international level a discourse focused on the efforts undertaken by the government to “solve progressively the crisis resulting from the acts of violence in the context of the failed coup d’état” and the actions carried out to “recover the peace and stability of the nation.” See as an example: [Palabras del Estado de Nicaragua ante la Presentación del Informe Escrito de la Alta Comisionada Durante el 42 Período de Sesiones del Consejo de Derechos de las Naciones Unidas](#), ‘Remarks of the State of Nicaragua in response to the Presentation of the Written Report of the High Commissioner at the 42<sup>nd</sup> Session of the United Nations Human Rights Council,’ September 10, de 2019; [Observaciones sobre las conclusiones y/o recomendaciones, compromisos voluntarios y respuestas del Estado examinado, Nicaragua](#), [‘Observations on the conclusions and/or recommendations, voluntary compromises and responses of the reviewed State, Nicaragua’], A/HRC/42/16/Add.1, September 13, 2019; [Observaciones al informe de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos sobre Nicaragua](#), [‘Observations on the report of the United Nations High Commissioner for Human Rights about Nicaragua’], verbal note dated September 2, 2019, addressed to the Office of the High Commissioner for Human Rights by the Permanent Mission of Nicaragua before the Office of the United Nations in Geneva; A/HRC/42/G/2, September 4, 2019.

<sup>27</sup> Both the OAS Permanent Council and the General Assembly, pressed the Government of Nicaragua that it needs to allow entry of the Inter-American Commission on Human Rights and its mechanisms, as well as of other international human rights mechanisms. OAS, Permanent Council, The Situation of Nicaragua, CP/RES 1128/2019, May 21, 2019; OAS, General Assembly, [Resolución sobre “La Situación en Nicaragua”](#), Resolution on “The Situation in Nicaragua”, June 28, 2019.

<sup>28</sup> Council of the European Union, [Conclusiones del Consejo sobre Nicaragua](#), [Council Conclusions on Nicaragua] COLAC 5, CFSP/PESC 10, January 21, 2019, par. 2.

<sup>29</sup> UN, Human Rights Council, [Promoción y protección de los Derechos humanos en Nicaragua](#), [Promoting and protecting human rights in Nicaragua] PromA/HRC/RES/40/2, March 19, 2019, par.7.

17. Furthermore, the Commission decided to include Nicaragua in this chapter because its situation is covered under subparagraph 6 c) of Article 59, which cites instances when a 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.

18. Lastly, in 2019, the Inter-American Commission determined that Nicaragua also meets the criteria set forth in subparagraphs 6.d.i), 6.d.ii) and 6.d.iii) of its Rules of Procedure, which are:

d. The presence of other structural situations that seriously affect the use and enjoyment of fundamental rights recognized in the American Declaration, the American Convention or other applicable instruments. Factors to be considered shall include the following, among others:

- i. Serious institutional crises that infringe the enjoyment of human rights;
- ii. systematic noncompliance of the State with its obligation to combat impunity, attributable to manifest lack of will;
- iii. serious omissions in the adoption of the necessary measures to make fundamental rights effective, or in complying with the decisions of the Commission and the Inter-American Court;

19. In this regard, the IACHR notes that the protracted undermining of democratic institutions in Nicaragua has led to the perpetuation of the human rights crisis in the country, as well as causing a situation of structural impunity for the gross human rights violations being committed there. In the same vein, the United Nations High Commissioner for Human Rights concluded that “in Nicaragua there exists a lack of willingness of the State to ensure accountability and a consolidation of impunity for the violation of human rights.”<sup>30</sup>

20. Additionally, in its decision to include the State of Nicaragua in Chapter IV.B of its 2019 Annual Report, the IACHR has taken into account reports of patterns of violations of due process rights, which are attributable to the lack of independence of the Nicaraguan judiciary; evidence of coordination between the National Police and groups of people identified as government sympathizers to assault, surveille, threaten and harass, on an ongoing basis, social leaders, members of religious orders, people released from prison or identified as opponents of the government; a lack of due diligence by the Public Prosecutor’s offices in conducting investigations into the acts of violence reported to it, and; the perception that the National Assembly operates in lockstep with the executive branch by issuing laws intended to hamper the elucidation of the truth and relegate to oblivion the victims of State repression, their family members and persons who remain deprived of liberty. This is all bolstered by the official government narrative, which ignores the ongoing crisis in the country and thus exposes the State’s lack of will to ensure access to justice, the right to the truth and to full reparation for the thousands of victims.

21. As part of the decision-making process to include the Nicaraguan State in the instant chapter, the IACHR has also assessed the State’s failure to comply with the precautionary measures granted by it in the context of the crisis and the 15 recommendations issued by it, in both its Preliminary Observations and its Report on the country visit.<sup>31</sup> The State’s unwillingness to comply with these recommendations and decisions

<sup>30</sup> UN News, [Nicaragua: Impune ante las violaciones de los derechos humanos](#), Nicaragua: Impunity for human rights violations, September 6, 2019.

<sup>31</sup> Following the publication of the Report “Gross Human Rights Violations in the Context of Social Protests in Nicaragua,” the State of Nicaragua noted that it “fully rejects the report presented by the IACHR, inasmuch as it considers it to be subjective, prejudiced, biased and blatantly partial, written under the influence of sectors linked to the opposition.” State of Nicaragua, [Observaciones del Estado de Nicaragua respecto del proyecto de informe de la Comisión Interamericana de Derechos Humanos](#), Observations of the State of

of the IACHR was evident in different pronouncements of Nicaraguan government authorities<sup>32</sup> as well as in the context of its ongoing smear campaign against the work of the Commission and its mechanisms in Nicaragua.<sup>33</sup>

22. In this regard, the IACHR reiterates that the recommendations issued in its country report constitute a point of departure to ensure non-repetition of human rights violations in Nicaragua and the establishment of the necessary mechanisms to prevent the acts of violence that have taken place from going unpunished. Accordingly, the IACHR acknowledges the efforts of the Civic Alliance for Justice and Democracy to add compliance with these recommendations to the negotiation agenda.<sup>34</sup> The Inter-American Commission urges the Nicaraguan State to promote a change in the official government narrative, that is consistent with fulfilling its international obligations. At the same time, it reiterates its ongoing willingness to provide support and technically cooperate with the State of Nicaragua in fully restoring rights and liberties to its people.

23. Pursuant to Article 59.5 of its Rules of Procedure, in order to draft the instant report and to monitor the situation of human rights in Nicaragua, the Commission has resorted to its different mechanisms and tools, including: convening public hearings; the use of the MESENI, press releases; requests for information from the State based on Article 41 of the American Convention; working visits; information from the State and from civil society organizations; as well as from other international bodies.

24. In 2019, the IACHR published 32 press releases expressing its concern over the ongoing State repression, which critically jeopardizes the enjoyment and exercise of the human rights of the Nicaraguan people. Additionally, the Inter-American Commission approved fourteen precautionary measures resolutions to directly protect 65 people, who are at serious and urgent risk of irreparable damage to their human rights. Taking into account the situation of extreme and urgent gravity of some of the beneficiaries, the IACHR filed two requests for provisional measures with the Inter-American Court of Human Rights.<sup>35</sup>

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Nicaragua on the draft report of the Inter-American Commission on Human Rights, June 21, 2018. Notwithstanding, the State of Nicaragua first expressly accepted recommendation No. 3 of its Report and helped to install the GIEI-Nicaragua. The State did not acknowledge the report and recommendations presented by the GIEI "because they lack legality, inasmuch as they refused to sign the Protocol of Actions that would regulate the operation of that body within the country. Additionally, said report was rejected for being subjective, biased and malicious." [Observaciones al informe de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos sobre Nicaragua](#), United Nations High Commissioner for Human Rights regarding Nicaragua, Verbal note dated September 2, 2019, addressed to the Office of the High Commissioner for Human Rights through the Permanent Mission of Nicaragua to the Office of the Office of the United Nations in Geneva; A/HRC/42/G/2, September 4, 2019, par. 10.

<sup>32</sup> The Nicaraguan State reiterated its rejection of the IACHR reports on April 26, 2019 at the OAS Permanent Council. [Discurso del Ministro Valdrack Ludwing Jaentschke](#) Speech of Minister Valdrack Ludwing Jaentschke to the Permanent Council of the Organization of American States, April 26, 2019.

<sup>33</sup> IACHR, Press Release No. 118/2019, [CIDH rechaza campaña de estigmatización en Nicaragua](#), IACHR Speaks Out Against Stigmatization Campaign in Nicaragua, Washington D.C., May 16, 2019; Recently, Ambassador Ruth Tapia stated to the OAS Permanent Council, about the work of the IACHR: "(...) they should stop for once and for all continuing to use selective, discriminatory and politicized criteria in their reports, they should stop bringing to the OAS reports full of lies and bring their actions in line with the function assigned by the States to aid with impartiality in the promotion and protection of the human rights of all countries of the region so that it is able to have credibility as a Commission." Radio La Primerísima, [Intervención de la representante de Nicaragua ante la OEA](#), Remarks of the Nicaraguan Representative to the OAS, October 2, 2019.

<sup>34</sup> Civic Alliance, Our Agenda for the Negotiation "commitment to justice and democracy," March 19, 2019.

<sup>35</sup> IACHR, Press Release No. 162/19, [CIDH solicita medidas provisionales a la Corte Interamericana a favor de los integrantes del Centro Nicaragüense de Derechos Humanos \(CENIDH\) y la Comisión Permanente de Derechos Humanos \(CPDH\) ante extrema situación de riesgo en Nicaragua. Washington](#), IACHR Asks IA Court to Adopt Provisional Measures in Favor of Members of the Nicaraguan Center for Human Rights (CENIDH) and the Permanent Commission on Human Rights (CPDH) in Response to the Extreme Risk They Are Facing in Nicaragua. Washington D.C., June 27, 2019; IACHR, Press Release No. 117/2019, [CIDH presenta a la Corte Interamericana solicitud de medidas provisionales de protección para 17 personas privadas de la libertad en extrema situación de riesgo en Nicaragua](#), IACHR Submits a Request to the Inter-American Court for Provisional Protection Measures for 17 People Who Are Being Deprived of Their Freedom and Are at Extreme Risk in Nicaragua. Washington D.C., May 15, 2019.

25. On December 9, 2019, the IACHR forwarded to the State of Nicaragua a preliminary copy of this document comprising part of Chapter IV.B of its 2019 Annual Report and, pursuant to its Rules of Procedure, requested it to submit its observations within one month's time. On December 19, 2019, the State of Nicaragua submitted its observations, the relevant portions of which were incorporated into this final version, which was approved by the Commission on January 27, 2020.<sup>36</sup>

26. In its observations on the draft version of the present report, the State considered that "the IACHR's observations continue to be removed from reality, with a partial and biased view because it downplays criminal actions aimed at disrupting constitutional order, describing them as so-called 'peaceful protests.' They repeat without verification fake news against the State of Nicaragua by making accusations irresponsibly and lightly without any proof, despite the consistent objective clarification reports that the State has provided to the IACHR." In this same vein, the Nicaraguan State asserted that "throughout the report there is a deliberate omission of the acts of terrorism, murder, torture, abduction, rape, robbery with intimidation, arson, extortion and other offenses of organized crime, with the use of all kinds of weapons, including weapons of war perpetrated by the so-called 'peaceful protesters' starting with the more than 1,300 roadblocks of death (*tranques de la muerte*), which paralyzed the country and impeded free international transit of persons and vehicles."<sup>37</sup>

27. The State of Nicaragua further reiterated to the IACHR that from mid April until mid July, 2018, "internal and external political groups" carried out "with the complicity and sponsorship of business and religious sectors, a failed attempted coup d'état, which was intended to oust the legitimate government of President Daniel Ortega." According to the information submitted by the State, in this context, 198 individuals were murdered. Additionally, 252 buildings were damaged and destroyed; 209 km of streets and highways were destroyed, 398 vehicles were damaged and destroyed. As of the present date, "the pro-coup escalation" allegedly affected more than 160,000 direct employees, harming a large number of Nicaraguan families. Lastly, the State expressed its concern that "the consultations and requests for considerations and observations" is nothing "more than fulfilling a formal requirement, without any impartial intention of reflecting the reality of our country from a comprehensive standpoint."<sup>38</sup>

## II. GENERAL SITUATION OF HUMAN RIGHTS IN 2019

28. As was noted in the previous section, over 2019, the IACHR has attested ongoing State repression against government dissent and those who attempt to decry and document the crisis in the country. Furthermore, the Nicaraguan State has not ensured conditions for the return of democratic institutions through full respect for the principle of the separation of the powers of government.<sup>39</sup> By way of background, on December 27, 2018, the Inter-American Commission voiced its concern over the escalation of actions taken by State of Nicaragua to shut down the last available spaces for the exercise of human rights and, especially, of freedom of expression, protests or public demonstrations, the right of association and independent journalism. In particular, the IACHR condemned the revocation of the legal status of nine civil society organizations, the

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<sup>36</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled "Chapter IV.B – Annual Report Inter-American Commission on Human Rights," December 19, 2019.

<sup>37</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled "Chapter IV.B – Annual Report Inter-American Commission on Human Rights," December 19, 2019, pars. 5 and 6.

<sup>38</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled "Chapter IV.B – Annual Report Inter-American Commission on Human Rights," December 19, 2019, pars. 8 et seq.

<sup>39</sup> Article 3 of the Inter-American Democratic Charter recognizes as essential elements of representative democracy, *inter alia*, respect for human rights and fundamental freedoms; access to and the exercise of power in accordance with the rule of law; (...) and the separation of powers and independence of the branches of government.



shuttering and raiding of independent media outlets, the banning of social protests and increased criminalization of social, opposition, student and peasant leaders.<sup>40</sup>

29. The IACHR also regretted the State shutting down the international *in situ* human rights monitoring, which has continued thus far.<sup>41</sup> As of August 31, 2018, the State of Nicaragua withdrew the invitation originally extended to the Office United Nations High Commissioner for Human Rights to remain in Nicaragua.<sup>42</sup> On December 19, 2018, the State conveyed to the Organization of American States its decision to temporarily suspend the presence of MESENI in the country as well as the Commission's visits to Nicaragua. It further communicated the early expiration of the time period, objective and mission of the GIEI, thus precluding it from presenting its report in the country. The IACHR finds that these actions constitute a failure to comply with the recommendations issued following its first visit to the country.<sup>43</sup>

30. In this context of totally shutting down democratic spaces, the Inter-American Commission recognizes the installation of the negotiating table as an invaluable opportunity to move forward in building a peaceful, democratic and constitutional solution to the human rights crisis. At the same time, it urged the Nicaraguan State to ensure conditions to enable negotiations to be held.<sup>44</sup> Notwithstanding, the Nicaraguan people continues to be impacted by the imposition of a police state that seriously restricts and suspends *de facto* its civil liberties.

### A. Installing the Negotiating Table

31. On February 21, 2019, the President of Nicaragua announced the installation of the "Negotiating Table for National Understanding and Peace" between the government and a delegation from Civic Alliance for Justice and Democracy.<sup>45</sup> According to public information, the negotiation agenda agreed upon between the parties included the following items: "1) strengthening democracy and electoral reforms to carry out electoral processes; 2) strengthening citizen rights and guarantees. 3) release, within a maximum period of 90 days, in accordance with the legal system of the country, of all persons imprisoned and detained in the context of the events, that took place as of April 18, 2018; 4) truth, justice, reparation and non-repetition; 5) mechanisms of implementation of the agreements; 6) once the agreements are reached at the negotiating table,

<sup>40</sup> OAS, [Palabras de la Comisionada Esmeralda Arosemena de Troitiño, Vicepresidenta de la CIDH, Sesión extraordinaria del Consejo Permanente de la OEA](#), [Remarks of Commissioner Esmeralda Arosemena de Troitiño, Vice President of the IACHR, Special Session of the OAS Permanent Council], Washington, D.C., December 27, 2018.

<sup>41</sup> OAS, [Palabras de la Comisionada Esmeralda Arosemena de Troitiño, Vicepresidenta de la CIDH, Sesión extraordinaria del Consejo Permanente de la OEA](#), [Remarks of Commissioner Esmeralda Arosemena de Troitiño, Vice President of the IACHR, Special Session of the OAS Permanent Council], Washington, D.C., December 27, 2018.

<sup>42</sup> IACHR, Press Release No. [195/18 - CIDH lamenta la conclusión a la invitación a la Oficina del Alto Comisionado de las Naciones Unidas en Nicaragua](#), IACHR Regrets the Conclusion of the Invitation to the Office of the High Commissioner for Human Rights in Nicaragua, Washington, D.C., August 31, 2018.

<sup>43</sup> Recommendations 3, 14 and 15. IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), Gross Human Rights Violations in the Context of Social Protests in Nicaragua, OEA/Ser.L/V/II, Doc. 86, June 21, 2018, par. 67.

<sup>44</sup> IACHR, Press Release No. 51/19, [CIDH insta a asegurar condiciones propicias para el goce de los derechos humanos en Nicaragua ante proceso de diálogo](#), IACHR Calls for Conditions that Enable the Enjoyment of Human Rights during Nicaraguan Dialogue, Washington, D.C., February 28, 2019; Remarks of Commissioner Joel Hernández at the special session of the OAS Permanent Council, Washington D.C., April 5, 2019.

<sup>45</sup> In a speech he gave on February 21, 2019, President Daniel Ortega announced convening a negotiating table between the government and business leaders of the country; among other things, he stated "we accept the commitment of our people to that meeting and that negotiation, that we expect will begin on Wednesday February 27, will be laden with good will, commitments so that we give our people what our people deserve: peace with justice and dignity. El 19 digital, [Comandante Daniel Ortega: Negociación para consolidar la paz con justicia y dignidad](#), ['Comandante Daniel Ortega: Negotiation to consolidate peace with justice and dignity'], February 21, 2019. La voz del sandinismo, [Gobierno Sandinista instalará mesa de diálogo desde el miércoles 27 de febrero, informa el Presidente Comandante Daniel Ortega](#), ['Sandinista government will install dialogue table as of Wednesday February 27, reports President Comandante Daniel Ortega'], February 21, 2019.

it will make international efforts to obtain support for the implementation thereof. At the proper time, and by mutual agreement between the parties, an appeal will be issued to the international community to lift sanctions in order to facilitate the right to the human, economic and social development of Nicaragua, benefitting the most vulnerable sectors of the population.”<sup>46</sup>

32. From February 27 to April 25, 2019, thirty meetings were held with representatives of the Papal Nuncio and the General Secretariat of the Organization of American States participating as witnesses and observers.<sup>47</sup> On this regard, in its observations on the draft of the instant report, the State specified that, “between February 27 and June 10, 2019, 43 negotiation meetings were held. The Delegation of the GRUN (Government of Reconciliation and National Unity) responsibly attended all of the scheduled meetings, however, the delegation of the counterpart did not attend 29 meetings without any justification.”<sup>48</sup>

33. In the context of the negotiations, the Civic Alliance and the Nicaraguan State reached two agreements. On March 27 they signed the “Agreement to facilitate the process of release of persons deprived of liberty in accordance with the legal system of the country and the respective international obligations of Nicaragua in that sphere,”<sup>49</sup> establishing the conditions under which persons recognized as “political prisoners” would be released. On March 29, the “Agreement to strengthen rights and guarantees” was signed, setting forth eighteen commitments relating to the guarantee and safeguard of the right to due process of law and effective judicial protection, respect for freedom of expression, the right of return for exiled Nicaraguans under safe conditions and the restoration of rights and freedoms in the country.<sup>50</sup>

34. From the beginning of the negotiations and despite the agreements entered into, the IACHR received numerous reports and testimony about ongoing repression and escalation of arbitrary detentions throughout the country.<sup>51</sup> Specifically, in relation to compliance with the agreement to facilitate the release of detainees, from February 27 to June 11, 2019, the State of Nicaragua announced the release of 493 persons.<sup>52</sup>

<sup>46</sup> El 19 digital, [Séptimo comunicado de la Mesa de Negociación por el Entendimiento y la Paz en Nicaragua](#), [‘Seventh release of the Negotiating Table for Understanding and Peace’], March 20, 2019.

<sup>47</sup> OAS, [Comunicado Conjunto del Gobierno de Nicaragua y la Secretaría General de la OEA](#), Joint Release of the Government of Nicaragua and the OAS General Secretariat, March 9, 2019; [Palabras del Representante de Nicaragua ante la OEA, Luis Alvarado y del Ministro Asesor del Presidente para Políticas Internacionales y del Caribe Cro. Valdrack Jaentschke](#), Remarks of the Representative of Nicaragua to the OAS, Luis Alvarado and of the Minister Advisor to the President for International Relations and the Greater Caribbean Coast Valdrack Jaentschke, Washington D.C., April 26, 2019; [Acuerdo para la Facilitación del Proceso de Liberación de Personas Privadas de Libertad de Conformidad al Ordenamiento Jurídico del País y las Respectivas Obligaciones Internacionales de Nicaragua en este Ámbito](#), ‘Agreement to facilitate the process of release of persons deprived of liberty in accordance with the legal system of the country and Nicaragua’s respective international obligations in this sphere’], March 27, 2019.

<sup>48</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, par. 31.

<sup>49</sup> El 19 Digital, [Comunicado N°9 de la Mesa de Negociación por el Entendimiento y la Paz en Nicaragua](#), [‘Press release No. 9 of the Negotiating Table for Understanding and Peace in Nicaragua’], March 27, 2019; El 19 Digital, [Comunicado N° 10 de la Mesa de Negociación por el Entendimiento y la Paz en Nicaragua](#), [‘Release No. 10 of the Negotiating Table for Understanding and Peace in Nicaragua’], March 29, 2019.

<sup>50</sup> [Acuerdo para Fortalecer Los Derechos Y Garantías Ciudadanas](#), [‘Agreement to Strengthen Citizen Rights and Guarantees’], March 27, 2019.

<sup>51</sup> IACHR, 171<sup>st</sup> Regular Session, public hearing “[Situación General de Derechos Humanos en Nicaragua](#)” [‘General Human Rights Situation in Nicaragua’], February 14, 2019; IACHR, Press Release No. 122/2019, [CIDH condena los hechos violentos y la muerte de una persona en cárcel de Nicaragua](#), IACHR Condemns Acts of Violence and the Death of One Person at a Nicaraguan Prison], Washington D.C., May 20, 2019.

<sup>52</sup> The IACHR notes that 387 people were released under unilateral announcements and 104 people were released on the occasion of the approval of the amnesty law. Ministry of Government: [Nota de Prensa](#), Press Bulletin, February 27, 2019; [Nota de Prensa](#), Press Bulletin, March 15, 2019; [Nota de Prensa](#), Press Bulletin, April 5, 2019; [Nota de Prensa](#), Press Bulletin, April 16, 2019; [Nota de Prensa](#), Press Bulletin, May 20, 2019; [Nota de Prensa](#), Press Bulletin, May 30, 2019; [Nota de Prensa](#), Press Bulletin, May 30, 2019; [Lista de 50 personas que se encontraban detenidas por haber cometido delitos contra la seguridad común y delitos contra la tranquilidad pública, que fueron liberadas el lunes 10/06/2019 en cumplimiento de la Ley de Amnistía N° 996, aprobada por la Asamblea Nacional el 8 de junio del 2019](#), [List of 50 prisoners, who were detained for committing crimes against common security and crimes against public tranquility, who

Nonetheless, the IACHR received reports of the breach of the terms set forth in this agreement, because many different categories of prisoners were released en masse and unilaterally,<sup>53</sup> and the releases were characterized by a total lack of information for the victims. Moreover, the releases were conducted at points in time regarded as “critical” to the Nicaraguan government on the national and international agenda.<sup>54</sup>

35. In its observations on the draft version of the present report, the State conveyed to the IACHR that it had released and freed all prisoners linked to the events that took place since April 2018, with the International Committee of the Red Cross (ICRC) facilitating and acting as observer. It further said that this release “was carried out pursuant to the List brokered by the ICRC and with observers, as international guarantors.”<sup>55</sup>

36. Arbitrary detentions of individuals regarded as government opponents continued to take place over the course of the talks and negotiations. According to the reports of civil society, from February 27 to August 8, 1047 people were arbitrarily detained, most of them temporarily, which works out to an average of 6 detentions per day.<sup>56</sup>

37. Additionally, the IACHR noticed that there continued to be illegitimate restrictions placed on human rights. Among other things, the Nicaraguan State did not remove the requirement of prior authorization to hold public demonstrations, which has effectively led to a ban on the exercise of this right. In response, on May 20, 2019, the Civic Alliance announced it was leaving the Negotiating Table talks demanding signs of political will from the government to comply with the release of all persons in custody and with the agreements it had entered into.<sup>57</sup> Since that date, the negotiation process has been stalled.<sup>58</sup>

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were released on Monday July 10, 2019 in compliance with Amnesty Law No. 996, approved by the National Assembly on June 8, 2019], June 10, 2019; [Lista de 56 personas que se encontraban detenidas por haber cometido delitos contra la seguridad común y tranquilidad pública, que fueron liberadas y entregadas el martes 11/06/2019 al Comité Internacional de la Cruz Roja, en cumplimiento de la Ley de Amnistía N° 996](#), [List of 56 persons who were detained for committing crimes against public tranquility, who were released and handed over on Tuesday June 8, 2019 to the International Committee of the Red Cross, in compliance with Amnesty Law No. 996], June 11, 2019.

<sup>53</sup> For example, on April 16, 636 people were released. Even though these people were officially released under the category of “common prisoners,” civil society identified that 36 of these individuals were included on the list drawn up by Civic Alliance for Justice and Democracy.

<sup>54</sup> According to the analysis presented by the International Crisis Group, the releases took place in the following context: the Government released 100 “political prisoners” at the start of the dialogue on February 27; 50 additional people, on March 15, while the UN Human Rights Council was discussing a resolution on the country; another 50 people, on April 5 were released, shortly before the OAS Permanent Council meeting on Nicaragua; 36 people were released on April 17, just before the one year anniversary of the protests, “concealed among another 600 common prisoners;” another 100 were released on May 20, after the Civic Alliance announced its withdrawal from the negotiations and one day before the OAS reconvened on Nicaragua; 50 people were released on May 30, Mother’s Day in Nicaragua, which marked a spike in violence in the crisis on the same day in 2018; and 50 people and 56 people were released on June 10 and 11, respectively, concurrently with the hearings in the US Congress on the situation of the country. International Crisis Group, [Las claves para desbloquear el diálogo en Nicaragua](#), The Keys to Restarting Nicaragua’s Stalled Talks, Report on Latin America No. 74, June 13, 2019, pg. 11.

<sup>55</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, par. 32.

<sup>56</sup> Unidad de Defensa Jurídica, Report New patterns of repression and due process violations from February 27 to August 8, 2019, pg. 4. (In IACHR archive).

<sup>57</sup> The Civic Alliance listed several violations of the agreements it struck, including that: “Political prisoner Eddy Montes Praslin, was murdered while in the custody of the Prison System, and a large number of prisoners were injured and seriously beaten that prior Thursday, May 16; not only has the government not complied, but has violated the provisions of the agreement. Despite the presence of the ICRC, as of last March 29, not even one release has been carried out with the support of this international organization. The fact that the ICRC has been present in the country for almost two months and not even a single political prisoner has been released from jail or liberated in the framework of the agreement with this organization, is another sign of the government’s betrayal of the Nicaraguan people.” Civic Alliance for Justice and Democracy, [Nos retiramos de la Mesa hasta la liberación de presos políticos y llamamos a paro nacional](#), [“We are withdrawing from the talks until the release of political prisoners and we call for a national strike”]. May 20, 2019.

<sup>58</sup> According to public information, the negotiating process was stalled until July 18, when Civic Alliance announced its decision to resume the process at the Negotiating Table inviting the Government of Nicaragua and the witnesses and observers for July 31.

38. On July 11, 2019, five months after the Negotiating Table was installed, the Inter-American Commission regretted the Nicaraguan State's unwillingness to restore the freedoms and rights of the population as a whole, as well as to comply with the recommendations issued by the Commission itself.<sup>59</sup> Then, on July 19, 2019, the President of Nicaragua announced that the Government would not resume the talks in the country.<sup>60</sup> On July 30, 2019, this became the formal position of the State through communications to the international bodies participating as witnesses to and observers of the Negotiating Table talks.<sup>61</sup>

39. The State of Nicaragua informed the Commission that, "in its unwavering commitment to comply with the agreements subscribed between Nicaragua and Nicaraguans, it announced on May 22, 2019 the approval and implementation of a Plan to continue Consolidating Stability and Peace in Nicaragua, in response to the counterpart's unjustified walking out of the negotiation." This Plan provided for the approval and implementation of the: "1. Law for a Culture of Dialogue, Reconciliation, Security, Work and Peace; 2. Plan of Safe Return and Social Reintegration of Fellow Nationals who left Nicaragua as a consequence of the tragic events of last year; 3. Law of Comprehensive Victim Assistance; and 4. Law of Amnesty."<sup>62</sup>

40. As it asserted on other occasions, the IACHR recalls that the seriousness of the crisis the country is going through imposes special obligations on the State to resolve the conflicts and facilitate effective, legitimate and inclusive dialogue.<sup>63</sup> For this purpose, the State must strive to create the necessary conditions to build the people's confidence by ending the repression, recognizing the acts that took place, and complying with its international obligations in the area of truth, justice and reparation.

41. In the same vein, on November 19, 2019, the High-Level Commission on Nicaragua of the Organization of American States, created by resolution of the OAS General Assembly of June 28, 2019,<sup>64</sup> concluded that any peaceful solution to the situation in Nicaragua must include: i) an end to the repression; ii) restoration of human rights, including freedom of expression, freedom of assembly and freedom of the press; and iii) a sincere effort by all parties to return to the negotiating table.<sup>65</sup>

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<sup>59</sup> IACHR, Press Release No. 172/2019, [CIDH manifiesta su preocupación por la continuación de la represión en Nicaragua](#), IACHR Concerned about Ongoing Repression in Nicaragua, Washington D.C., July 11, 2019.

<sup>60</sup> In a speech he gave on July 19, 2019, the President stated: "And the talks? Talks with whom? With the peasants, with the workers, with small businessmen, with artisans, with small, medium and large producers. With anyone who is willing to work for peace and for the economic and social production of this country, to achieve economic and social development for this country. These are the only talks that make sense, the only talks that have a place in the current historical circumstances that Nicaragua is living." El 19 digital, [Presidente Daniel Ortega: Necesitamos paz para combatir la pobreza](#), ['President Daniel Ortega: We need peace to combat poverty'], July 19, 2019; France 24, [Ortega cierra la puerta al diálogo en Nicaragua, en el 40 aniversario de la revolución sandinista](#), ['Ortega closes the door to talks in Nicaragua, on the 40<sup>th</sup> Anniversary of the Sandinista revolution'], July 20, 2019.

<sup>61</sup> Clarín, [El régimen de Daniel Ortega pone fin al diálogo con la oposición en Nicaragua](#), ['The Daniel Ortega regime terminates talks with the opposition in Nicaragua'], August 1, 2019; El País, [Daniel Ortega da por terminado el diálogo con la oposición](#), ['Daniel Ortega terminates talks with the opposition'], August 2, 2019; CNN Español, [El nuncio apostólico afirma que el Gobierno de Nicaragua dio por terminado diálogo con Alianza Cívica](#), ['The Apostolic Nuncio says that the Government of Nicaragua terminated the talks with Civic Alliance'], August 1, 2019.

<sup>62</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled "Chapter IV.B – Annual Report Inter-American Commission on Human Rights," December 19, 2019, pars. 33 and 34.

<sup>63</sup> IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), Gross Human Rights Violations in the Context of Social Protests in Nicaragua, OEA/Ser.L/V/II, Doc. 86, June 21, 2018, par. 67.

<sup>64</sup> The High-Level Commission on Nicaragua of the Organization of American States was established under resolution AG/RES. 2943 (XLIX-O/19), which was approved on June 28, 2019 at the fourth plenary session of the 49<sup>th</sup> Regular Session of the OAS General Assembly. Said Committee was created for the purpose of engaging in diplomatic demarches to pursue a peaceful and effective solution to the widespread political and social crisis in Nicaragua and to submit a report no later than 75 days counted from the date of its creation. OAS, General Assembly, [Resolución sobre "La Situación en Nicaragua"](#), Resolution on "The Situation in Nicaragua," June 28, 2019.

<sup>65</sup> OAS, [Informe de la Comisión de Alto Nivel](#) Report of the High-Level Commission on Nicaragua of the Organization of American States, submitted to the OAS Permanent Council on November 25, 2019. Recommendation 2.

## B. Democratic Institutions and Rule of Law

42. Rule of law is governed, among other core principles, by the separation of powers, whereby the different functions of government are discharged by bodies that are separate and independent from one another and balance each other, so that the necessary limits are in place for the exercise of power and arbitrariness is prevented. In this regard, the Inter-American Court has emphasized that “the rights and freedoms inherent in the human person, the guarantees applicable to them and the rule of law form a triad. Each component thereof defines itself, complements and depends on the others for its meaning.”<sup>66</sup>

43. Pursuant to the Nicaraguan Constitution, sovereign power is expressed through the legislative branch, the executive branch, the judicial branch and the electoral branch. These branches have specialized and separate functions, working harmoniously together to serve their respective purposes. Furthermore, Nicaragua recognizes itself as a democratic and social state of law, that promotes “the preeminence of human rights” and “adheres to the principles that make up recognized and sovereignly ratified international American law.”<sup>67</sup>

44. In its observations on the draft of the present report, the State of Nicaragua noted that, “as the Political Constitution mandates, each branch and institution of Government is independent, but under the Principle of Inter-institutional Coordination and in keeping with the guidelines of the National Human Development Plan, the institutions work jointly to ensure the protection of the human rights of all citizens.” In this regard, the State indicated that “it is continuing to push forward the revolutionary project, and it is obligated to comply with the Political Constitution and enforce it,” as well as the laws that make up the domestic legal system. The foregoing “is a basic element to strengthen democracy, institutions, development of our country and to prevent disorder, chaos and anarchy.” The Nicaraguan State further noted that “those who do not agree with the actions carried out by the Government in favor of the most vulnerable sectors strive to discredit and delegitimize all Programs and Policies, aimed at pulling a broad sector of the population out of poverty. In summary, we are in the presence of interests of small national and transnational groups, who seek to destabilize the nation for political ends [which fall] outside of the interests of the majority of the working people.”<sup>68</sup>

45. In Chapter IV.B of its 2018 Annual Report, the Inter-American Commission address the factors that have led to the breach of the principle of separation of powers and to the gradual undermining of democratic institutions in Nicaragua, such as through the concentration of power in the executive branch and filling the positions of the different bodies of government, such as the Supreme Court of Justice (CSJ), the Supreme Electoral Council (CSE) and the Office of the Attorney General of the Republic, with individuals who have close ties to the governing party. The IACHR also reaffirms that the scope and patterns of State violence to repress the social protests, that began in April 2018, were possible because of the control that has been wielded by the executive branch over the other branches of government for several years.<sup>69</sup>

46. As for the National Assembly’s independence from the executive branch, the Interdisciplinary Group of Independent Experts (GIEI) of the IACHR extensively documented that as of the so-called “Alemán-

<sup>66</sup> IA Court of HR, Habeas corpus under suspension of guarantees (Articles 27.2, 25.1 and 7.6 American Convention on Human Rights). Advisory Opinion OC-8/87 of January 30, 1987, par. 26.

<sup>67</sup> Political Constitution of the Republic of Nicaragua, Published in the Gazette, Official Register No. 32 of February 18, 2014. Articles 1, 5 and 129.

<sup>68</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pars. 42, 48, 50 and 52.

<sup>69</sup> For this reason, the IACHR decided to include Nicaragua in Chapter IV.B of its 2018 Annual Report, because it met the requirements set forth in subparagraphs 6.a.i, 6b. and 6.c. of Article 59 of its Rules of Procedure. IACHR, 2018 Annual Report, [Capítulo IV.B. Informe especial: Nicaragua](#), Chapter IV.B Special Report: Nicaragua, March 21, 2019; IACHR, Press Release No. 072/19, [CIDH presenta su Informe Anual 2018](#), IACHR Releases its 2018 Annual Report. Washington D.C., March 21, 2019.

Ortega Compact” (“Pacto Alemán-Ortega”) in 1999, several reforms to the electoral system had been carried out in Nicaragua for the purpose of establishing a bipartisan system between two political forces. This system, in turn, enabled several constitutional and legal reforms to be carried out and polices to be implemented allowed the executive branch to control and subordinate the other branches of government and institutions. This allowed the executive branch to hold absolute control over the National Assembly starting in 2011 and, “thereby approve far-reaching laws, including one that in 2013 granted the concession of the Grand Inter-oceanic Canal project to a Chinese company,”<sup>70</sup> which is the source of significant resistance and social conflict.

47. In the context of the human rights crisis in Nicaragua, the Commission has voiced its concern over how the National Assembly functions in line with the executive branch, such as in the case of the approval of decrees for the forced dissolution of nine human rights defense organizations, which were issued in retaliation for their work decrying the serious situation in the country. Over the reporting period of this report, the Inter-American Commission notes that the pro-government majority of this body facilitated expedited approval, with no broad process of consultation whatsoever, of several laws that run afoul of the right to the truth, access to justice and to full reparation for the victims of the repression that began on April 18 2018, namely: the Law for a Culture of Dialogue, Reconciliation, Security, Labor and Peace; the Law for Comprehensive Assistance to Victims in Nicaragua and the Amnesty Law.

48. In 2019, the National Assembly renewed the mandate of the Truth, Justice and Peace Commission, that was established on April 27, 2018. Its effectiveness has been consistently called into question because of the lack of participation of civil society and the victims’ family members in the creation and appointment of its members. In this regard, upon completion of its country visit, the IACHR announced that in order to guarantee its legitimacy, the government of Nicaragua should make sure that a few minimum requirements are met for the establishment and governance of the Truth Commission, such as defining its mandate and functions with the participation of all social sectors, taking measures to ensure its independence and impartiality, and clearly establishing the processes of investigation, among other ones<sup>71</sup> that were not carried out by the Nicaraguan State.

49. In its observations on the draft of the present report, the Nicaraguan State said that the Truth, Justice and Peace Commission was created to learn about, analyze and clarify the events that took place since April 19, 2018. In this regard, said Truth Commission has determined that “the repeated efforts of certain sectors requesting foreign intervention of governments and international organizations to oust the elected government were widely publicized.” The State further noted that the conclusions of the investigations proved that the initial demands asserting rights were replaced by other demands of a purely political nature, even changing the nature of peaceful marches to territorial protests confined to the major thoroughfares of access and city centers, escalating to unacceptable levels of intolerance, even calling for civil disobedience, violating the fundamental human rights of the people.”<sup>72</sup>

50. For its part, the State asserted to the IACHR that it is the responsibility of the National Assembly by delegation and mandate of the people, to draft and approve laws and decrees, as well as to reform and repeal existing ones, in accordance with the provisions of its organic law. Additionally, the State conveyed that “in a democratic country, there will never be total and absolute consensus about laws, reforms or any other decision of government or the National Assembly, there will always be some opposition or criticism, which is

<sup>70</sup> GIEI, [Informe final sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo de 2018](#), Final Report on the violent events that took place in Nicaragua between April 18 and May 30, 2018. December 21, 2018, pg. 43.

<sup>71</sup> IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), Gross Human Rights Violations in the Context of Social Protests in Nicaragua, OEA/Ser.L/V/II, Doc. 86, June 21, 2018, par. 251.

<sup>72</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pgs. 46 and 47,

also legitimate, because this State is respectful of everyone’s freedom of expression and of right to participate in government.”<sup>73</sup>

51. The Commission regrets that the National Assembly perpetuates the theory of a “failed attempted coup d’état in Nicaragua,” while refusing to acknowledge the vast majority of the victims of the events that took place in the country as of April 18, 2018.<sup>74</sup> This, of course, casts doubt on the ability of this body to function autonomously from the executive branch. Accordingly, the IACHR stresses the importance of the separation of powers through a system of checks and balances for the purpose of guaranteeing effective control among the different branches of government. As is examined in greater detail hereafter, using the Nicaraguan judicial system to criminalize opponents and to cloak human rights violations under a veil of impunity, also exposes its lack of independence from the executive branch.

### ***Judicial Independence and Access to Justice***

52. Next, the IACHR examines the lack of guarantees of impartiality and independence of the Nicaraguan judicial system in terms of prosecuting people who criticize the government. Then, the IACHR addresses the situation of impunity brought about by the protracted undermining of democratic institutions. According to reports received by the IACHR from civil society organizations, even though from the start of the crisis “the judicial system was politicized, the use of the apparatus of justice against the Nicaraguan people increased and far from fulfilling its obligation to protect, it has become another piece of the pattern of human rights violations, as well as of the guarantee of impunity of the human rights violations perpetrated by officials linked to the regime.”<sup>75</sup>

53. In its observations on the draft of the present report, the State of Nicaragua noted that the document “seeks to delegitimize the conduct of the Judicial Branch, by making politicized statements. With subjective assessment and assuming a supranational jurisdiction that does not belong to it, the IACHR judges and discredits the conduct of the authorities of the justice system.” The State also considered that the report “has no grounds, it is based on mere speculation, without any verification and without scientific rigor, [with] the IACHR breaking its own internal rules of procedure.”<sup>76</sup>

### ***Criminalizing Dissent and Manipulating Criminal Law***

54. Based on the information and testimonies received over the early months of 2019, the IACHR attests to ongoing judicial persecution and criminalization, now, targeted at demonstrators, peasants, students,

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<sup>73</sup> Permanent Mission of Nicaragua to the Organization of American States, Note MPN-OEA-0075-LAR, Report on the Situation of Human Rights of Nicaragua (January – August 2019) for “Chapter IV. A- IACHR Annual Report” Annual Overview on the Situation of Human Rights in the Hemisphere. September 2019.

<sup>74</sup> See for example: El 19 Digital, [Asamblea Nacional condena intento de golpe de estado en Nicaragua](#), [‘National Assembly condemns attempted coup d’état in Nicaragua’], April 27, 2019; Prensa-Asamblea Nacional, [Comisiones de Reconciliación, Justicia Y Paz: Un Gran Voluntariado De Los Programas Sociales](#), [‘Reconciliation, Justice and Peace Commissions: A Large Volunteer Force of the Social Programs’], October 10, 2019.

<sup>75</sup> Annex to request for thematic hearing on “Impunity and criminalization: conduct of justice system in response to the crisis in Nicaragua” submitted by different civil society organizations at the 174<sup>th</sup> Session of the IACHR. In IACHR archive.

<sup>76</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pg. 16.

human rights defenders, social leaders and opponents to the government.<sup>77</sup> As of February 15, 2019, civil society organizations had reported that 777 people were still deprived of liberty.<sup>78</sup>

55. For its part, the State of Nicaragua acknowledged that a total of 371 people were detained and prosecuted. The State further claimed to the IACHR that in the country “there are no persecuted, accused [people], the persons who have been accused are responsible for common crimes of murder, terrorism, arson, torture, bodily injury, robbery, exposing persons to danger, obstructing public services and destroying property. People who use violence and incite to violence cannot be considered political prisoners even though they may claim to have acted for political reasons.”<sup>79</sup>

56. Additionally, in its observations on the draft of the present report, the Nicaraguan State mentioned that “it has not charged or prosecuted anyone for participating or supporting peaceful protests, or for going about the job of defense of human rights. All persons charged [had] committed serious offenses, previously established in the Nicaraguan Criminal Code.” The State also noted that “charging those who murder, commit arson, torture, cause bodily harm, rob, destroy public and private property, is not a form of criminalizing peaceful protest, there is no country in the world that considers that charging and punishing these criminal actions is equivalent to criminalizing peaceful protesters, it is precisely doing justice and making reparation to the victims, given that said protests were not carried out through peaceful means and within the time limits that are authorized by the Constitution.”<sup>80</sup>

57. As was mentioned above, between February 27 and June 11, the State of Nicaragua released 493 people. Of this total number, 106 people were released as a result of enactment of the Amnesty Law and 387 were released unilaterally by the State.<sup>81</sup> According to the information received, those who did not qualify for release under the Amnesty Law, continue to be subjected to criminal proceedings without any due process of law guarantees and, most of these released individuals have still not been provided any information as to the legal grounds for their releases and the actual status of their legal proceedings.<sup>82</sup> The IACHR also noticed that the reported releases do not account for all of the persons deprived of liberty. Moreover, at the same time, arbitrary detentions continued to be made. In December, at least 160 persons continued to be held in detention.<sup>83</sup> Subsequently, as of the cut-off date of this report, the State reported the release of 90 persons from prison.<sup>84</sup> These persons included Amaya Coppens and other beneficiaries of precautionary measures, who were deprived of liberty after supporting by giving medication and water to a group of mothers, who were on

<sup>77</sup> IACHR, 171<sup>st</sup> Regular Session, public hearing “[Situación General de Derechos Humanos en Nicaragua](#)”, General Situation of Human Rights in Nicaragua, February 14, 2019.

<sup>78</sup> IACHR, Press Release No. 51/2019, [CIDH insta a asegurar condiciones propicias para el goce de los derechos humanos en Nicaragua ante proceso de diálogo](#), IACHR Calls for Conditions that Enable the Enjoyment of Human Rights during Nicaraguan Dialogue, Washington, D.C., February 28, 2019.

<sup>79</sup> Permanent Mission of Nicaragua to the Organization of American States, Note MPN-OEA-00013, Report of the State of Nicaragua to the Inter-American Commission on Human Rights on the Hearing convened to address the Topic “General Situation of Human Rights in Nicaragua” at its 171<sup>st</sup> Session held in Sucre, Bolivia, February 13, 2019.

<sup>80</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pg. 17.

<sup>81</sup> According to reports of civil society organizations, two persons released under the Amnesty Law allegedly did not appear on the lists of “political prisoners” about whom a consensus was reached in the talks of the Negotiating Table. IACHR, 174<sup>th</sup> Regular Session, public hearing “[Ley de Amnistía](#)” ‘Amnesty Law, November 11, 2019.

<sup>82</sup> IACHR, Press Release No. 108/2019, [Ante persistencia de limitaciones a protesta, CIDH urge a cumplir con implementación de acuerdos alcanzados en Nicaragua](#), Amid Ongoing Restrictions on Public Protest, IACHR Urges Nicaragua to Comply with Implementation of Agreements. Washington, D.C., April 30, 2019.

<sup>83</sup> Information provided to the MESENI of the IACHR through an established collaborative process of periodic information exchange with human rights organizations, organizations of family members of detainees, and civil society in order to verify lists of people who have been arrested and prosecuted in the context of the crisis in Nicaragua. In IACHR archives.

<sup>84</sup> Ministry of Government, Nicaragua, [Nota de Prensa](#), [Press story], December 30, 2019.



a hunger strike at the Church of San Miguel in Masaya, as a protest for the allegedly arbitrary detention of family members, who participated in different demonstrations.<sup>85</sup>

58. In this regard, the information available to the IACHR would suggest a shift in the patterns of criminalizing government opponents which, in addition to exposing a total absence of an impartial and independent justice system, aims to conceal that these people are prosecuted for political reasons. On this score, it was brought to the attention of the IACHR that the people who were arbitrarily detained were being charged with common crimes of robbery, threats and illegally carrying firearms instead of using the “pre-written”<sup>86</sup> charging document forms for more serious offenses such as terrorism and organized crime. Another pattern of centralizing criminal proceedings in Managua has been previously denounced by the IACHR<sup>87</sup> consisting of transferring people arrested in the departments only to the Directorate of Judicial Assistance in Managua for short periods in order to subject them to interrogation and, then, send them back to the original jurisdiction to be tried by the competent courts.<sup>88</sup>

59. The IACHR notices that in 2019, a new pattern of short-term arbitrary detentions, intended to intimidate social leaders or to prevent social protests or demonstrations from taking place, became the norm. For example, on March 16, the “march for the release of all persons detained in the protests in Nicaragua” was thwarted by the Police by means of the preventive detention of demonstrators. According to official information, 107 people were temporarily detained “despite the National Police’s formal warnings about an unauthorized activity that disturbed Public Order and weekend commercial activity of the citizenry.”<sup>89</sup>

60. Additionally, the IACHR became aware of temporary detentions of people who had been released. Some of these detentions had taken place at border posts or at the airport after their participation in international events and were carried out to have a chilling effect on them because of their leadership role in the context of the protests that began on April 18, 2018.<sup>90</sup> According to the information provided by the MESENI, as of August 8, 2019, twenty-one released detainees had been rearrested by the police and/or armed civilians, for short periods (from 1 to 3 days).<sup>91</sup>

61. Over the reporting period of this report, the IACHR received numerous reports about ongoing patterns of systematic violations of due process rights in criminal proceedings against individuals identified as

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<sup>85</sup> IACHR, [Comunicado de Prensa 297/19 - CIDH condena la persecución a las víctimas de la represión en Nicaragua y llama al Estado a evitar la revictimización y a promover la verdad, la justicia, la reparación y medidas de no repetición](#), Press Release 297.19 – IACHR Condemns Persecution of Victims of Repression in Nicaragua and Calls on State to Prevent Revictimization and Promote Truth, Justice, Reparation, and Measures of Nonrepetition, November 19, 2019.

<sup>86</sup> In 2018, the IACHR expressed its concern over the conduct of the Office of the Attorney General, which had been known to use pre-written charging document forms to charge these persons with major offenses such as terrorism, organized crime or other similar charges. IACHR, 2018 Annual Report, [Capítulo IV.B. Informe especial: Nicaragua](#), Chapter IV.B. Special Report: Nicaragua, March 21, 2019.

<sup>87</sup> In 2018, the Commission voiced its concern about the widespread centralization of judicial proceedings brought against demonstrators and government opponents because it allegedly makes it easier to appoint judges with close ties to the Sandinistas to hear the cases. IACHR, 2018 Annual Report, [Capítulo IV.B. Informe especial: Nicaragua](#), Chapter IV.B. Special Report: Nicaragua, March 21, 2019, par. 103.

<sup>88</sup> Unidad de Defensa Jurídica de Nicaragua, Report “Nuevos patrones de represión y violaciones al debido proceso entre el 27 de febrero y el 8 de agosto de 2019, [‘New patterns of repression and due process of law violations between February 27 and August 8, 2019’], August 8, 2019. In IACHR archive.

<sup>89</sup> National Police, [Nota de Prensa No. 8 – 2019](#), [Press Bulletin No. 8-2019], March 16, 2019.

<sup>90</sup> IACHR, [Comunicado de Prensa 220/19 - CIDH denuncia la persistencia de la represión y expresa su preocupación por incremento de hostigamiento contra personas defensoras de derechos humanos y excarceladas en Nicaragua](#), IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison. September 6, 2019.

<sup>91</sup> Unidad de Defensa Jurídica de Nicaragua, Report “Nuevos patrones de represión y violaciones al debido proceso entre el 27 de febrero y el 8 de agosto de 2019, [‘New patterns of repression and due process of law violations between February 27 and August 8, 2019’], August 8, 2019. In IACHR archive.

government opponents. In particular, there continues to be widespread infringement of the statutory 48-hour period to bring detainees before a judicial authority, as established in the Article 33, subsection 2.2 of the Political Constitution of Nicaragua,<sup>92</sup> as well as Article 95, subsection 9 of the country's Code of Criminal Procedure.<sup>93</sup>

62. In this regard, the Commission emphasizes that States are obligated to immediately inform the prisoner, his family members and representatives, about the causes and reasons for the detention and where he is being deprived of his liberty. This duty provides for a mechanism to prevent arbitrary or illegal detention from the very moment of deprivation of liberty and, in turn, ensures the right of defense.<sup>94</sup> Likewise, Article 7 of the Convention requires prompt and effective judicial oversight of arresting agencies in order to protect prisoners' safety.<sup>95</sup>

63. The IACHR has also said that efficient and effective administration of justice is a *sine qua non* requirement to ensure not only the right to due process of law and fair trial rights, but all human rights, because this institutional framework is the State's tool to assert them in practice, and to combat impunity, in the event of violations of these rights.<sup>96</sup>

64. Notwithstanding, complaints continue to be filed on the grounds of total ineffectiveness of motions for writ of *habeas corpus*; widespread use of pretrial detention, involvement of civilians in detentions, irregularities in access to legal defense and failure to open up hearings to the public.<sup>97</sup> In this regard, at the public hearing on "Challenges for the autonomy and independence of the judicial system in Nicaragua," the IACHR took note of the ineffectiveness of the remedy of *amparo* for constitutional relief that was brought to challenge the revocation of the legal status of nine civil society organizations because of the failure of the Constitutional Chamber of the Supreme Court of Justice to respond. Additionally, the IACHR learned of the resignation of Supreme Court Judge Rafael Solís, who decried interference of the executive branch in the decisions of the judiciary and imposition of a "state of terror" to the detriment of the independent conduct of the Justices of the Court.<sup>98</sup>

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<sup>92</sup> "Article 33 No one shall be subjected to arbitrary arrest or imprisonment, or be deprived of his liberty, except for reasons established by law in keeping with a legal proceeding. Consequently: [...] 2. Every detainee has the right: [...] 2.2 to be released or to an order from a competent authority within a period of forty-eight hours following his detention."

<sup>93</sup> "Article 95. Rights. The defendant or accused will have the right to: [...] 9. Be brought before a competent judicial authority within forty-eight hours following the start of his detention [...]."

<sup>94</sup> IACHR, [Informe Anual, Capítulo IV. A "Uso de la Fuerza"](#), Annual Report, Chapter IV.A "Use of Force", 2014, par. 122. Also see IA Court of HR, *Case of Juan Humberto Sánchez v. Honduras*. Judgment of June 7, 2003. Series C No. 99, par. 96.

<sup>95</sup> On this score, the Court has held on several occasions that "the State is the institution responsible for detention establishments, it is the guarantor of these rights of the prisoners." IA Court of HR, *Case of Neira Alegria et al v. Peru*. Judgment of January 19, 1995. Series C No. 20, par. 60; *Case of Cantoral Benavides v. Peru*. Judgment of August 18, 2000. Series C No. 69, par. 87.

<sup>96</sup> IACHR, [Situación de derechos humanos en Honduras](#), Situation of Human Rights in Honduras, OEA/Ser.L/V/II, Doc. 146, August 27, 2019, par. 74; IACHR, [Situación de Derechos Humanos en Honduras](#), Situation of Human Rights in Honduras, OEA/Ser.L./V/II, Doc. 42/15, December 31, 2015, par. 262.

<sup>97</sup> IACHR, 171<sup>st</sup> Regular Session, public hearing "[Situación General de Derechos Humanos en Nicaragua](#)" General Situation of Human Rights in Nicaragua, February 14, 2019; IACHR, 174<sup>th</sup> Regular Session, public hearing "[Desafíos para la autonomía e independencia del sistema judicial en Nicaragua](#)" Challenges for the autonomy and independence of the judicial system in Nicaragua, November 11, 2019; Unidad de Defensa Jurídica de Nicaragua, Report "Nuevos patrones de represión y violaciones al debido proceso entre el 27 de febrero y el 8 de agosto de 2019, [New patterns of repression and due process of law violations between February 27 and August 8, 2019]", August 8, 2019. In IACHR archive.

<sup>98</sup> Nicaragua Investiga, [Nicaragua Investiga reproduce, de manera íntegra, la carta de renuncia de Rafael Solís](#), [Nicaragua Investiga reproduces verbatim the entire resignation letter of Rafael Solís], January 10, 2019; New York Times, [La renuncia de un juez aliado del gobierno de Nicaragua, un golpe para el régimen de Ortega](#), [Nicaraguan Supreme Court Judge Slams His Former Ally, President Ortega], January 12, 2019; Univisión, [Renuncia juez de la Corte Suprema de Nicaragua denunciando un "estado de terror" impuesto por Ortega y Murillo](#), [Nicaraguan Supreme Court Judge Resigns decriing "state of terror" imposed by Ortega and Murillo], January 11, 2019.

65. As for the prosecution of cases in Managua, the IACHR continues to receive reports of irregularities in the electronic system (ORDICE) that randomly assigns cases or brings criminal proceedings in judicial venues other than the jurisdictions where the alleged offenses took place, with the cases of people associated with the protests that began in April 2018, all being brought in the same courts.<sup>99</sup> Likewise, the IACHR was apprised of irregularities appearing in the computerized system of the Central Judicial Complex of Managua, that prevented attorneys from having access to the information about the cases of “political prisoners.”<sup>100</sup>

66. For its part, in its observations on the draft of the present report, the State of Nicaragua noted that the cases brought before the judiciary were processed and settled within the statutory time, even in proceedings that, because of their complex nature, were ordered to be heard; additionally, the right of defense was guaranteed since the first hearing at which the “criminal acts” with which the defendants were charged were made known to them, a defense attorney of their choice was appointed or, when necessary, a public defender was assigned; defendants were guaranteed the right to propose and produce exculpatory evidence of the crimes they were charged with. The State also asserted that charging persons with the crime of terrorism was based on Article 394 of Law No. 641-2001 (Criminal Code of Nicaragua) and not on Law number 977, which went into force in July 2018, inasmuch as “in accordance of the principle of freedom from *ex post facto* laws, it could not be applicable.” Lastly, the Nicaraguan State noted that “none of the persons accused has been taken out the jurisdiction of their natural judge, they have been judged by a competent judge, who was previously established by law with statutorily predetermined territorial jurisdiction.”<sup>101</sup>

67. Based on the information assessed by it, the IACHR regrets the lack of progress in complying with the recommendations it issued following the country visit.<sup>102</sup> The IACHR recalls that the principle of the independence of the judiciary has been recognized as “international custom and general principle of law” and has been enshrined in numerous international treaties. The independence of any body, that performs jurisdictional functions is a condition *sine qua non* for the observance of the standards of due process and the lack of such independence affects exercise of the right of access to justice and creates mistrust and even fear of the courts, which discourages those who would otherwise turn to the courts for justice.<sup>103</sup>

### C. Memory, Truth and Justice

68. In 2019, the Commission received information about the situation of impunity and the lack of actual access to justice for the victims of gross human rights violations committed beginning on April 18, 2018 as a consequence of the deep deterioration of judicial independence in the country and the approval of the Amnesty Law of June 8, 2019.

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<sup>99</sup> Unidad de Defensa Jurídica de Nicaragua, Report “Nuevos patrones de represión y violaciones al debido proceso entre el 27 de febrero y el 8 de agosto de 2019, [‘New patterns of repression and due process of law violations between February 27 and August 8, 2019’], August 8, 2019. In IACHR archive.

<sup>100</sup> IACHR, Press Release No. 172/2019, [CIDH manifiesta su preocupación por la continuación de la represión en Nicaragua](#), IACHR Concerned about Ongoing Repression in Nicaragua. Washington D.C., July 11, 2019.

<sup>101</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pgs. 17-19.

<sup>102</sup> Specifically, the following ones: “1. Immediately cease repressing demonstrators and arbitrarily detaining those who participate in the protests;” “2. Respect and guarantee the full enjoyment of the right to protest, to freedom of expression, to peaceful assembly and to political participation of the people;” IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), Gross Human Rights Violations in the Context of Social Protests in Nicaragua, OEA/Ser.L/V/II, Doc. 86, June 21, 2018. Recommendations 1, 2 and 8.

<sup>103</sup> IACHR, Guarantees for the Independence of Justice Operators: Toward strengthening access to justice and rule of law in the Americas, par. 30.

69. Based on information available to the public, “in response to the violent and destructive acts that began on April 18, 2018” and in order to achieve “stability, assurance of peace, and improvement of economic conditions to achieve the comprehensive development of Nicaraguan families,”<sup>104</sup> the National Assembly published on June 8 this year, an Amnesty Law the text of which grants “broad amnesty to all persons that have participated in the events that took place throughout the national territory as of April 18, 2018 until the date of the entry into force of the instant law.”<sup>105</sup> This law is also applicable to “political crimes and common crimes connected to the political crimes that are classified as criminal offenses in the body of criminal law currently in force in Nicaragua” except for those regulated under international treaties to which Nicaragua is a party.<sup>106</sup>

70. On this score, the State of Nicaragua advised the Commission that the National Assembly “approved Law No. 996, the Amnesty Law as a sovereign act of the Nicaraguan State that enforces the body of law currently in force and international instruments to which Nicaragua is a State party.” Additionally, the State noted that this Amnesty Law “is a contribution to Peace and Reconciliation of the Nicaraguan family.”<sup>107</sup>

71. According to the information received by the Commission, in practice this law posed an obstacle to the investigation of the acts of violence that took place in the country, as well as to the victims’ and their family members’ right of access to justice and to the truth.<sup>108</sup> In fact, even though it paved the way for the release of hundreds of people who had been arbitrarily deprived of liberty, the fact is that, as of the present date, there has been no progress made in investigating the deaths and bodily harm that took place in the context of the protests. On the contrary, information available to the IACHR suggests, by way of example that the person convicted of the murder of Rayneia Gabrielle Da Costa Lima, a Brazilian student, was released under that same law, even though the State argued that her death was not linked to the context of the violent acts and the protests that began on April 18, 2018.<sup>109</sup>

72. The IACHR also received information about the partial conduct of the judiciary in adjudicating the cases of demonstrators and government opponents, who were released under the aforementioned law.<sup>110</sup> Specifically, the cases of the beneficiaries of the law were closed with no final judgment being handed down, thereby making it possible for the cases to be reopened under the “non-repetition” clause set forth in Article 3 of that law. Likewise, the ambiguous language of the law allows for people to be subjected to re-arrest for exercising their political rights, to peacefully assemble, as well as the rights to freedom of association and freedom of expression. This would restrict the guarantees for Nicaraguan society that are enshrined in the American Convention, at a time when the country is experiencing an ongoing suspension of freedoms.<sup>111</sup>

<sup>104</sup> National Assembly, [Ley No. 996 Ley de Amnistía](#), Law No. 996 Amnesty Law, June 8, 2019. Single ‘whereas’ clause.

<sup>105</sup> National Assembly, [Ley No. 996 Ley de Amnistía](#), Law No. 996 Amnesty Law, June 8, 2019. Article 1.

<sup>106</sup> National Assembly, [Ley No. 996 Ley de Amnistía](#), Law No. 996 Amnesty Law, June 8, 2019. Article 2

<sup>107</sup> Communication from the State of Nicaragua. Note MPN-OEA/0093. Observations of the State of Nicaragua on the Draft Report of the IACHR on Migration of Nicaraguans to Costa Rica, July 29, 2019, pgs. 11 and 12.

<sup>108</sup> Annex to request for thematic hearing on “Impunity and criminalization: conduct of the justice system in response to the crisis in Nicaragua” submitted by different civil society organizations in the context of the 174<sup>th</sup> Session of the IACHR. In IACHR archive; IACHR, 174<sup>th</sup> Regular Session, public hearing “[Ley de Amnistía](#)” “Amnesty Law,” November 11, 2019.

<sup>109</sup> IACHR, Press Release No. 172/2019, [CIDH manifiesta su preocupación por la continuación de la represión en Nicaragua](#), IACHR Concerned about Ongoing Repression in Nicaragua. Washington D.C., July 11, 2019; According to the National Police, a private security guard allegedly fired shots and caused the death of the student. National Police, [Nota de Prensa no. 91-2018](#), Press Bulletin No. 91-2018, July 24, 2018.

<sup>110</sup> IACHR, 174<sup>th</sup> Regular Session, public hearing “[Ley de Amnistía](#)”, ‘Amnesty Law, November 11, 2019.

<sup>111</sup> IACHR, Press Release No. 145/19, [CIDH manifiesta preocupación por aprobación de Ley de Amnistía en Nicaragua](#), IACHR Expresses Concern Over the Passing of the Amnesty Law in Nicaragua. Washington, D.C., June 12, 2019

73. In addition, the IACHR was advised of the discretionary power wielded over anyone identified as a “political prisoner” in enforcing the Amnesty Law, inasmuch as not everyone, who it was agreed upon at the negotiation talks were supposed to benefit from the law, actually did.<sup>112</sup> Moreover, at no time was any order issued for the return of property confiscated from the people or for the return of their seized identification documents.<sup>113</sup>

74. Consequently, as the IACHR was told, “the constant political persecution and harassment that they endured, as well as the uncertainty and legal limbo their court cases were in, has led to a kind of Civil Death for the men and women, who were released from prison, and their family members; in practice it represents the denial of all their civil rights.”<sup>114</sup> According to testimonies and information received by the IACHR, the people released from prison are victims of ongoing surveillance by police agents and civilian motorcyclists, and continual interrogation of their next of kin and neighbors. This surveillance continues to be conducted in the vicinity of their homes until the early hours of the morning. Likewise, they are victims of threats and smear campaigns on social networks singling them out as “coup plotters.”<sup>115</sup> This situation has triggered a mass displacement both inside and out of the country. Some of the people released from prison have had to move repeatedly to safe houses or have decided to leave the country altogether for their own safety.<sup>116</sup>

75. According to the consistent legal precedents of the Court, the obligation to investigate, determine who is responsible for gross human rights violations and punish them, whether perpetrated by agents of the State or persons acting with the acquiescence and/or tolerance thereof, is inalienable.<sup>117</sup> In this same vein, the IA Court of HR has held as inadmissible amnesty laws, statutes of limitation and grounds for exemption from responsibility, that are intended to shield anyone from criminal prosecution, as well as any obstacle of domestic law aimed at hampering the investigation or punishment of those responsible for gross human rights violations, inasmuch as such provisions of law contravene non-derogable rights recognized by international human rights law.<sup>118</sup>

76. For its part, the Commission has also held that in cases of crimes against humanity, and/or human rights violations, such as forced disappearances, rapes, torture, inhuman acts meant to kill or cause serious harm to physical and mental integrity, that are not subject to statutory limitations, States have the heightened duty to investigate and get to the bottom of the facts.<sup>119</sup> In the specific case of Nicaragua, the GIEI

<sup>112</sup> IACHR, Press Release No. 172/2019, [CIDH manifiesta su preocupación por la continuación de la represión en Nicaragua](#), IACHR Concerned about Ongoing Repression in Nicaragua. Washington D.C., July 11, 2019.

<sup>113</sup> IACHR, 174<sup>th</sup> Regular Session, public hearing “[Ley de Amnistía](#)” Amnesty Law, November 11, 2019.

<sup>114</sup> Monitoreo “Azul y Blanco” [Blue and White Monitoring]. In Nicaragua nothing is normal. Civilian Death: Situation of persons released from prison by the Ortega Murillo regime, August 2019 (in IACHR archive).

<sup>115</sup> IACHR, Press Release No. 220/19 [Comunicado de Prensa 220/19 - CIDH denuncia la persistencia de la represión y expresa su preocupación por incremento de hostigamiento contra personas defensoras de derechos humanos y excarceladas en Nicaragua](#), IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison. September 6, 2019; IACHR, Press Release 194/19 [Comunicado de Prensa 194/19 - CIDH expresa su preocupación ante el anuncio del Estado de Nicaragua de no continuar con el diálogo y llama al Estado a cumplir con sus obligaciones de garantía y respeto de los derechos humanos](#), IACHR Expresses Concern over Nicaragua’s Announcement That It Will Not Continue Dialogue and Calls on the State to Comply with Its Obligations to Guarantee and Respect Human Rights, August 6, 2019.

<sup>116</sup> IACHR, 174<sup>th</sup> Regular Session, public hearing “[Ley de Amnistía](#)” Amnesty Law, November 11, 2019.

<sup>117</sup> IACHR, [Derecho a la Verdad](#), Right to the Truth, OEA/Ser.L/V/II.152 Doc. 2, August 13, 2019, par. 90. IACHR, Press Release No. 145/19, [CIDH manifiesta preocupación por aprobación de Ley de Amnistía en Nicaragua](#), IACHR Expresses Concern Over the Passing of the Amnesty Law in Nicaragua. Washington, D.C., June 12, 2019.

<sup>118</sup> IA Court of HR. Case of Gelman v. Uruguay. Merits and Reparations. Judgment of February 24, 2011; Case of Almonacid Arellano et al v. Chile. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 26, 2006, par. 120; Case of Gomes Lund et al (Guerrilha do Araguaia) v. Brazil. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 24, 2010, par. 175.

<sup>119</sup> IACHR, [Derecho a la Verdad](#), OEA/Ser.L/V/II.152 Doc. 2, Right to the Truth, OEA/Ser.L/V/II.152 Doc. 2, August 13, 2019, par. 76.

reached the conclusion that there had been conduct in the context of the widespread and systematic attack on the civilian population that, in accordance with international law, reaches the threshold of crimes against humanity, such as murder, incarceration or other deprivation of physical liberty, persecution, rape and torture.<sup>120</sup>

77. Based on the foregoing, the Inter-American Commission calls on the judiciary to fully exercise its autonomy and independence in adjudicating the criminal proceedings that are before it, as well as actions challenging the constitutionality of the Amnesty Law, under the highest international and Inter-American human rights standards. Likewise, the IACHR calls on the Nicaraguan State to immediately cease all forms of repression against the individuals released from prison, as well as ensure full restoration of their human rights.

78. Likewise, over the reporting period of this report, the IACHR has also become aware of enactment of provisions of law that are incompatible with international standards on the subject of truth, justice and reparation. According to the Office of the United Nations Office of the High Commissioner for Human Rights, none of the unilateral measures undertaken by the government has been designed for the purpose of establishing accountability “which, coupled with the lack of independence in the administration of justice, entrenches impunity for human rights violations.”<sup>121</sup>

79. Along these same lines, on January 24, 2019, the IACHR voiced its concern over the approval of the “Law for a Culture of Dialogue, Reconciliation, Security, Labor and Peace in Nicaragua.”<sup>122</sup> The IACHR noted that this law fails to provide for truth clarification processes about human rights violations, their causes, and consequences; diligent and impartial criminal proceedings that allow for identification, prosecution and, where appropriate, punishment of those responsible for said violations; comprehensive reparation programs, and guarantees of non-repetition, including, among other measures, institutional reforms that address the serious institutional deterioration that has enabled the widespread and systematic attack on the civilian population, that has taken place in the country.<sup>123</sup>

80. In the framework of the implementation of this law, as of the present date, nearly 10,000 Reconciliation, Justice and Peace Commissions have been created throughout the country. As was reported by the Nicaraguan State, these Commissions “are increasing day-by-day throughout the national territory and also increasing in the number of members committed to being instruments of peace, love and harmony.”<sup>124</sup> Based on the information received by the IACHR, governance of these commissions allegedly excludes most of the victims of the violent acts that took place in the country starting on April 18, 2018.<sup>125</sup> On this score, the IACHR recalls that “a relationship of confidence between victims and the State based on smooth information sharing

<sup>120</sup> GIEI, [Informe final sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo de 2018](#), Final Report on the Violent Events that Took Place in Nicaragua between April 18 and May 30, 2018, December 21, 2018, pgs. 231 et seq.

<sup>121</sup> Human Rights Council, Situation of Human Rights in Nicaragua, Report of the United Nations High Commissioner, A/HRC/42/18, September 3, 2019, par. 53.

<sup>122</sup> National Assembly, Ley no. 985 [Ley para una Cultura de Diálogo, Reconciliación, Seguridad, Trabajo y Paz en Nicaragua](#), Law for a Culture of Dialogue, Reconciliation, Security, Labor and Peace in Nicaragua, Approved on January 24, 2019.

<sup>123</sup> IACHR, Press Release No. 21/19 - [CIDH considera la Ley sobre Diálogo, Reconciliación y Paz en Nicaragua incompatible con los estándares internacionales en materia de verdad, justicia y reparación](#), IACHR Considers that the Law on Dialogue, Reconciliation and Peace in Nicaragua is Incompatible with International Standards Regarding Truth, Justice and Reparation. Washington, D.C., February 1, 2019.

<sup>124</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, par. 35.

<sup>125</sup> Through MESENI, the IACHR has kept in touch on an ongoing basis with the organizations of victims of the State repression and notes that they have been systematically excluded from the process of implementation of these policies. IACHR, Press Release No. 297/19, [CIDH condena la persecución a las víctimas de la represión en Nicaragua y llama al Estado a evitar la revictimización y a promover la verdad, la justicia, la reparación y medidas de no repetición](#), IACHR Condemns Persecution of Victims and Repression in Nicaragua and Calls on the State to Avoid Revictimization and to Promote the Truth, Justice and Reparation and Measures of Non-Repetition. Washington, D.C., November 19, 2019.

through transparent and respectful dialogue is fundamental to ensure access to the right to the truth and to justice and, when appropriate, the right to reparation.”<sup>126</sup>

81. Furthermore, on May 29, 2019, the National Assembly announced approval of the Law to implement the Victims’ Comprehensive Care Plan, which only consists of five articles setting forth a general policy of access to education, housing, labor, health and recreation services. On this subject, the IACHR considers that it does not ensure the right to comprehensive reparation pursuant to international human rights law and it does not provide for any measure to ensure victims’ and their family members’ right to have access to justice.<sup>127</sup> Moreover, the IACHR regretted that the approved law expressly cites in its “whereas” clauses the “failed attempted coup d’état,”<sup>128</sup> inasmuch as it restates a narrative that stigmatizes, re-victimizes and smears the victims themselves of the State’s crack down on the protests and their next of kin.

82. In its observations on the draft of the present report, the Nicaraguan State provided information about the “intense actions” taken by the Office of the Ombudsman for the Defense of Human Rights (Procuraduría para la Defensa de Derechos Humanos) in keeping with the Law of Comprehensive Victim Assistance. According to this information, in the first phase of the Comprehensive Victims’ Plan (June-August 2019), “768 families, who were victims of the violent acts occurring as of the time of the failed attempted coup d’état, were visited, 510 persons were assisted at their homes and 133 were referred to health care units, where specialized care was provided. There were 67 victims with disabilities identified, who were admitted to the program ‘Todos con Voz’ to ensure their physical rehabilitation and support them with [disability] aids.” As part of the second phase (September-November 2019), through the Todos con Voz Program, MINSA (the Ministry of Health) provided specialized care to 577 family members of deceased and injured persons, as well as follow-up, medical and psychological care, delivery of medications and regular replenishment materials, special examinations, surgery, among other things. “In the Second phase, a total of 48 pending visits to injured persons and their family members were conducted. The MIFAN provided psychological care, early stimulation and play therapy to 277 orphan children and adolescents.”<sup>129</sup>

83. According to publicly known information, the State of Nicaragua has announced that, as result of these actions, the current reality of the country is of “Restoration of the population’s rights, peace, stability, security, reactivation of the economy, and functioning of the State [that is] compatible with domestic law and international law.”<sup>130</sup>

84. The IACHR recognizes that while States have the right and duty to develop policies and implement programs aimed at achieving their people’s reconciliation, when these frameworks are devised,

<sup>126</sup> IACHR, [Derecho a la Verdad](#), Right to the Truth, OEA/Ser.L/V/II.152 Doc. 2, August 13, 2019; IACHR, [Informe del Mecanismo Especial de Seguimiento al Asunto Ayotzinapa](#) Report of the Special Follow-Up Mechanism to the Ayotzinapa Case, OEA/Ser.L/V/II., Doc. 156, November 25, 2018, par. 34.

<sup>127</sup> IACHR, Press Release No. 137/19 - [CIDH y OACNUDH expresan su preocupación por la aprobación de la Ley de Atención Integral a Víctimas en Nicaragua](#). IACHR and OHCHR Express Concern Over the Passing of the Comprehensive Care for Victims Act in Nicaragua, Washington, D.C. / Panama City, Panama, June 3, 2019

<sup>128</sup> Citing whereas clauses I and III, “in 2018, Nicaragua was a victim of a failed coup d’état that caused serious human and material damages National Assembly;” III. “That the National Government of Reconciliation and Unity expresses its willingness to address the damages and aftermath inflicted on Nicaraguans by the failed coup d’état,” [Ley No. 994, Ley de Atención Integral a Víctimas](#), Law No. 944, Law for the Comprehensive Care for Victims, approved by the General Assembly on May 29, 2019.

<sup>129</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pars. 37 et seq.

<sup>130</sup> [Observaciones al informe de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos sobre Nicaragua](#), Observations on the Report of the United Nations High Commissioner for Human Rights on Nicaragua, Verbal Note dated September 2, 2019, addressed to the Office of the High Commissioner for Human Rights through the Permanent Mission of Nicaragua to the Office of the United Nations in Geneva; A/HRC/42/G/2, September 4, 2019, par. 5.

certain international obligations must be observed, particularly in the area of truth, justice and reparation.<sup>131</sup> In this same vein, the legal precedents of the Inter-American system have established that victims of human rights violations are entitled to adequate compensation for the harm caused to them, which should materialize in the form of individual measures calculated to constitute restitution, compensation and rehabilitation for the victim, as well as general measures of satisfaction and guarantees of non-repetition.<sup>132</sup>

85. In addition to the foregoing, the IACHR recalls that the right to the truth is another form of reparation in cases of human rights violations.<sup>133</sup> In fact, “acknowledgement of the victims is important, because it constitutes a form of recognizing the significance and value of persons as individuals, as victims and as holders of rights. Furthermore, knowledge of the circumstances of manner, time and place, motives and the identification of the perpetrators are fundamental to making full reparations to victims of human rights violations.”<sup>134</sup>

86. The Commission has established as legal precedents that the right that all persons and society have to know the full, complete, and public truth as to the events that have transpired, their specific circumstances, and who participated in them, is part of the right to reparation for human rights violations, with respect to satisfaction and guarantees of non-repetition. The right of a society to have full knowledge of its past is not only a mode of reparation and clarification of what has happened, but is also aimed at preventing future violations.<sup>135</sup>

87. Based on the foregoing, the Commission deems it indispensable to guarantee the rights to the truth, justice and to full reparation from a point of view that recognizes the events that took place, the victims of the human rights violations in the country and their next of kin, particularly, the 328 people who were murdered in the context of the human rights crisis. This would fulfill the State’s obligations as enshrined in the American Convention and, additionally, would substantially contribute to reconstructing the rule of law in Nicaragua. In this context, the IACHR especially commends the effort put forth by the Association of the Mothers of April (AMA) of Nicaragua for the construction and unveiling in 2019 of the “Museum of Memory against Impunity,” whose main purpose is to contribute to the dignification of the victims as of April 2018 and to honor their memory.<sup>136</sup>

88. Lastly, the IACHR renews its appeal to the State to comprehensively reform State institutions to guarantee non-repetition of human rights violations; as well as to establish the mechanisms necessary to keep the violent acts that took place from going unpunished.<sup>137</sup> As was previously noted by the GIEI-Nicaragua,

<sup>131</sup> IACHR, [Derecho a la Verdad](#), Right to the Truth, OEA/Ser.L/V/II.152 Doc. 2, August 13, 2019, par. 83; Press Release No. 150/12, [Amnistía y Violaciones a los Derechos Humanos](#), Amnesty and Human Rights Violations, December 26, 2012.

<sup>132</sup> IACHR, [Derecho a la Verdad](#), Right to the Truth, OEA/Ser.L/V/II.152 Doc. 2, August 13, 2019, par. 83; Press Release No. 150/12, [Amnistía y Violaciones a los Derechos Humanos](#), Amnesty and Human Rights Violations, December 26, 2012, par. 123. See, *inter alia*, IACHR, Principal Guidelines for a Comprehensive Reparation Policy, OEA/Ser.L/V/II.131, Doc. 1, February 19, 2008; IA Court of HR, Case of Myrna Mack Chang v. Guatemala. Judgment of November 25, 2003. Series C No. 101, pars. 236-237;

<sup>133</sup> IACHR, [Derecho a la Verdad](#), Right to the Truth, OEA/Ser.L/V/II.152 Doc. 2, August 13, 2019, par. 124; See *inter alia*, IACHR, Report No. 136/99, Case 10.488, Ignacio Ellacuría, S.J.; Segundo Montes, S.J.; Armando López, S.J.; Ignacio Martín Baró, S.J.; Joaquín López y López, S.J.; Juan Ramón Moreno, S.J.; Julia Elba Ramos; and Celina Mariceth Ramos, El Salvador, December 22, 1999, par. 224.

<sup>134</sup> IACHR, [Derecho a la Verdad](#), Right to the Truth, OEA/Ser.L/V/II.152 Doc. 2, August 13, 2019, par. 124.

<sup>135</sup> IACHR, [Derecho a la Verdad](#), Right to the Truth, OEA/Ser.L/V/II.152 Doc. 2, August 13, 2019, par. 124. See, *inter alia*, IACHR, Report No. 37/00, Case 11.481, Monseñor Oscar Arnulfo Romero y Galdámez, El Salvador, April 13, 2000, par. 148.

<sup>136</sup> LOVE and Do Not Forget, Museum of Memory against Impunity, 2019. Available at: <http://www.museodelamemorianicaragua.org/sobre-el-museo/>

<sup>137</sup> IACHR, 2018 Annual Report, [Capítulo IV.B. Informe especial: Nicaragua](#), Chapter IV.B Special Report: Nicaragua, March 21, 2019, par. 238; IACHR, Press Release No. 6/19, [CIDH denuncia el debilitamiento del Estado de Derecho ante las graves violaciones de derechos humanos y crímenes contra la humanidad en Nicaragua](#), IACHR denounces the weakening of the rule of law in the face of serious human rights violations and crimes against humanity in Nicaragua, Washington, D.C., January 10, 2019; IACHR, Press Release No. 194/19, [CIDH expresa su preocupación ante el anuncio del Estado de Nicaragua de no continuar con el diálogo y llama al Estado a cumplir con sus](#)



this reform needs to be implemented in order to make good on the commitment to bring about change and guarantee non-repetition of violations, “seeking to banish violence as a means to resolve the conflicts and establish a new inclusive social compact to truly make the State an expression of all Nicaraguans.”<sup>138</sup>

### III. SITUATION OF FREEDOM OF EXPRESSION

89. Over 2019, the government of Nicaragua consistently engaged in a systematic pattern of repressive measures and actions to restrict the exercise of protest, freedom of the press, to hamper the practice of independent journalism in the country and the work of human rights defenders. In that context, the country’s top journalists went into and remained in exile, the government continues to control the major private media outlets after seizing them, as well as to favor the duopoly that controls the largest share of television and radio slots in Nicaragua. In addition, it engages in a discriminatory practice of awarding government advertising exclusively to government media outlets and those owned by the Ortega family. Furthermore, harassment and surveillance of journalists, as well as other forms of aggression such as pressuring, hounding and intimidating, are consistently reported.

90. Additionally, the IACHR and its Office of the Special Rapporteur for Freedom of Expression note that even though the executive branch has pledged to guarantee the importation and delivery of newsprint, machinery, equipment and parts for print, radio and television media outlets, thus far, it has not lived up to this commitment and much of the newsprint for daily newspapers *LA PRENSA*, *Hoy*, *El Nuevo Diario* and *Metro* continue to be withheld by the General Customs Services Office (DGA). According to reports, because of this, in September the newspapers *Metro* and *El Nuevo Diario*, as well as the print edition of the satirical weekly supplement *El Azote*, announced that they were shutting down. Also, the equipment and facilities of *Confidencial*, *Niú*, *Esta Semana* and *Esta Noche*, y de *100% Noticias* continue to be held under government confiscation.

91. Likewise, the IACHR and its Special Rapporteurship are extremely concerned about the situation of impunity for serious crimes perpetrated against journalists and the media in the context of the social protests that were carried out in Nicaragua in 2018. According to reports, as a result of implementation of the Amnesty Law, which was approved in June 2019, investigations relating to these crimes have allegedly been closed. Thus, for example, it was reported that the investigations into the arson of *Radio Darío*, as well as into the murder of journalist Ángel Gahona, were closed. Lastly, on June 11, journalists Lucía Pineda and Miguel Mora<sup>139</sup> were released under the Amnesty Law, after being held in custody for almost 6 months on charges of the alleged crimes of terrorism and incitement to hatred. According to available information, the charge against him is still in force even though the criminal trial proceeding was suspended.

92. In its observations on the draft of the present report, the Nicaraguan State noted that freedom of expression in the country “manifests itself in the existence of numerous print, oral, digital and television media outlets, many of which are critical of the Government. These outlets go about their business without prior censorship, or restriction. Likewise, Nicaraguans in general and the media in particular, express ideas positions and disseminate information in keeping with their own interests, through social networks.” The State also asserted that “no journalist has been detained, prosecuted or expelled for exercising his or her right to

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[obligaciones de garantía y respeto de los derechos humanos](#), IACHR Expresses Concern over Nicaragua’s Announcement That It Will Not Continue Dialogue and Calls on the State to Comply with Its Obligations to Guarantee and Respect Human Rights, Washington D.C., August 6, 2019.

<sup>138</sup> GIEI, [Informe final sobre los hechos de violencia ocurridos entre el 18 de abril y el 30 de mayo de 2018](#), Final Report on the Violent Events that Took Place in Nicaragua Between April 18 and May 30, 2018, pgs. 228 and 229.

<sup>139</sup> [Lucía Pineda](#) y [Miguel Mora Barberena](#) are beneficiaries of precautionary measures granted by the IACHR (MC 873-18). Likewise, they are beneficiaries of provisional measures from the Inter-American Court of Human Rights ([Asunto de diecisiete personas privadas de libertad respecto de Nicaragua](#)) [‘Matter of seventeen persons deprived of liberty regarding Nicaragua].

report. In any case, if anyone has had to account to justice, it has been for committing criminal conduct established as offenses in the Criminal Code.”<sup>140</sup>

## A. Political Control and Improper Interference in the Media

93. The Office of the Special Rapporteur has repeatedly underscored in its Annual Reports, as well as in the 2018 Report “Gross Human Rights Violations in the Context of Social Protests in Nicaragua,” the existence of a duopoly among television and radio media outlets in Nicaragua. Based on available information, most of the audiovisual media is under the political control of the President’s family or of a businessman with close ties to the government;<sup>141</sup> and consequently, these media outlets are biased or their journalists face obstacles in going about their jobs independently. Furthermore, these State media outlets are also allegedly part of the government propaganda machinery.

94. Moreover, the Special Rapporteurships notes that since December 2018, the equipment and facilities of *Confidencial*, *Niú*, *Esta Semana* and *Esta Noche* and of *100% Noticias* continue to be held under State confiscation, even though in March 2018, in the framework of the National Dialogue, the government had undertaken to “review the decisions adopted by the State in relation to the property appropriated in the context of the events that occurred as of April 18, 2018, in order to be able to return this property when appropriate to do so, in accordance with the Constitution and the law.”<sup>142</sup>

95. According to reports, in relation to *Confidencial*, *Niú*, *Esta Semana* and *Esta Noche*, the available administrative and legal appeals were filed to compel return of the property appropriated<sup>143</sup> by the State and for compensation for non-pecuniary and pecuniary damages caused thereby.<sup>144</sup> Notwithstanding, as of December 14, 2018, the national police continues to occupy the newsroom. Likewise, the complaint filed with the Public Prosecutor’s Office regarding these acts did not give rise to any investigation and appeals for constitutional relief via *amparo*, which were brought before the Supreme Court and the Court of Appeals of Managua, were not ruled upon.<sup>145</sup> On this score, in a communication of September 20, the State noted, among other things, that the *amparo* claims moved to the phase of consideration and resolution, and currently were pending a ruling from the Supreme Court of Justice.<sup>146</sup>

<sup>140</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pgs. 48 and 49.

<sup>141</sup> Committee to Protect Journalists (CPJ). August 5, 2019. [Nicaragua: una campaña represiva en cuatro partes](#) [‘Nicaragua: a four-part campaign of repression’]; Inter-American Press Association (IAP). [Informe ante la 75 Asamblea General de la SIP – del 4 al 7 de octubre de 2019](#). [Report to the 75<sup>th</sup> General Assembly of the IAP October 4-7, 2019]. October 3, 2019.

<sup>142</sup> Hoy. March 30, 2019. [Firman acuerdo para que Ortega respete los derechos y garantías de los nicaragüenses](#) [‘Agreement signed so Ortega respects the rights and guarantees of Nicaraguans’]; AP News. March 29, 2019. [Nicaragua: Gobierno y oposición firman acuerdo sobre presos](#) [‘Nicaragua: Government and opposition sign agreement on prisoners’]; La Prensa. September 9, 2019. [Periodistas independientes demandan al régimen orteguista que restituya las libertades públicas](#) [‘Independent journalists demand Ortega regime to restore civil liberties’]; El Nuevo Diario. August 8, 2019. [Cosep y Amcham exigen devolución de bienes de Confidencial y 100% Noticias](#) [‘Cosep and Amcham demand return of the property of Confidencial and 100% Noticias’].

<sup>143</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. December 14, 2018. [Comunicado de Prensa No. R267/18. Expertos en libertad de expresión de la ONU y del Sistema Interamericano condenan ataques y amenazas a periodistas y medios de comunicación en Nicaragua](#) Press Release R267/18 Experts on freedom of expression of the UN and the Inter-American System condemn attacks and threats against journalists and the media in Nicaragua.

<sup>144</sup> Confidencial. June 13, 2019. [Confidencial: seis meses bajo asalto y confiscación](#) [‘Confidencial: six months of siege and seizure’].

<sup>145</sup> CNN en español. August 8, 2019. [Empresarios denuncian violación a la libertad de expresión y el derecho de empresa en Nicaragua](#) [‘Businessmen speak out against violation of freedom of expression and the right of business in Nicaragua’]; Voa Noticias. August 8, 2019. [Proprietarios de medios confiscados en Nicaragua piden su devolución](#) [‘Owners of seized media outlets in Nicaragua call for their return’].

<sup>146</sup> Communication of the State of Nicaragua dated September 20, 2019. Available for viewing at: Archive of the Special Rapporteurship for Freedom of Expression; Despacho 505. October 4, 2019. [Régimen no devolverá 100% Noticias y Confidencial queda en manos de la Corte](#) [‘Regime will not return 100% Noticias and Confidencial remains in the Court receivership’]

96. According to Carlos Fernando Chamorro, owner and editor in chief of these media outlets, the official story given about these events is a document dated February 19, that was signed by the Director General of the Police and was submitted to the Appellate Court. On this occasion, said Director General had noted that in “storming and occupying *Esta Semana* and *Confidencial*” he was fulfilling the orders of the Ministry of Government to take over the property and assets of the NGO Centro de Investigación de la Comunicación (Cinco), whose legal status as an entity had been revoked by the National Assembly on December 12, 2018 and of which the journalist is a member of the Board of Directors. Regarding the foregoing, Chamorro contended that “the aggression of the State against Promedia [the company producing *Esta Semana* and *Esta Noche*], Invermedia [producer of *Confidencial*] and Cabal [an environmental services consulting company], cannot be justified under the arbitrary revocation of the status of said NGO, because there exists no relationship linking both institutions.”<sup>147</sup>

97. In addition, with respect to the media outlet *100% Noticias*, according to publicly known information, its facilities were raided by the police on December 21, 2018, and its editor in chief Miguel Mora, and the chief of press Lucia Pineda, were arrested for alleged crimes of terrorism and incitement to hatred, which was never proven.<sup>148</sup> Even though the two journalists were released on June 11, along with 55 demonstrators under the Amnesty Law, the premises of the channel continue to be closed as of the present date and the charges against them are still in effect, despite the fact that the criminal trial proceedings were suspended.<sup>149</sup>

98. According to reports, appeals were filed in this case with the Supreme Court of Justice and the Appellate Court of Managua.<sup>150</sup> Regarding *Canal 100% Noticias*, in a communication of September 20, the Nicaraguan State claimed that the occupation thereof had been carried out in the context of a criminal investigation and in accordance with the law. It further asserted that “the scope of the Amnesty Law and its general effects encompass closing cases, immediate release and expungement of all criminal records, but not the return of the property or instruments with which the crime was carried out.”<sup>151</sup>

## B. Violence against and Attacks on Journalists and Media Outlets

99. According to information received by the IACHR and its Special Rapporteurship, ongoing harassment, hounding, intimidation and surveillance of journalists was reported in Nicaragua. Based on

<sup>147</sup> *Confidencial*. June 13, 2019. [Confidencial: seis meses bajo asalto y confiscación](#) [‘Confidencia: six months under siege and seizure’]; *El Nuevo Diario*. August 8, 2019. [Cosep y Amcham exigen devolución de bienes de Confidencial y 100% Noticias](#) [‘Cosep and Amcham demand return the property of Confidencial and 100% Noticias’].

<sup>148</sup> Univisión. December 22, 2018. [Urgente, hay paramilitares dentro del canal: allanan una televisora en Nicaragua y acusan a su director de incitar al terrorismo](#) [‘Urgent, there are paramilitary-men inside the channel:’ television station in Nicaragua raided and owner charged with inciting terrorism’]; *La Prensa*. April 4, 2019. [Miguel Mora y Lucía Pineda entre los diez casos más emblemáticos en el mundo de reporteros que están encarcelados](#) [‘Miguel Mora and Lucia Pineda among the ten most emblematic cases in the world of incarcerated reporters’]; *Voa Noticias*. January 30, 2019. [Periodistas nicaragüenses enviados a juicio por “terroristas”](#) [‘Nicaraguan journalists brought to trial as “terrorists”’].

<sup>149</sup> *El Nuevo Diario*. August 8, 2019. [Cosep y Amcham exigen devolución de bienes de Confidencial y 100% Noticias](#) [‘Cosep and Amcham demand return the property of Confidencial and 100% Noticias’]. High Council of Private Enterprise (Consejo Superior de la Empresa Privada) (COSEP). August 23, 2019. [COSEP y AmCham exigen devolución de 100% Noticias y Confidencial](#) [‘Cosep and Amcham demand return the property of Confidencial and 100% Noticias’].

<sup>150</sup> *La Prensa*. September 9, 2019. [Periodistas independientes demandan al régimen orteguista que restituyan las libertades públicas](#) [‘Independent journalists demand Ortega regime restore civil liberties’]; Knight Center for Journalism in the Americas. September 10, 2019. [Periodistas independientes en Nicaragua exigen libertad de prensa, incluido la entrega de redacciones y de insumos de imprenta](#) [‘Independent journalists in Nicaragua demand freedom of the press, including return of newsrooms and delivery of printing materials’].

<sup>151</sup> Communication of the State of Nicaragua dated September 20, 2019. Available for viewing at: Archive of the Special Rapporteurship for Freedom of Expression; Despacho 505. October 4, 2019. [Régimen no devolverá 100% Noticias y Confidencial queda en manos de la Corte](#) [‘Regime will not return 100% Noticias and Confidencial remains in the hands of the Court’].

accounts given by the Violeta Barrios de Chamorro Foundation, from April 2018 to April 2019, a total of 1,080 cases of violations of freedom of the press were identified; and as of July 30, at least 90 Nicaraguan journalists have been forced into exile as a result of the government's pressure on them.<sup>152</sup>

100. Additionally, in August, this Special Rapporteurship, in conjunction with UN Special Rapporteurs, expressed their concern about retaliation against the staff of *Radio Darío*, as well as repression against other communications workers in Nicaragua. They further noted that there are signs of systematic and ongoing repression of the media, by silencing, assaulting and threatening to kill journalists; as well as underscoring that in an unstable context, such as that of Nicaragua, the work of the media is of paramount importance in strengthening civic space.<sup>153</sup> This Office takes note that, in a communication dated September 17, the State of Nicaragua wrote, among other things, that it rejected the accusations or claims of threats, harassment and pressuring against the workers of Radio Darío, as well as the allegations regarding raids on the facilities or the new premises where this radio station operates.<sup>154</sup>

101. Furthermore, the Special Rapporteurship notes that, according to widely known information, because of the government policy of persecution of the independent media in the country, one television channel reportedly closed down, several television programs went off the air, and at least two stations have repeatedly been harmed.<sup>155</sup> Accounts are provided hereunder of some of the cases reported over the year.

102. According to available information, in March, David Quintana, editor in chief and journalist of the digital portal *Boletín Ecológico*, allegedly was the victim of police harassment as a consequence of his work as a journalist.<sup>156</sup> Similarly, Sergio León, editor in chief of *La Costeñísima*, was allegedly the target of intimidation and harassment by police agents in the vicinity of the radio station on March 1 and April 18.<sup>157</sup> Additionally, in March, Marlon Powell Sánchez, a journalist who had a radio program called “El dedo en la llaga” [‘The finger in the wound’], was reportedly detained and beaten during his detention. Powell Sánchez was

<sup>152</sup> Violeta Barrios de Chamorro Foundation. August 30, 2019. [FVBCH, IFEX-ALC y SIP presentan ante el Comité de Derechos Humanos de la ONU Informe Alternativo sobre el estado de la Libertad de Expresión en Nicaragua](#) [‘FVBCH, IFEX-ALC and IAF submit to the UN Human Rights Committee Alternative Report on the status of Freedom of Expression in Nicaragua’] Inter-American Press Association (IAPA). [Informe ante la 75 Asamblea General de la SIP – del 4 al 7 de octubre de 2019](#) [‘Report to the 75<sup>th</sup> IAPA General Assembly October 4 to 7, 2019’]. October 3, 2019; Confidential. August 22, 2019. [Las voces que vencen la censura desde Costa Rica](#) [‘The voices from Costa Rica that override censorship’].

<sup>153</sup> IACHR. Office of the Special Rapporteur for Freedom of Expression. [Comunicado de Prensa No. R212/19. Nicaragua: Debe poner fin a las represalias contra los periodistas, dicen expertos en derechos humanos](#) Press Release No. R212/19. Nicaragua: Must stop reprisals against journalists, say human rights experts.

<sup>154</sup> Communication dated October 17, 2019, sent by the State of Nicaragua to the Office of the Special Rapporteur for Freedom of Expression. Available for viewing at: Archive of the Special Rapporteurship for Freedom of Expression.

<sup>155</sup> France 24. September 28, 2019. [Nicaragua: Dejan de circular dos periódicos y un medio digital y acusan al Gobierno de Daniel Ortega](#) [‘Nicaragua: daily newspapers and a digital media outlet stop circulating and accuse government of Daniel Ortega’]; Confidential. September 28, 2019. [Cierre total de El Nuevo Diario y Metro: “Nos tomó por sorpresa”](#) [‘Total closure of El Nuevo Diario and Metro: “It blindsided us”’]; La Prensa/EFE. September 27, 2019. [El Nuevo Diario, Metro y Maje dejan de circular por crisis en Nicaragua](#) [‘El Nuevo Diario, Metro and Maje stop circulating due to crisis in Nicaragua’].

<sup>156</sup> Channel 10. March 25, 2019. [Asedio y persecución contra periodista David Quintana](#) [‘Harassment and persecution of journalist David Quintana’]; El Nuevo Diario. March 26, 2019. [Periodista Quintana teme ser encarcelado](#) [‘Journalist Quintana fears being incarcerated’].

<sup>157</sup> Confidential. April 20, 2019. [Policía persiste en asedio al periodista Sergio León, de Bluefields](#) [‘Police continue to harass journalist Sergio Leon, of Bluefields’]; Diario Las Américas. April 19, 2019. [Denuncian retención de periodista y asedio a emisora de radio en Nicaragua](#) [‘Holding of journalist and harassment of radio station in Nicaragua decried’]; El Salvador. April 19, 2019. [Denuncian retención de periodista y asedio a emisora en Caribe de Nicaragua](#) [‘Holding of journalist and harassment of broadcast station in Caribbean of Nicaragua denounced’]; Canal 10. April 19, 2019. [Director de radio La Costeñísima denuncia asedio por parte de la policía](#) [‘Owner of radio station La Costeñísima decries harassment by police’]; Confidential. March 1, 2019. [Hostigamiento policial a La Costeñísima, en Bluefields](#) [‘Police harassment of La Costeñísima in Bluefields’]; La Prensa. April 19, 2019. [Orteguismo mantiene asedio policial contra Sergio León, propietario de la radio La Costeñísima](#) [‘Ortega supporters maintain police siege against Sergio Leon, owner of the radio station La Costeñísima’]; El Nuevo Diario. April 18, 2019. [Vuelven a colocar pintas en instalaciones de Radio La Costeñísima](#). [‘Facilities of Radio La Costeñísima covered again with graffiti’].

charged with the crimes of terrorism, arson, aggravated robbery and hampering public services to the detriment of the Office of the General Counsel of the Republic (PGR) and the Office of the Public Prosecutor. According to reports, the journalist spent 53 days at the former Directorate of Judicial Assistance (DAJ, or Judicial Police) and was then transferred to the La Modelo Prison, where he contends he was also subjected to torture.<sup>158</sup> In June, Powell Sánchez was released under the Amnesty Law.<sup>159</sup>

103. As for the case of Marlon Jerónimo Sánchez and/or Marlon Powell Sánchez, in its observations on the draft of the present report, the State asserted that “together with other persons he sowed unrest and chaos in the city of Masaya raising three roadblocks with which they blocked citizens’ free circulation; they also collected money from and robbed the pedestrians who passed through the sectors of the roadblocks;” additionally, “he is one of the major heads” of the group of persons who attacked institutions of the State, and therefore was charged as the co-perpetrator of the crimes of terrorism, arson, among other offenses. In April 2019, the case was brought in the Ninth Court of the Criminal Hearing District of Managua, “where the charging document was admitted, the right of defense was guaranteed and because of the seriousness of the facts, the precautionary measure of preventive detention was ordered. While he was waiting for the Preliminary Hearing to be held, on June 10, 2019, the Amnesty Law was enacted, which he benefitted from.”<sup>160</sup>

104. Additionally, according to reports, in April, the residence of journalist Wilber Benavides Fonseca, who worked for a local television channel in Managua, was painted with graffiti by government sympathizers. Benavides Fonseca allegedly returned to the country the week before these events took place.<sup>161</sup> Furthermore, on April 10, the daily newspaper *La Prensa* wrote that policemen and paramilitary forces had threatened the graphic reporter, Norwin Mújica of Leon. According to reports, these individuals had warned him of “vengeance” against him and against Eddy López Hernández, a correspondent of *La Prensa* in León.<sup>162</sup>

105. According to publicly known information, in August, journalists of the Nicaraguan Association of Independent Journalists and Broadcasters (PCIN), who were living in exile in Costa Rica, reported death threats and cyber-harassment against them, their family members and the media outlets *Esta Semana* and *Nicaragua Actual*. These attacks were carried out by persons allegedly with close ties to the regime of President Daniel Ortega and Rosario Murrillo. According to the reports, these threats had escalated recently.<sup>163</sup> Additionally, according to PCIN, the radio station *Radio Mi Voz* in León, which belongs to journalist Álvaro

<sup>158</sup> Confidencial. June 2, 2019. [Marlon Powell, el tercer periodista como rehén político de la dictadura de Ortega](#) [Marlon Powell, the third journalist as political hostage of the Ortega dictatorship]; El Nuevo Diario. March 20, 2019. [A periodista de Masaya lo desmayaron a golpes y permanece en celda de castigo, denuncia su abogado](#) [Journalist from Masaya beaten unconscious and remains in cell as punishment, denounces his attorney]; Despacho 505. May 12, 2019. [El periodista Marlon Powell y otros cinco presos políticos son enviados al Infiernillo](#) [Journalist Marlon Powell and five other political prisoners are sent to “El Infiernillo”]; Artículo 66. June 10, 2019. [Periodista Marlon Powell: “Fui secuestrado, torturado inmisericordemente por la guardia orteguista”](#) [Journalist Marlon Powell: “I was abducted, tortured mercilessly by pro-Ortega guard”]; La Prensa. May 7, 2019. [Acusación contra periodista Marlon Powell no reúne requisitos legales](#) [Charges against journalist Marlon Powell do not meet legal requirements].

<sup>159</sup> EFE. June 10, 2019. [Un periodista detenido es liberado en Nicaragua antes de la visita de la SIP](#) [Detained journalist is released in Nicaragua prior to IAPA visit]; Inter-American Press Association (IAPA). June 13, 2019. [Miguel Mora y Lucía Pineda conversan en Managua con la SIP tras ser liberados](#) [Miguel Mora and Lucia Pineda talk in Managua with IAPA after being released].

<sup>160</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pgs. 42-43.

<sup>161</sup> El Nuevo Diario. April 29, 2019. [Periodista que regresó del exterior se siente bajo asedio](#) [Journalist who returned from overseas feels embattled]; “REPORT: Under cloak of night and like criminals, the fanatics of the Ortega regime covered the walls of my residence with graffiti today Friday 04/26. I hold the CPC of my community responsible if anything happens to me or my family. 1/2 #SOSNicaragua”. Twitter account of Wilmer Benavides Fonseca @chepitillo1. [26 de abril de 2019](#) April 26, 2019.

<sup>162</sup> La Prensa. April 10, 2019. [Amenazas de policías y paramilitares orteguistas contra periodistas de LA PRENSA y fotógrafo de León](#) [Pro-Ortega paramilitary members and police threaten journalists of LA PRENSA and photographer from Leon].

<sup>163</sup> Confidencial. August 10, 2019. [Periodistas exiliados denuncian amenazas de muerte](#) [Exiled journalists report death threats]; Voa Noticias. August 13, 2019. [Periodistas nicaragüenses en el exilio denuncian amenazas](#) [Nicaraguan journalists in exile report threats]; 100% Noticias. August 7, 2019. [Periodistas independientes condenan amenazas y acoso](#) [Independent journalists condemn threats and harassment].

Montalván, who was exiled in Costa Rica, was also the target of ongoing harassment; as was Ed Sanles Alemán, manager of the program *Notiweb Bluefields*.<sup>164</sup> Furthermore, along with the released political prisoner Byron Estrada, journalist of *La Prensa*, Emiliano Chamorro were held in custody and interrogated allegedly by “anti-riot police” of the Office of Special Operations (DOEP) for more than two hours, when they were returning to Nicaragua after attending the “march for unity” held in San Jose, Costa Rica. According to reports, Chamorro’s press stories were photographed and his camera searched.<sup>165</sup>

106. Also, according to available information, in September, Kathia Reyes, a journalist from *Canal 10*, was intimidated by government sympathizers while she was covering events in Chinandega.<sup>166</sup> On September 1, the daily newspaper *La Prensa* decried six days of ongoing police harassment with a police patrol car stationed outside from 7AM to 7PM in front of their building, police agents conducting surveillance of the area and its staff.<sup>167</sup> Likewise, on September 6, another attack on *Radio Dario*, in Leon, was reported to have taken place, in which its surveillance cameras were destroyed and its door forced open by a group of pro-government motorcyclists. The walls of the radio station were also painted with smears and threats the previous night.<sup>168</sup> Then, on September 26, police officers and pro-government mobs allegedly attempted to force their way into its premises. This took place one day after Anibal Toruño, the owner of the radio station, had participated in a public hearing before the IACHR, along with Sergio León of *La Costeñísima* and Carlos Chamorro of *Confidencial*.<sup>169</sup> According to reports, Toruño had returned to Nicaragua in late August after 9 months in exile.<sup>170</sup>

107. Additionally, on September 26, *Radio Corporación* reported that a copper arc of its main antenna in Tipitapa had been stolen by two unknown individuals and, consequently, this radio station was unable to be heard in some areas of the country.<sup>171</sup> Likewise, *Radio Camoapa Estéreo* of the department of Boaco, had also been the target of attacks on September 14 and 15, when an attempt to damage its transmitter

<sup>164</sup> Despacho 505. August 9, 2019. [Periodistas exiliados denuncian amenazas de muerte y asedio contra sus familias](#) [‘Exiled journalists report death threats and harassment against their families’]; La Mesa Redonda. August 7, 2019. [PCIN condena amenazas y hostigamiento contra periodistas nicaragüenses exiliados en Costa Rica](#) [‘PCIN condemns threats and harassment against Nicaraguan journalists exiled in Costa Rica’]; 100% Noticias. August 7, 2019. [Periodistas independientes condenan amenazas y acoso](#) [‘Independent journalists condemn threats and harassment’].

<sup>165</sup> Confidencial. August 12, 2019. [Antimotines retienen a excarcelado político y periodista en Peñas Blancas](#) [‘Anti-riot police hold former politician and journalist at Peñas Blancas prison’]; La Prensa. August 12, 2019. [Antimotines retienen e interrogan a periodista de LA PRENSA Emiliano Chamorro y al excarcelado político Bayron Estrada](#) [‘Anti-riot police hold and interrogate LA PRENSA journalist Emiliano Chamorro and politician Bayron Estrada, who was released from prison’].

<sup>166</sup> La Prensa. September 23, 2019. [Periodista de Canal 10 sufre intimidación de simpatizante Orteguista mientras realiza cobertura en Chinandega](#) [‘Journalist of Channel 10 endures intimidation from Ortega sympathizers while covering events in Chinandega’].

<sup>167</sup> La Prensa. September 1, 2019. [De 7:00 a 7:00, seis días de permanente acoso policial al diario LA PRENSA](#) [‘From 7:00 to 7:00, six days of permanent police harassment of the daily newspaper LA PRENSA’].

<sup>168</sup> El Nuevo Diario. September 8, 2019. [Nuevo ataque contra Radio Dario, en León: Destruyen cámaras de vigilancia y fuerzan la puerta](#) [‘Another attack against Radio Dario, in Leon; surveillance cameras destroyed and door forced open’]; La Prensa. September 8, 2019. [VIDEO: Así fue como fanáticos orteguistas realizaron las pintas contra Radio Dario, en León](#) [‘VIDEO: This was how pro-Ortega fanatics covered Radio Dario with graffiti in Leon’]; Confidencial. September 7, 2019. [Orteguistas pintan amenazas en radio Dario y la vivienda de su propietario](#) [‘Ortega sympathizers write threats on Radio Dario and the residence of its owner’].

<sup>169</sup> Confidencial. September 27, 2019. [Turbas y policías intentan ingresar por la fuerza a Radio Dario](#) [‘Mobs and police attempt to force entry into Radio Dario’]; La Prensa. September 26, 2019. [Policía Orteguista intenta entrar por la fuerza a las instalaciones de Radio Dario en León](#) [‘Pro-Ortega police attempt to force entry into facilities of Radio Dario in Leon’].

<sup>170</sup> Confidencial. September 5, 2019. [Anibal Toruño demanda seguridad para periodistas](#) [‘Anibal Toruño demands security for journalists’]; La Prensa. August 29, 2019. [Jaime Arellano y Anibal Toruño regresan a Nicaragua después de nueve meses en el exilio](#) [‘Jamie Arellano and Anibal Toruño return to Nicaragua after nine months in exile’].

<sup>171</sup> Canal 10. September 26, 2019. [Radio corporación denuncia sabotaje](#) [‘Radio Corporación reports sabotage’]; El Nuevo Diario. September 21, 2019. [Radio Corporación denuncia sabotaje contra torre de transmisión](#) [‘Radio Corporación reports sabotage of its transmission tower’]; Onda Local. September 27, 2019. [Organizaciones condenan cierre de los periódicos El Nuevo Diario y Metro](#) [‘Organizations condemn closure of daily newspapers El Nuevo Diario and Metro’]; La Prensa. September 25, 2019. [Radio Corporación denuncia sabotaje a su antena principal](#) [‘Radio Corporación reports sabotage of its main antenna’].

and knock down its antenna was reported. Subsequently, in October, this radio station also decried an alleged power boycott against it, with electrical supply service being cut off for up to 5 hours per day.<sup>172</sup>

108. This Special Rapporteurship further notes that at the public hearing of the IACHR on “Compliance with precautionary measures to protect independent journalists in Nicaragua,”<sup>173</sup> which was held on September 25, the representatives and beneficiaries of the precautionary measures (Carlos Chamorro,<sup>174</sup> Anibal Toruño,<sup>175</sup> and Sergio León<sup>176</sup>) testified that they continue to be in extreme danger because of their work as independent journalists in the current context, as characterized by the closing of democratic spaces. They stressed that the government continues to restrict the exercise of freedom of expression of independent journalists, they decried the lack of guarantees for the exercise of freedom of the press, and described additional episodes of harassment, threats and intimidation against independent journalists. They complained, as well, that the media outlets seized by the government have not been returned, as well as the blocking of delivery of newsprint and ink, and audits conducted by the tax authorities of the State.<sup>177</sup>

109. Additionally, in October, it was reported that Jacdiel Manuel Rivera Cornejo, a correspondent of *Canal 10*, was threatened with prison by the Traffic Section Chief of the Police Department of Madriz, while he was recording interviews about a traffic accident in which a police officer allegedly died.<sup>178</sup> That same month, individuals with close ties to the government reportedly attempted to burn down the operations center of *Canal 21*, which is an independent Christian television channel. According to reports, it was the third time that it had sustained an attack of this kind.<sup>179</sup> Other journalists, who have reported being the targets of harassment and intimidation during that month were: Juan Francisco Dávila, journalist of *Radio ABC Estéreo* and *Canal 10* in Estelí;<sup>180</sup> Henry Briceño Portocarrero, of the municipality of San Rafael del Sur, southeast of

<sup>172</sup> Onda Local. September 16, 2019. [PCIN condena ataques a Radio Camoapa](#) [‘PCIN condemns attacks on Radio Camoapa’]; La Lupa. October 2, 2019. [Boicot energético contra radio Camoapa](#) [‘Power cut in boycott of radio Camoapa’]; El Nuevo Diario. September 15, 2019. [Desconocidos ingresan a Radio Camoapa y causan daños materiales](#) [‘Unknown individuals enter Radio Camoapa and cause destruction of property’]; Despacho 505. October 2, 2019. [Radio Camoapa denuncia boicot energético](#) [‘Radio Camoapa reports power boycott’]; La Prensa. September 16, 2019. [Denuncian dos sabotajes consecutivos a emisora comunitaria Radio Camoapa](#) [‘Two consecutive acts of sabotage of community radio station Radio Camoapa reported’]; Radio Camoapa Estéreo. September 15, 2019. [Denuncia pública](#) [‘Public crime report’].

<sup>173</sup> IACHR. 173<sup>rd</sup> Session. September 25, 2019. [Nicaragua: Medidas Cautelares de periodistas](#) Nicaragua: Precautionary Measures of Journalists.

<sup>174</sup> IACHR. [Resolución No. 91/2018. Medidas Cautelares No. 1606-18. Carlos Fernando Chamorro Barrios y otros respecto de Nicaragua \(Trabajadores del “Confidencial”\).](#) Resolution No. 91/2018. Precautionary Measures No. 1606-18. Carlos Fernando Chamorro Barrios et al, Nicaragua (Workers of “Confidencial”). December 21, 2018.

<sup>175</sup> IACHR. [Resolución No. 47/2018. Medidas Cautelares No. 693-18. Anibal Toruño Jirón y otros integrantes de la Radio “Darío” respecto de Nicaragua.](#) Resolution No. 47/2018. Precautionary Measures No. 693. Anibal toruño Jirón et al members of Radio “Diario,” Nicaragua. June 2, 2018.

<sup>176</sup> Despacho 505. September 25, 2019. [Periodistas denuncian incumplimiento del Estado a medidas cautelares de la CIDH](#) [‘Journalists decry State’s failure to comply with IACHR precautionary measures’]; Knight Center for Journalism in the Americas. [Periodistas nicaragüenses denuncian ante la CIDH el incumplimiento de medidas cautelares para su protección por parte del Estado](#) Nicaraguan Journalists tell IACHR that the State has not complied with precautionary measures for their protection.

<sup>177</sup> IACHR. Hearing No. 14. Cumplimiento de medidas cautelares de protección en favor de periodistas independientes en Nicaragua [Compliance with precautionary measure to protect independent journalists in Nicaragua]. [Anexo Comunicado de Prensa 173 Período de Sesiones.](#) [‘Annex to Press Release of 173<sup>rd</sup> Session’], undated.

<sup>178</sup> 100% Noticias. October 12, 2019. [Comisionado de la Policía amenaza con cárcel a corresponsal de canal 10](#) [‘Police Commissioner threatens Channel 10 correspondent with jail’].

<sup>179</sup> 100%Noticias. October 14, 2019. [Fanáticos orteguistas intentan quemar una casa donde funciona un canal independiente en Somoto](#) [‘Pro-Ortega fanatics attempt to burn down house where independent channel operates in Somoto’].

<sup>180</sup> 100% Noticias. October 7, 2019. [Paramilitares intimidan y roban equipo a periodista de Estelí](#) [‘Paramilitary members intimidate and steal equipment of journalists in Estelí’]; La Prensa. October 7, 2019. [Policías y paramilitares rodean la Catedral de Estelí durante procesión de la Virgen del Rosario](#) [‘Police and paramilitary members surround the Cathedral of Estelí during procession of the Virgen of Rosario’].

Managua;<sup>181</sup> Denis José García, correspondent of *Radio Corporación* in Somoto and host of the news program “Primero Noticias” of the cable division of *Canal 21*, also in Somoto. Based on the reports, García was twice the target of harassment by the police in October and, the last time, he had to leave his residence for security reasons.<sup>182</sup>

110. The IACHR recalls that Principle 9 of the Declaration of Principles on Freedom of Expression reads that “the murder, kidnapping, intimidation of and/or threat 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 asserted that violence against journalists not only violates the individual dimension of the right to freedom of thought and expression, but also violates society’s right as a whole to express opinions and criticisms. Acts of violence that are perpetrated against journalists (understanding the term journalist in the broadest sense, from a functional perspective) or media workers, that are linked to their professional work, violate the right of these individuals to express and impart ideas, opinions and information as well as the rights of citizens and societies as a whole to seek and receive information and ideas of any nature.<sup>183</sup>

### C. Impunity vis-à-vis the Media and Journalists

111. The IACHR and its Special Rapporteurship are deeply concerned about serious crimes perpetrated against journalists and the media in the context of the social protests, that took place in Nicaragua in 2018, going unpunished. In this regard, on June 12, through a press release, the Commission asserted that the far-reaching and ambiguous content of the Amnesty Law could result in widely documented, gross human rights violations in the country remaining in impunity. It could also stand in the way of establishing the truth, justice, reparation and guarantees of non-repetition and restrict the rights and guarantees of Nicaraguan society, as set forth in the ACHR.<sup>184</sup> On this occasion, the IACHR also underscored the ambiguous language of the provision of the law establishing that “beneficiaries [...] must refrain from perpetrating further acts that lead to repeated behavior generating the crimes contemplated herein,” otherwise, the benefit could be revoked. On this score, it emphasized that the ambiguity of this clause may provide for beneficiaries to be re-arrested for exercising their political rights and the rights to peaceful assembly, freedom of association, and freedom of expression.<sup>185</sup>

112. Likewise, this Rapporteurship views with deep concern that, in addition to keeping impunity in place in Nicaragua, the law could also restrict and criminalize the exercise of freedom of expression of journalists and social communicators, who have been released from prison under this law, as a consequence of

<sup>181</sup> Article 66. October 1, 2019. [Periodista Henry Briceño denuncia asedio y persecución policial en San Rafael del Sur](#) [‘Journalist Henry Briceño denounces harassment and persecution in San Rafael del Sur’].

<sup>182</sup> La Prensa. October 16, 2019. [Periodista de Radio Corporación huye de su casa en Somoto por acoso policial y paramilitar](#) [‘Journalist of Radio Corporación flees his home in Somoto because of police and paramilitary harassment’]; 100% Noticias. October 16, 2019. [APN condena asedio contra corresponsal de Radio Corporación Denis García](#) [‘APN condemns harassment of correspondent of Radio Corporación Denis García’]; El Confidencial/EFE. October 16, 2019. [Periodista huye de su casa en Nicaragua por asedio policial, denuncia emisora](#) [‘Journalist flees his home in Nicaragua because of police harassment, radio station denounces’]; Radio Corporación. October 16, 2019. [Denunciamos asedio e intimidación policial contra nuestro corresponsal](#) [‘We denounce harassment and intimidation by police against our correspondent’].

<sup>183</sup> IA Court of HR. Case of Vélez Restrepo and Family v. Colombia. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C No. 248. Par. 142-149; IACHR. Special Rapporteurship for Freedom of Expression. Special Study on the Status of Investigations into the Murder of Journalists for Reasons that may be Related to their Work in Journalism (1995-2005 Period). OEA/Ser.L/V/II.131. Doc. 35. March 8, 2008. Par. 67

<sup>184</sup> IACHR. June 12, 2019. Press Release No. 145/19 [Comunicado de Prensa No. 145/19. CIDH manifiesta preocupación por aprobación de Ley de Amnistía en Nicaragua](#) IACHR Expresses Concern Over the Passing of the Amnesty Law in Nicaragua.

<sup>185</sup> IACHR. June 12, 2019. Press Release No. 145/19. [Comunicado de Prensa No. 145/19. CIDH manifiesta preocupación por aprobación de Ley de Amnistía en Nicaragua](#) IACHR Expresses Concern Over the Passing of the Amnesty Law in Nicaragua.



the above-cited provision. Examples of such cases would be Lucía Pineda and Miguel Mora of *100% Noticias*, and Marlon Powell Sánchez, of the radio program *El dedo en la llaga*, who were released from prison in June under that law. Hereunder, this Special Rapporteurship describes cases that have been reported to it.

113. In August, in conjunction with UN Special Rapporteurs, this Rapporteurship voiced its concern over retaliation against the staff and workers of *Radio Darío*, as well as the crackdown against other communications workers in Nicaragua. On this score, the Special Rapporteurship is concerned that in a communication of October 17 sent to this Office, the Nicaraguan State noted, among other things, that the police investigations into the arson of the radio station on April 21, 2018, were administratively closed, under the Amnesty Law as the legal basis.<sup>186</sup>

114. Furthermore, regarding the murder of journalist Ángel Gahona, in the context of the protests in Bluefields, on April 21, 2018, it was reported that his case had been closed and, consequently, the investigation into the murder was closed as well, based on the decision to archive issued by the Criminal Chamber of the Court of Appeals of Managua under the Amnesty Law.<sup>187</sup> As a result of this, the two young men, who were convicted in August 2018 of the crime and who the journalist's family does not consider to be responsible for the crimes, were released from prison.<sup>188</sup> This Rapporteurship also notes that, according to Carlos Chamorro, of *Confidencial*, the Office of the Public Prosecutor has still not ordered an investigation into the report he filed on December 19, 2018, to investigate the National Police for the commission of the crimes of "burglary, destruction of property, breaking and entering and usurping of private ownership." According to reports, as of the present date, these crimes have gone unpunished.<sup>189</sup>

115. In its observations on the draft of the present report, the State of Nicaragua informed the IACHR that the Office of the Public Prosecutor processed the complaint "directing the investigation to the National Police." In this regard, the State explained that the acts reported in the complaint related to the conduct of the National Police, in a search of the Offices of the Non Governmental Organization called "Centro de la Investigación de la Comunicación" CINCO. According to the State, the complaint was brought:

Even though they themselves are fully aware that the persons that carried out the investigative steps at the executive offices of the organization CINCO had claimed to the regulatory entity, they were police officers because when they arrived they properly identified themselves which is repeatedly stated in the complaint itself, despite them knowing about the revocation of the legal status of CINCO, knowing that they had been notified by the Department of Oversight of Non Profit Organizations of the Ministry of Government, and about the legislative decree itself that the assets would become the property of the State which was also reported through the notification at the time of the police executing the order, all of which suggests that, because they disagreed with the execution of the resolutions of the competent authorities, the complainants proceed to file a complaint with the police authority.<sup>190</sup>

<sup>186</sup> Communication dated October 17, 2019 sent by the State of Nicaragua to the Special Rapporteurship for Freedom of Expression. Available to view at: Archive of the Special Rapporteurship for Freedom of Expression.

<sup>187</sup> La Mesa Redonda. June 12, 2019. [Glen Slate sobre asesinato de Ángel Gahona: "Todo el pueblo de Nicaragua sabe que no fuimos nosotros"](#) ["Glen Slate on the murder of Angel Gahona: "All the people of Nicaragua know that it was not us"]; La Prensa. September 9, 2019. [Tribunal de Apelaciones de Managua cierra el caso del asesinato del periodista Ángel Gahona](#) ["Appellate Court of Managua closes case of murder of journalist Angel Gahona"].

<sup>188</sup> Despacho 505. April 21, 2019. [Exigen justicia para Ángel Gohona, a un año de su asesinato](#) ["Justice demanded for Angel Gohona, a year after his murder"]; Onda Local. April 21, 2019. [Un año después, asesinato del periodista Ángel Gahona continúa impune](#) ["One year later, murder of journalist Angel continues in impunity"]; La Prensa. April 21, 2019. [Padre del periodista Ángel Gahona, asesinado hace un año, sigue demandando justicia](#) ["Father of journalist Angel Gahona, murdered one year ago, continues to demand justice"].

<sup>189</sup> Confidencial. June 13, 2019. [Confidencial: seis meses bajo asalto y confiscación](#) ["Confidencial: six months under siege and confiscation"]

<sup>190</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled "Chapter IV.B – Annual Report Inter-American Commission on Human Rights," December 19, 2019, pgs. 37-42.

116. Therefore, the State claimed that “pursuant to the result of the investigations both institutions acted within the framework of the law, exercising their legal authority, enforcing a legislative decree and with the mission of keeping State’s property from being subject to illicit actions and having the appropriate judicial authorization pursuant to the procedure set forth in the Code of Criminal Procedure.”<sup>191</sup>

117. In light of the foregoing, the IACHR stresses that according to the consistent case law of the Commission and the Inter-American Court, the obligations to investigate, determine the culprits of gross human rights violations and punish them cannot be eluded. In the same vein, the IA Court of HR established that amnesty provisions, statutes of limitations and exclusion of liability clauses that seek to impede criminal prosecution are inadmissible, as are any obstacles within domestic law that seek to impede the investigation and punishment of those responsible for serious human rights violations, as it contravenes the non-derogable rights recognized by international human rights law. Amnesty laws that are incompatible with the American Convention on Human Rights are not legally binding.<sup>192</sup>

118. Moreover, the Special Rapporteurship notes that, regarding justice and impunity for crimes against journalists and the media, both the IACHR and the IA Court of HR have cited on several occasions the chilling effect that these crimes have on journalists and other media professionals and workers, as well as on citizens who seek to report abuses of power and illicit acts of any nature. Based on the foregoing, it stresses that when in such instances, a potential link to the practice of journalism is not determined or is ruled out completely and summarily, these crimes can give rise to silencing and self-censorship of the media.

#### D. Direct and Indirect Censorship

119. According to information received by the IACHR and its Special Rapporteurship, since August 2018 the General Customs Services Office (DGA) has been withholding newsprint, ink and other newspaper printing materials in Nicaragua. According to reports, the government promised to release the newsprint and other materials for newspaper printing,<sup>193</sup> and the Administrative Court for Customs and Tax Matters (TATA) ruled in favor of the daily newspapers *La Prensa* and *El Nuevo Diario*, ordering delivery of the withheld supplies. Nonetheless, according to available information, the DGA ignored the rulings, without further explanation.<sup>194</sup> Because of the lack of supplies, it was reported that several newspapers, such as *La Prensa* and *Hoy*, had to reduce their format; or shut down altogether, such as *El Nuevo Diario*, its associate daily *Metro* and the digital media outlet *Maje*. On this score, civil society organizations contend that through this administrative censorship the government seeks to disrupt the operational capacity of newspapers and cripple their operations.<sup>195</sup>

<sup>191</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pgs. 37-42.

<sup>192</sup> IACHR. June 12, 2019. Press Release No. 145/19. [Comunicado de Prensa No. 145/19. CIDH manifiesta preocupación por aprobación de Ley de Amnistía en Nicaragua](#) IACHR Expresses Concern Over the Passing of the Amnesty Law in Nicaragua.

<sup>193</sup> *El Nuevo Diario*. April 26, 2019. [Alianza Cívica: El Gobierno de Nicaragua se ha burlado de los acuerdos](#) [‘Civic Alliance: The government of Nicaragua has made a mockery of the agreements’]; *La Prensa*. March 29, 2019. [Régimen orteguista firma acuerdo que restablece los derechos ciudadanos en Nicaragua](#) [‘Ortega regime signs agreement restoring citizens’ rights in Nicaragua’].

<sup>194</sup> *Nicaragua Investiga*. August 26, 2019. [La Prensa cumple un año de bloqueo aduanero por Ortega](#) [‘La Prensa under Ortega’s customs blockade now for one year’]; *El Nuevo Diario*. September 2, 2019. [PEN Internacional pide a gobierno de Nicaragua entregar papel y tinta retenida a El Nuevo Diario](#) [‘PEN International asks government of Nicaragua to deliver withheld paper and ink to El Nuevo Diario’]; *Connectas*. Undated. [La asfixia a los periódicos nicaragüenses](#) [‘Strangulation of Nicaraguan newspapers’].

<sup>195</sup> Inter-American Press Association (IAPA). January 16, 2019. [SIP condena censura administrativa contra diarios en Nicaragua](#) [‘IAPA condemns administrative censorship against newspapers in Nicaragua’].

120. With respect to *La Prensa*, it was noted that in order to continue to put out its printed edition, it was compelled to cut down the number of pages from 36 to 8, and its newsroom went from a total of 100 journalists to just 35. This newspaper further reported that as of October 13, its Sunday version would be produced in tabloid form, in order to save newsprint.<sup>196</sup> Likewise, the newspaper *Hoy*, which also belongs to the *La Prensa* Publishing Group, changed to a 6-page daily edition and its digital version went dark in October.<sup>197</sup> On this score, it reported that “the printed edition of the daily is still circulating and digital news can be found on the [*La Prensa*] website.”<sup>198</sup> Additionally, in October, the satirical weekly supplement *El Azote*, shut down due to lack of newsprint. According to reports, on October 6, this magazine announced that “After almost 25 years, the weakly *El Azote* is printing its last edition” claiming that its closure is due to “the crisis caused by the disproportionate ambition for power and money of the little couple.”<sup>199</sup>

121. Also, with respect to *El Nuevo Diario*, its associate newspaper *Metro* and the digital media outlet *Maje*, announced they were closing for good on September 27. In an announcement on its Twitter account, *El Nuevo Diario*, which would be 40 years old in 2020, reported that “it has decided to discontinue its publication, because of economic, technical and logistical difficulties that make it unsustainable to function.”<sup>200</sup> According to reports, in July barely 20% of the withheld newsprint and some other supplies had been handed over, which was inadequate to keep it running.<sup>201</sup> According to information provided, as a result of the closure, more than 100 workers of these newspapers were left unemployed.<sup>202</sup> Previously, in December 2018, the popular newspaper *Q’Hubo* also shuttered its plant due to lack of newsprint.<sup>203</sup>

<sup>196</sup> Nicaragua Investiga. October 12, 2010. [La Prensa reduce a tamaño tabloide su edición dominical](#) [‘La Prensa reduces Sunday edition to tabloid size’]; Confidencial. October 13, 2019. [La Prensa reduce su tamaño ante bloqueo de materias primas](#) [‘La Prensa reduces its size in response to blockade of raw materials’]; The San Diego Union-Tribune/Associated Press. October 17, 2019. [Medios críticos al gobierno de Daniel Ortega en agonía](#) [‘Media critical of Daniel Ortega on their last legs’]

<sup>197</sup> LA Prensa. August 4, 2019. [Washington Post: “Ortega estrangula a LA PRENSA”](#) [‘Washington Post: “Ortega is strangling LA PRENSA”’]; 100% Noticias. October 7, 2019. [Periódico HOY en Nicaragua cierra versión digital](#) [‘Newspaper HOY in Nicaragua closes down digital version’]; La Vanguardia/EFE. October 7, 2019. [Diario popular de Nicaragua apaga su versión digital, ahogado por la crisis](#) [‘Digital version of popular daily of Nicaragua goes dark because of the crisis’]; The Washington Post. August 4, 2019. [Nicaragua’s Ortega is strangling La Prensa, one of Latin America’s most storied newspapers](#).

<sup>198</sup> Hoy. October 7. [Diario HOY suspende publicación en su sitio web](#) [‘Daily newspaper HOY suspends publication of its web site’].

<sup>199</sup> Diario Las Américas. October 7, 2019. [Revista satírica del diario La Prensa en Nicaragua deja de circular por falta de papel](#) [‘Satirical magazine of the daily newspaper La Prensa in Nicaragua stops circulating due to lack of newsprint’]; Infobae. October 6, 2019. [Censura en Nicaragua: el diario La Prensa cerró su suplemento de humor porque el régimen de Daniel Ortega tiene retenido su papel](#) [‘Censorship in Nicaragua: the newspaper La Prensa discontinued its humor/satirical supplement because Daniel Ortega’s regime is withholding its newsprint’].

<sup>200</sup> Knight Center for Journalism in the Americas. September 27, 2019. [Grupo editorial nicaragüense cierra El Nuevo Diario y otros dos periódicos debido a dificultades económicas](#) [‘Nicaraguan publishing group closes down El Nuevo Diario and the Twitter Account of El Nuevo Diario (@elnuevodiario) September 26, 2019 [26 de septiembre de 2019](#); Inter-American Press Association (IAPA). [Informe ante la 75 Asamblea General de la SIP – del 4 al 7 de octubre de 2019](#) [‘Report to the 75<sup>th</sup> IAPA General Assembly October 4-7, 2019’], October 3, 2019; El País. September 27, 2019. [El segundo periódico más importante de Nicaragua echa el cierre agobiado por la crisis política](#) [‘The second most important newspaper of Nicaragua shuts down, overwhelmed by the crisis’].

<sup>201</sup> Alianza Metropolitana News/EFE. September 27, 2019. [Dos periódicos y un medio digital dejan de circular por las presiones de Ortega](#) [‘Two newspapers and a digital media outlet stop circulating due to the pressure from Ortega’]; El Nuevo Diario. September 2, 2019. [PEN Internacional pide a gobierno de Nicaragua entregar papel y tinta retenida a El Nuevo Diario](#) [‘PEN International asks government of Nicaragua to deliver withheld newsprint and ink to El Nuevo Diario’].

<sup>202</sup> Nicaragua Investiga. September 27, 2019. [Más de 100 trabajadores al desempleo debido a cierre de El Nuevo Diario en Nicaragua](#) [‘More than 100 workers unemployed because of shut down of El Nuevo Diario in Nicaragua’]; 100% Noticias. September 27, 2019. [La despedida de los periodistas de El Nuevo Diario en la sala de redacción](#) [‘Dismissal of journalists of El Nuevo Diario in the newsroom’]; La Prensa. September 27, 2019. [Los periódicos El Nuevo Diario y Metro anuncian su cierre](#) [‘The newspapers El Nuevo Diario and Metro announce their closure’]; 100% Noticias. September 30, 2019. [Cardenal Brenes lamenta cierre de El Nuevo Diario](#) [‘Cardenal Brenes regrets closure of El Nuevo Diario’]; Confidencial. September 28, 2019. [Cierre total de El Nuevo Diario y Metro: “Nos tomó por sorpresa”](#) [‘Total closure of El Nuevo Diario and Metro: “We were blindsided”’].

<sup>203</sup> Alianza Metropolitana News/EFE. September 27, 2019. [Dos periódicos y un medio digital dejan de circular por las presiones de Ortega](#) [‘Two newspapers and a digital media outlet stop circulating due to pressure from Ortega’]; Confidencial. September 28, 2019. [Cierre total de El Nuevo Diario y Metro: “Nos tomó por sorpresa”](#) [‘Total closure of El Nuevo Diario and Metro: “We were blindsided”’]; El

122. Moreover, it was reported that the Nicaraguan government continued the discriminatory practice of awarding official advertising exclusively to media outlets owned by the Ortega family; the rest of the media was discriminated against in the process of granting operating licenses, as well as using internal revenue and social security enforcement as a mechanism of economic pressure against these independent media outlets.<sup>204</sup> Additionally, in June, journalist Carlos Chamorro decried that his program “Esta Semana” and *Confidencial Nica* had been the victims of attempted censorship on social media. According to Chamorro, *el Canal 13*, which belongs to the family of Daniel Ortega, accused them of an alleged violation of property rights.<sup>205</sup>

123. In light of the above, the IACHR recalls that, pursuant to Article 13.3 of the American 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.”

124. Additionally, it reaffirms that Principle 5 of the Declaration of Principles on Freedom of Expression says that “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.” While, Principle 13 states that “the exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression and must be explicitly prohibited by law.”

## E. Internet and Freedom of Expression

125. The Office of the Special Rapporteur notes that social media and internet continue to be an alternative means, through which individuals are able to disseminate information of public interest, assert and express ideas and opinions of all sorts. Particularly, in the current context of Nicaragua, that is of vital importance, bearing in mind that several Nicaraguan journalists are in exile and use these digital initiatives to continue to report to Nicaragua, as is the case of *Despacho 505*, which reports from Spain and *Nicaragua Actual*,

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Nuevo Siglo. December 21, 2018. [Diario Q'Hubo de Nicaragua cierra por falta de materia prima](#) [‘Daily newspaper O’Hubo of Nicaragua shuts down due to lack of raw materials’].

<sup>204</sup> Report for the Universal Periodic Review Nicaragua by the Coalition IFEX-ALC, AMARC-ALC and IAPA dated September 15, 2019. Available to view at: Archive of the Special Rapporteurship for Freedom of Expression; Inter-American Press Association (IAPA). [Informe ante la 75 Asamblea General de la SIP – del 4 al 7 de octubre de 2019](#) [‘Report to the 75<sup>th</sup> IAPA General Assembly October 4-7, 2019’]. October 3, 2019; El Nuevo Diario. June 13, 2019. [SIP: Devuelvan insumos a los periódicos](#) [‘IAPA: Return materials to newspapers’]; Voa Noticias. September 30, 2019 [¿Qué sucede con los medios independientes en Nicaragua?](#) [‘What is happening with independent media in Nicaragua?’].

<sup>205</sup> Confidencial. June 19, 2019. [Carlos F. Chamorro: Dictadura intenta censurar medios digitales](#) [‘Carlos F. Chamorro: Dictatorship attempts to censor digital media’]; El Nuevo Diario. June 20, 2019. [Carlos Fernando Chamorro denuncia intento de censura](#) [‘Carlos Fernando Chamorro denounces attempted censorship’].

from Costa Rica.<sup>206</sup> According to reports, there are currently 23 digital initiatives or platforms reporting from Costa Rica.<sup>207</sup>

126. Despite the important role played by these digital initiatives, this Special Rapporteurship notes that in 2019 these and the other websites of independent media outlets in Nicaragua continued to be the targets of cyberattacks. In this regard, it was reported that *Notimatv* en Matagalpa, *La Costeñísima* of the city of Bluefields, *Trinchera de la Noticia*, *La Prensa*, *Radio Corporación* and *El Nuevo Diario* have all been the targets of these attacks in 2019.<sup>208</sup> On this score, in May, the daily newspaper *La Prensa* reported a cyberattack on its website, which according to available information, was a “massive attack that is known as DDOS’ and involves generating thousands of bots or fake users that attempt to log onto the target page, in order to block legitimate users from logging on and thus crash the website.” According to further available information, the attacks have also targeted the daily *Hoy*, as well as *LA PRENSA Club*.<sup>209</sup> Additionally, in July, journalist Sergio León of *La Costeñísima* was cyberattacked, and the platform *Nicaragua Actual* reported *Viva Nicaragua Canal 13* for attempting to block its Facebook account.<sup>210</sup>

127. In light of the foregoing, the IACHR must stress again that Principle 5 of the Declaration of Principles states that “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.”

## F. Prohibiting and Making Protests Illegal

128. The IACHR and its Special Rapporteurship are also deeply concerned about the ongoing restrictions on the exercise of social protest by the Nicaraguan people and repression against those who exercise their right to peaceful assembly. On this score, it was reported that on March 23, the police re-issued a public announcement prohibiting any type of protest demonstration, noting that the “National Police will not allow any activity to disturb public order, threaten or undermine the constitutional right to work, free movement, physical integrity of individuals, families and public and private property.”<sup>211</sup> Additionally,

<sup>206</sup> Nicaragua Investiga. February 4, 2019. [Periodistas nicas exiliados en España informan a través de nuevo sitio web](#) [‘Nicaraguan journalists exiled in Spain report through new website’]; Voa Noticias. July 29, 2019. [Periodistas nicaragüenses exiliados rompen la censura](#) [‘Exiled Nicaraguan journalists bust censorship’]; Confidencial. August 22, 2019. [Las voces que vencen la censura desde Costa Rica](#) [‘Voices from Costa Rica that override censorship’].

<sup>207</sup> Confidencial. August 22, 2019. [Las voces que vencen la censura desde Costa Rica](#) [‘Voices from Costa Rica that override censorship’]. YouTube/ República 18. August 19, 2019. [Voces que vencen la censura: República 18](#). [‘Voices that override censorship: Republica 18’].

<sup>208</sup> Inter-American Press Association (IAPA). [Informe ante la 75 Asamblea General de la SIP – del 4 al 7 de octubre de 2019](#) [‘Report to the 75<sup>th</sup> IAPA General Assembly October 4-7, 2019’]. October 3, 2019; *La Prensa*. May 19, 2019. [Maras cibernéticas: así son los ciberataques que el orteguismo usa en Nicaragua](#) [‘Cyber maras: that’s what cyberattacks used by Ortega supporters in Nicaragua are like’].

<sup>209</sup> El Periódico. May 5, 2019. [Diario La Prensa de Nicaragua denuncia ataque cibernético contra su sitio web](#) [‘Daily newspaper La Prensa of Nicaragua reports cyberattack on its website’]; *La Prensa*. May 5, 2019. [Atacan sitio web del diario La Prensa](#) [‘Website of the newspaper La Prensa attacked’]; Confidencial. May 5, 2019. [Diario La Prensa sigue bajo ataque cibernético](#) [‘Daily newspaper La Prensa under cyberattack’].

<sup>210</sup> *La Prensa*. July 26, 2019. [El periodista Sergio León denuncia ciberataque al sitio web de La Costeñísima](#) [‘Journalist Sergio Leon decry cyberattack of website of La Costeñísima’]; Despacho 505. July 27, 2019. [Ciberataque del régimen contra medios críticos. Nicaragua Actual y La Costeñísima denuncian boicot](#) [‘Cyberattack by the regime against critical media outlets, Nicaragua Actual and La Costeñísima denounce boycott’]; Deybi Zamora Aráuz/Facebook. July 28, 2019. [Nicaragua Actual denuncia el boicot que hace Viva Nicaragua Canal 13](#) [‘Nicaragua Actual decries boycott mounted by Viva Nicaragua Channel 13’].

<sup>211</sup> National Police of Nicaragua. [Nota de Prensa No. 09-2019](#) [Press Bulletin No. 09-2019], March 23, 2019; IACHR. April 5, 2019. Press Release No. 090/19. [Comunicado de Prensa No. 090/19. CIDH condena persistencia de actos de represión en Nicaragua en el contexto de la Mesa de Negociación](#) IACHR Condemns Continuing Actions of Repression in Nicaragua during the Negotiating Table Talks.

information was received this year about reporters and journalists, who had been assaulted while they were covering the social protests in the country. Some of the case that were reported are outlined hereafter.

129. On March 16, in the context of the march for the release of all persons detained in the protests in Nicaragua, journalist Marlen Chow was detained and members of the Special Operations Directorate or anti-riot police attacked journalists and demonstrators, who had sought refuge in the parking lot of FISE Bank of Managua. In this context, reporter Cinthya Torres, of the daily newspaper *La Prensa*, was physically and verbally assaulted by agents, who attempted to take away and destroy her telephone, while she was recording live over her social media account; *Canal 12* cameraman Luis Alemán and his coworker Marcos Medina were also attacked by a group of uniformed agents. Likewise, AFP international news agency graphic reporter Luis Sequeira was beaten by anti-riot police, who took his camera away, threw it on the ground and broke it, while he was recording one of the arrests.<sup>212</sup> It was further reported that on April 17 *Artículo 66* journalist Abixael Mogollón was arrested by the police while he was covering a demonstration in Managua. Additionally, he was beaten and robbed.<sup>213</sup> The journalist was later released.<sup>214</sup>

130. For its part, in the observations on the draft of the present report, the State asserted that “in relation to the alleged restriction on the right to peaceful assembly [imposed] by the National Police of Nicaragua, we reaffirm that this right does not require advance permission, because it [peaceful assembly] can be carried out on private sites without affecting the free movement of persons and vehicles. The persons who have intended to carry out public demonstrations, have not met the requirements established in the Law, even though they are aware of them [the requirements] and deliberately do not meet them in order to denounce in the media alleged infringement of the right to free demonstration.”<sup>215</sup>

131. On this issue, the IACHR recalls that to assemble, demonstrate and protest is central to many associations and organizations. And, in this regard, it is the duty of States to provide the resources necessary for organizations to freely go about their work; to protect them when they are subject to threats and thus ward off any attempts on their lives and safety; to refrain from setting up hindrances that might make their work more difficult, and to conduct conscientious, effective investigation of violations against them, thus preventing impunity.<sup>216</sup>

132. The IACHR believes that the exercise of the right to assembly through social protest should not be subject either to authorization by authorities or to excessive requirements that impede protests from taking place.<sup>217</sup> Any legal requirements that create the basis for prohibiting or restricting a meeting or demonstration – for example, through the pre-requisite of obtaining a permit– are not compatible with this

<sup>212</sup> IACHR. April 5, 2019. [Comunicado de Prensa No. 090/19. CIDH condena persistencia de actos de represión en Nicaragua en el contexto de la Mesa de Negociación](#) IACHR Condemns Continuing Actions of Repression in Nicaragua during the Negotiating Table Talks.

<sup>213</sup> La Prensa. April 17, 2019. [Así te contamos la manifestación "Todos somos abril"](#) [“That’s how we describe the demonstration “We are all April”]; Radio Corporación. April 17, 2019. [Liberan a periodista de Artículo 66 tras ser secuestrado por la Policía Orteguista](#) [“Journalist of Artículo 66 released after being abducted by the Ortega-supporting Police”]

<sup>214</sup> La Prensa. April 22, 2019. [Policía Orteguista golpeó, persiguió y reprimió en Semana Santa](#) [“Pro-Ortega Police beat, persecuted and repressed during Holy Week”]; Facebook/ Artículo 66. Undated. [#ENVIVO Liberan a nuestro periodista de Artículo 66. Abixael Mogollón, quien había sido secuestrado cuando cubría una manifestación cívica. #Artículo66 #DerechoAInformar](#) [“Our Artículo 66 journalist Abixael Mogollón released, after being abducted when he was covering a civic demonstration. #Artículo66#Right to Report”]; Confidencial. April 18, 2019. [Periodista de Artículo 66 denuncia robo y tortura de parte de la Policía](#) [“Journalist of Artículo 66 reports robbery and torture by Police”]; El Nuevo Diario. April 17, 2019. [Periodista de Artículo 66 denuncia robo y golpiza por la Policía](#) [“Journalist of Artículo 66 reports robbery and beating by Police”]

<sup>215</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pgs. 50 and 51.

<sup>216</sup> IACHR, Second Report on the Situation of Human Rights Defenders in the Americas. OEA/Ser.L/V/II. Doc. 66. December 31, 2011. Par. 161

<sup>217</sup> IACHR, Criminalization of the Work of Human Rights Defenders, December 31, 2015. par. 129.

right of assembly<sup>218</sup> or with freedom of expression under the Inter-American legal framework. Likewise, spontaneous demonstrations or protests must not be prohibited by law and must not be limited under any prior notification rule.

133. In this regard, the IACHR recalls that “in a democracy, States must act on the basis of legality of protests or public demonstrations and on the assumption that they do not constitute a threat to public order.” In this normative context, restrictions on the right to participate in meetings and public demonstrations must only be considered 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 established in the legal system of the States and apply to all without discrimination. If the legal provisions are not clear, they should be clarified or, when appropriate, interpreted in favor of those who exercise the right to freedom of peaceful assembly and freedom of expression.<sup>219</sup>

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

134. With respect to Economic, Social, Cultural and Environmental Rights (ESCERs), the Special Rapporteurship on ESCERs (REDESCA from its Spanish language acronym) has been monitoring the situation in Nicaragua with concern over 2019. The Commission and the Special Rapporteurship on ESCERs received reports that, on February 28, 2019, the Tax Concentration Law was amended raising the amount of income tax to be paid and imposing a value added tax on several basic consumer staples, that had been tax exempt prior to that date. These amendments have caused concern among civil society, which predicts a rise in direct and indirect costs of production, leading to a price increase on consumer goods.<sup>220</sup> Additionally, the Permanent Commission on Human Rights (CPDH) has reported 1,747 complaints of human rights violations in Nicaragua, 101 of which were for obstruction of the enjoyment of public services.<sup>221</sup>

135. Additionally, the REDESCA received reports of serious violations of the human rights of physicians, health care workers and medical students in 2019. The most recent figure, according to Unidad Médica Nicaragüense, is that 405 physicians and health care workers have been dismissed and 144 students at public universities, including medical students, have been expelled from their school, persecuted and subjected to inhuman treatment for providing medical care to injured demonstrators during the crisis that started in April 2018. Likewise, a high number of reports and complaints were received about irregularities, denial of medical care and obstruction of humanitarian efforts to provide assistance to wounded and injured persons during the demonstrations. Therefore, the REDESCA views with concern that the representatives of the State are limiting the exercise of the right to health and the right to work of people who have expressed opinions that differ from those of the government in power. Consequently, the REDESCA recalls the State’s obligation to respect and ensure the right to equal protection and non-discrimination for the enjoyment of economic, social, cultural and environmental rights.<sup>222</sup>

<sup>218</sup> In the aforementioned report, the IACHR found to be incompatible with the right of assembly a law requiring a police permit that was supposed to be requested ten days in advance for any public function, assembly, election, conference, parade, congress or sporting, cultural, artistic or family event. See: IACHR, 1979-1980 Annual Report, October 2, 1980, pgs. 119- 121.

<sup>219</sup> IACHR. [Informe Anual 2018. Informe de la Relatoría Especial para la Libertad de Expresión. Capítulo II \(Situación de la Libertad de Expresión en el hemisferio\)](#). 2018 Annual Report of the Special Rapporteurship for Freedom of Expression. Chapter II (Situation of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 30. March 17, 2019. Pars. 800-801.

<sup>220</sup> Nicaraguan Foundation for Economic and Social Development (FUNIDES), [Coyuntura de Nicaragua](#). [‘Current situation of Nicaragua’]. March 2019.

<sup>221</sup> El Nuevo Diario, [CPDH registra 1,747 denuncias por violaciones de derechos humanos en Nicaragua](#) [‘CPDH reports 1,747 complaints of human rights violations in Nicaragua’]. August 6, 2019.

<sup>222</sup> IACHR, Press Release 208/19, [REDESCA de la CIDH expresa su profunda preocupación ante discriminación por motivos políticos en el ejercicio de los derechos al trabajo y a la salud en Nicaragua](#), REDESCA of the IACHR expresses profound concern about discrimination for political reasons in the exercise of the rights to work and health in Nicaragua. Washington, D.C. August 21, 2019.

136. On August 3, 2019, demonstrations were held on the highway to Masaya to demand the reinstatement of physicians and health care workers of the public health system, who were dismissed *en masse* the prior year.<sup>223</sup> Currently, no information is available as to reinstatement and compensation for the physicians and university students impacted by the dismissals. Consequently, the IACHR and the Special Rapporteurship on ESCERs assert that the State cannot run interference, using norms or practices, in the task of protecting the right to health and to life of the people that medical workers are responsible for. Based on the foregoing, the State has clearly breached the obligations to respect and protect the right to health and the labor rights of Nicaraguans.

137. On August 8, 2019, the REDESCA sent a letter to the State of Nicaragua, pursuant to Article 41 of the American Convention on Human Rights, requesting information about the status of the complaints of retaliation against people linked to health and education services. The REDESCA became aware that physicians of the city of Estelí filed a grievance with the labor court, which denied their motion for reinstatement into the public health service. As of the present time, we have not received any response to the request for information.

138. The REDESCA is aware of the reforms implemented by the Nicaraguan government in order to combat the country's fiscal deficit, especially the fiscal reform, which was approved on February 28, 2019, and the reform of the Nicaraguan Institute of Social Security (INSS), which was approved on January 28 the same year and went into force on February 1. The IACHR and its REDESCA recall the events that took place in April 2018, throughout the country, as a consequence of the government's proposal to reform the pension system. This proposal triggered demonstrations that turned into a serious political and social crisis, the effects of which were reflected by the Commission in its Report published in June 2018.<sup>224</sup>

139. For its part, the Commission views with concern that at least 144 public university students have been expelled from their course of study and university professors have been removed from their teaching positions because of their views criticizing the current government.<sup>225</sup> Furthermore, students, demonstrators, victims and their family members, as well as human rights defenders, doctors and health care workers, indigenous peoples, among others, have been forced to flee Nicaragua to seek international protection in other countries.<sup>226</sup>

140. As for the right to social security, the REDESCA is aware of the reforms implemented by the Nicaraguan government in order to combat the country's fiscal deficit, especially the fiscal reform, which was approved on February 28, 2019, and the reform of the Nicaraguan Institute of Social Security (INSS), which was approved on January 28, 2019, and entered into force on February 1, 2019.<sup>227</sup> The IACHR and its REDESCA recall the events that took place in April 2018, throughout the country, as a consequence of the government's proposal to reform the pension system. This proposal triggered demonstrations that turned into a serious

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<sup>223</sup> El Nuevo Diario, [Realizan platón en carretera a Masaya en medio de fuerte presencia policial](#) [‘Sit in strike carried out on highway to Masaya in the midst of heavy police presence’]. August 3, 2019.

<sup>224</sup> IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), Gross Human Rights Violations in the Context of Social Protests in Nicaragua. June 2018.

<sup>225</sup> IACHR, [Migración Forzada de personas nicaragüenses a Costa Rica](#), Forced Migration of Nicaraguans to Costa Rica. OAS/Ser.L/V/II, September 8, 2019.

<sup>226</sup> IACHR, [Migración forzada de personas nicaragüenses a Costa Rica. OEA/Ser.L/V/II. Doc.150/19](#), Forced Migration of Nicaraguans to Costa Rica. September 8, 2019, pg. 59

<sup>227</sup> National Assembly of the Republic of Nicaragua, [Decreto de Reformas al decreto número 975 “Reglamento General del a Ley de Seguridad Social” aprobado por el consejo directo del Instituto Nicaragüense de Seguridad Social \(INSS\), en sesión numero 25 realizada el 28 de enero de 2019](#). [Decree Amending Decree number 975 “General Regulation of the Social Security Law” approved by the direct council of the Nicaraguan Institute of Social Security (INSS), at session number 25, held on January 28, 2019]. Presidential Decree No. 06-2019, published in the Gazette, Official Register No. 221 on February 1, 2019.



political and social crisis, the effects of which were reflected by the Commission in its Report published in June 2018.<sup>228</sup>

141. The Special Rapporteurship on ESCERs has also voiced concern about the adoption of Presidential Decree No. 06-2019 on the subject matter, which was published on February 1, setting forth the amendments to the “General Regulation of the Social Security Law” based on Resolution 1/325, of January 8, 2019, of the Governing Council of the Nicaraguan Institute of Social Security (INSS), which covers “the increase in social security contributions for most contributors.”<sup>229</sup> The decree further establishes the increased contribution of both employees (from 6.25% to 7%) and freelance workers affiliated with optional social security insurance (rising to 22.5% for the comprehensive optional plan and 14% for the optional plan for the disabled, elderly and for death).<sup>230</sup>

142. The REDESCA expresses concern over the impact that the INSS reform could have on the right to work and the right to social security, as recognized in the Protocol of San Salvador, which was ratified by the State of Nicaragua. In this regard, General Comment No. 19 of the United Nations Committee on Economic, Social and Cultural Rights of (CESCR) asserts that the right to social security encompasses, as one essential element, an adequate level of benefits, in amount and duration, to provide for the enjoyment of the rights to family protection and assistance, adequate standard of living and adequate access to health care.<sup>231</sup>

143. In this regard, on August 8, 2019, the REDESCA sent a letter, pursuant to Article 41 of the American Convention on Human Rights, requesting information pertaining to the fiscal reforms and the Nicaraguan Institute of Social Security (INSS), that were carried out in Nicaragua. The REDESCA notes that the fiscal reform approved on February 28 of this year and the INSS reform, approved on January 28, 2019, were aimed at combating the country’s fiscal deficit. The IACHR and the REDESCA further learned that on February 28, 2019, the Tax Concentration Law was amended, increasing the amounts to be paid for individual income tax and imposing payment of a value added tax (VAT) on certain consumer products, that were previously tax exempt.

144. In its response, dated August 29, 2019, the State of Nicaragua noted that the events that took place in 2018 disrupted the economic order, because they brought damage to public infrastructure, caused acts of violence against the people, and hampered economic growth in the country. The State also pointed to the protests, that were held as of April 28, 2018, as being a cause for the decreased number of contributors to the INSS from March 2018 to January 2019 (around 139.1 thousand fewer contributors). According to the State, in 2018, the government budget showed a 13.7% decrease, the equivalent of funding 87% and 82% of the education and health sector budgets, respectively.<sup>232</sup>

<sup>228</sup> IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#) Gross Human Rights Violations in the Context of Social Protests in Nicaragua. June 2018.

<sup>229</sup> IACHR. Special Rapporteurship on Economic, Social, Cultural and Environmental Rights (REDESCA), August 8, 2019. Letter to the State of Nicaragua: request for information relating to the Reform of the Nicaraguan Institute of Social Security. Available at: Archive of the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights; IACHR, Press Release No. 026/19, [CIDH denuncia escalada de ataques a la prensa y persistencia de violaciones a los derechos humanos en Nicaragua](#), IACHR Condemns Increasing Attacks on the Press and Ongoing Human Rights Violations in Nicaragua. February 6, 2019.

<sup>230</sup> National Assembly of the Republic of Nicaragua, [Decreto de Reformas al decreto número 975 “Reglamento General del a Ley de Seguridad Social” aprobado por el consejo directo del Instituto Nicaragüense de Seguridad Social \(INSS\), en sesión numero 25 realizada el 28 de enero de 2019](#). Decree Amending Decree number 975 “General Regulation of the Social Security Law” approved by the direct council of the Nicaraguan Institute of Social Security (INSS), at session number 25, held on January 28, 2019]. Presidential Decree No. 06-2019, published in the Gazette, Official Register No. 221 on February 1, 2019; El Nuevo Diario, [Reformas al Seguro Social entran en vigor en Nicaragua](#) [‘Reforms of Social Security take effect in Nicaragua’]. February 1, 2019.

<sup>231</sup> CESCR, General Comment No. 19, [El derecho a la seguridad social](#), Right to Social Security E/C.12/GC/19, November 23, 2007.

<sup>232</sup> IACHR, Special Rapporteurship on Economic, Social, Cultural and Environmental Rights. August 29, 2019. Letter from the State of Nicaragua sent to the Special Rapporteurship in response to request for information. In archive of Special Rapporteurship on Economic, Social, Cultural and Environmental Rights.

145. The government of Nicaragua also argued that the reforms it implemented were backed by international organizations, such as the International Monetary Fund (IMF), technical expert staff members of which conducted a visit in February 2018 and advised “expanding fiscal latitude and maintaining a more solid position of international reserves.”<sup>233</sup> Additionally, IMF technical staff recommended carrying out a reform plan of the INSS to ensure long term viability and alleviate the need for INSS financing. According to the response submitted by the State, the IMF recommended that efforts should focus on strengthening tax administration and improving distribution of expenditures, as well as increasing the age of retirement to ensure fiscal sustainability, and containing the growth of administrative expenses and ensuring sustainability of the health sector.<sup>234</sup>

146. Additionally, with respect to reducing the number of goods subject to VAT exemptions, the government claims that one half of the benefits of the VAT are concentrated in the top two deciles of household consumption, based on the official government household survey of 2014. After categorizing households by deciles and calculating consumption of VAT exempt and non-exempt goods by household decile, the conclusion was reached that the wealthiest households consume the most VAT exempt goods in absolute terms. The government further asserted that disadvantaged consumers’ basket of staples is taxed very lightly.<sup>235</sup>

147. Notwithstanding, the United Nations Committee on Economic, Social and Cultural Rights (CESCR) asserts, in General Comment No. 19, that social security, through its redistributive character, plays an important role in poverty reduction and alleviation, promoting social inclusion.<sup>236</sup> However, in several countries of the region, persons living in poverty are not beneficiaries but net payers into the fiscal system because “high tax rates for goods and services and low rates for income, wealth and property bring about inequitable and discriminatory outcomes.”<sup>237</sup>

148. Furthermore, the REDESCA recalls that social security has far-reaching effects on society. On the one hand, it is so interconnected to other fundamental rights, such as the right to health in providing for medical assistance. On the other hand, it protects people against income loss due to circumstances such as unemployment, maternity, illness, disability, old age, among other ones, in providing a minimum income to ensure decent living conditions in such circumstances. Additionally, social security can help to maintain stable working conditions and contribute to social cohesion and to the country’s sustainable development through enhanced standard of living for the people. Therefore, the Special Rapporteurship on ESCERs expresses its concern that the context of Nicaragua’s political and social crisis is undermining social rights, because these rights are of a progressive nature and the aforementioned reforms have a negative impact on the right of people, in particular, to work, the right to social security and the rights of older adults.

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<sup>233</sup> IACHR. Special Rapporteurship on Economic, Social, Cultural and Environmental Rights. August 29, 2019. Letter from the State of Nicaragua sent to the Special Rapporteurship in response to request for information. In archive of Special Rapporteurship on Economic, Social, Cultural and Environmental Rights.

<sup>234</sup> IACHR. Special Rapporteurship on Economic, Social, Cultural and Environmental Rights. August 29, 2019. Letter from the State of Nicaragua sent to the Special Rapporteurship in response to request for information. In archive of Special Rapporteurship on Economic, Social, Cultural and Environmental Rights.

<sup>235</sup> Letter from the State of Nicaragua sent to the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights. August 29. Available at: In archive of Special Rapporteurship on Economic, Social, Cultural and Environmental Rights.

<sup>236</sup> CESCR, General Comment No. 19, [El derecho a la seguridad social](#), The Right to Social Security. E/C.12/GC/19, February 4, 2018.

<sup>237</sup> UN. Report of the Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona. A/HRC/26/28. May 22, 2014. par. 47; IACHR, [Informe sobre pobreza y derechos humano en las Américas](#), Report on Poverty and Human Rights in the Americas. OEA/Ser.L/V/II.164, September 7, 2017.

149. In addition, the REDESCA recalls that fiscal policy, understood as the State's "policy to collect and allocate public resources,"<sup>238</sup> should be aimed at eradicating poverty through the efficient collection of public revenue to be used to reduce social inequality among the population.<sup>239</sup> A disproportionate impact on the poorest sectors of the population also poses an obstacle to the financing of public policies and social programs. Therefore, the IACHR and its REDESCA stress that it is essential for the State of Nicaragua to conduct a thorough fiscal analysis aimed at the progressive realization of ESCERs, with a special focus on individuals and groups in a situation of greater vulnerability.

## V. SPECIFIC SITUATION OF GROUPS OF PARTICULAR CONCERN

### A. Human Rights Defenders

150. In Nicaragua, the Inter-American Commission notes with concern the high degree of risk faced by human rights defenders as a consequence of assaults, threats and smear campaigns, acts of harassment, criminalization, tracking and surveillance. Likewise, the IACHR notes that human rights organizations and victims' groups that have formed in the context of the crisis as of April 18, 2018, face serious restrictions on their human rights defense and promotion work, as a result of those actions. This all is taking place in a context of a police state, that has shut down democratic spaces in the country, discouraging victims from reporting such acts and instilling fear in defenders.

151. According to information gathered through the MESENI, on February 7, 2019, the Nicaraguan offices of the Network for Democracy and Local Development in Managua (known as Red Local) were raided by state authorities without any judicial warrant. During that raid, the organization's manager and accountant were arrested and then subjected to interrogation and threats.<sup>240</sup> On March 20, the IACHR received information about three representatives of the Nicaraguan NGO Coordinating Federation, who work for the children's and adolescents' organization Coordinadora de la Niñez Nicaragua (CODENI), who were reportedly arrested, as they were heading to participate in a workshop and were then interrogated for about two hours.<sup>241</sup> On July 26, 2019, staff attorney of the Permanent Commission of Human Rights (CPDH) María Oviedo was arbitrarily arrested and prosecuted for the alleged crime of "obstruction of functions" and "threats."<sup>242</sup> On August 9, 2019, the Commission was informed about police surveillance of the facilities of "Acción Penal," a group made up of former prosecutors, who focus on defending "political prisoners."<sup>243</sup>

<sup>238</sup> CESR, ACIJ, Dejusticia, Fundar, CELS, INESC, IBP. Comments on the draft IACHR report "Poverty, Extreme Poverty and Human Rights." February 2017, pg. 4.

<sup>239</sup> IACHR, [Informe sobre pobreza y derechos humano en las Américas. Report on Poverty and Human Rights in the Americas](#). OEA/Ser.L/V/II.164, September 7, 2017, par. 495.

<sup>240</sup> IACHR, Press Release No. 51/19 [Comunicado de Prensa No. 51/19. CIDH insta a asegurar condiciones propicias para el goce de los derechos humanos en Nicaragua ante procesos de dialogo](#), IACHR Calls for Conditions that Enable the Enjoyment of Human Rights during Nicaraguan Dialogue. February 28, 2019.

<sup>241</sup> IACHR, Press Release No. 90/19 [Comunicado de Prensa No. 90/19. CIDH condena persistencia de actos de represión en Nicaragua en el contexto de la Mesa de Negociación](#), IACHR Condemns Continuing Acts of Repression in Nicaragua during Negotiating Table Talks. April 5, 2019.

<sup>242</sup> IACHR, Press Release No. 194/19 [Comunicado de Prensa No 194/19. CIDH expresa su preocupación ante el anuncio del Estado de Nicaragua de no continuar con el diálogo y llama al Estado a cumplir con sus obligaciones de garantía y respeto de los derechos humanos](#), IACHR Expresses Concern over Nicaragua's Announcement That It Will Not Continue Dialogue and Calls on the State to Comply with Its Obligations to Guarantee and Respect Human Rights. August 6, 2019; Commission on Verification and Security of the Civic Alliance for Justice and Democracy (ACJD), Unidad de defensa jurídica, Nuevos patrones de represión y violaciones al debido proceso entre el 27 de febrero y el 8 de agosto de 2019 ["New patterns of repression and violations of due process between February 27 and August 8, 2019"], pg. 11.

<sup>243</sup> IACHR, Press Release No. 220/19 [Comunicado de Prensa No. 220/19. CIDH denuncia la persistencia de la represión y expresa su preocupación por incremento de hostigamiento contra personas defensoras de derechos humanos y excarceladas en Nicaragua](#), IACHR

152. In its observations on the draft of the present report, the State provided information about the case against attorney María del Socorro Oviedo, as the perpetrator of the crime of obstruction of National Police functions. The State further noted that, abusing her position, the Judge forwarded copies of the law to the Judicial Administration and Career Council of the SCJ [Supreme Court of Justice]. According to its claim, “the judicial proceeding was processed with respect to all constitutional and procedural guarantees, based on the principle of legality and on the presumption of innocence, in all procedural acts, the accused has had the assistance of a technical defense attorney of her choosing.”<sup>244</sup>

153. The IACHR also regrets that the nine civil society organizations, whose legal status has been revoked since December 2018, have not been reinstated and their property has not been returned, in particular, the archives and files on documented cases of human rights violations,<sup>245</sup> which all has a chilling effect on other organizations and victims’ groups, that have continued to operate in the country.<sup>246</sup> Currently, the IACHR has information that several of the members of the Nicaraguan Center for Human Rights (CENIDH) continue to go about the business of the organization in “clandestine” conditions;<sup>247</sup> while other members were forced to emigrate to other countries in search of international protection, from where they continue to engage in their work and speak out about the human rights violations and defending human rights, such as the case of the group “Nicaragua Nunca Más.”<sup>248</sup>

154. In 2019, the Nicaraguan State told the IACHR that the nine organizations (CISAS, IEEP, IPADE, HADEMO, CINCO, CENIDH, POPOL NA, ILLS y Fundación del Río) forfeited their legal status as entities when they engaged in activities that were inconsistent with the object and purposes for which they were legally incorporated. In particular, these organizations allegedly used “the organizational structure to manage, receive, channel and facilitate funds to disturb public order and carry out actions to destabilize the country,”<sup>249</sup> in violation of Article 24 of Law 147 on Non-Profit Legal Entities. Furthermore, as regards the process of liquidation of property of these organizations, the State contended that it proceeded in accordance with the provisions of Article 25 of the same law. The Nicaraguan State further noted that in Nicaragua there is indeed freedom of association, inasmuch as 7,135 non-profit organizations are operating in the country.<sup>250</sup>

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Speaks Out Against Ongoing Repression in Nicaragua and Express Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison. September 6, 2019.

<sup>244</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pg. 45.

<sup>245</sup> IACHR, Press Release No. 265/18 [Comunicado de Prensa 265/18. CIDH condena la cancelación de la personalidad jurídica de organizaciones de derechos humanos en Nicaragua](#), IACHR Condemns the Cancellation of the Legal Personality of Human Rights Organizations in Nicaragua’, December 13, 2018; CENIDH, [Cenidh rechaza cancelación de su personalidad jurídica](#), [‘CENIDH rejects revocation of its legal status as entity’]. December 12, 2018.

<sup>246</sup> IACHR, 171<sup>st</sup> Regular Session, public hearing “[Situación General de Derechos Humanos en Nicaragua](#)” [‘General Situation of Human Rights in Nicaragua’], February 14, 2019.

<sup>247</sup> IACHR, Press Release No. 162/19, [Comunicado de Prensa No. 162/19. CIDH solicita medidas provisionales a la Corte Interamericana a favor de los integrantes del Centro Nicaragüense de Derechos Humanos \(CENIDH\) y la Comisión Permanente de Derechos Humanos \(CPDH\) ante extrema situación de riesgo en Nicaragua](#), [‘IACHR Asks IA Court to Adopt Provisional Measures in Favor of Members of the Nicaraguan Center for Human Rights (CENIDH) and the Permanent Commission on Human Rights (CPDH) in Response to Extreme Risk They Are Facing in Nicaragua’], June 27, 2019.

<sup>248</sup> El Nuevo Diario, [Defensores de Derechos Humanos en el exilio recopilarán denuncias en Costa Rica](#), [‘Human rights defenders in exile gather complaints in Costa Rica’]. February 18, 2019.

<sup>249</sup> Communication from the State of Nicaragua. Note MPN-OEA/0093. Observations of the State of Nicaragua on the IACHR Draft Report on Migration of Nicaraguans to Costa Rica, July 29, 2019, par. 7.

<sup>250</sup> Communication from the State of Nicaragua. Note MPN-OEA/0093. Observations of the State of Nicaragua on the IACHR Draft Report on Migration of Nicaraguans to Costa Rica, July 29, 2019, par. 8.

155. In addition, the Commission received information about the situation of members of the Permanent Commission on Human Rights (CPDH), who continue to be the victims of smear campaigns, verbal assaults, harassment, persecution, hounding and threats by the National Police and individuals close to the government, who seek to discredit and undermine their work.<sup>251</sup> By way of example, according to the information reported, Executive Secretariat of the CPDH, Marco Antonio Carmona Rivera, was forced to send three of his children into exile, due to constant threats against him and his family.<sup>252</sup> Likewise, in May 2019, Eduardo Antonio Llanos, a volunteer of the organization left the country as a consequence of several threats and harassment against him.<sup>253</sup> The last week of June 2019, the CPDH received at least 5 anonymous phone calls threatening its facilities would be occupied and its legal status potentially revoked.<sup>254</sup>

156. The IACHR ascertained the existence of assaults, attacks, harassment and constant threats by state agents or government sympathizers against people who defend human rights, including the beneficiaries of precautionary measures granted by the IACHR and provisional measures of the Inter-American Court.

157. Even though the precautionary measures granted on behalf of CENIDH have been in force since 2008 and, in the case of the CPDH, since 2018, on June 27, 2019, the IACHR requested the Inter-American Court of Human Rights to adopt provisional measures to protect the rights of the members of both organizations, on the grounds that their situation of risk could be even further exacerbated, because of the role they play in consistently denouncing and verifying human rights violations, as well as providing legal representation to victims of violence. Both organizations represent hundreds of victims of human rights violations between them, the cases of the so-called “political prisoners;” moreover, they have called the Amnesty Law into question in view of the effect it could have as a factor of impunity for gross human rights violations that took place in the country. This is all in addition to their work in documenting and denouncing these cases in the national and international arenas, as well as representing beneficiaries for precautionary and provisional measures before the Inter-American system.<sup>255</sup>

<sup>251</sup> IACHR, [Audiencia sobre la Situación general de derechos humanos en Nicaragua, 171 Periodo de Sesiones](#), Hearing on the general situation of human rights in Nicaragua. February 14, 2019; IACHR, Press Release 220/19 [Comunicado de Prensa 220/19, CIDH denuncia la persistencia de la represión y expresa su preocupación por incremento de hostigamiento contra personas defensoras de derechos humanos y excarceladas en Nicaragua](#), IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison. September 6, 2019; Press Release 162/19 [Comunicado de prensa 162/19, CIDH solicita Medidas Provisionales a la Corte Interamericana a favor de los integrantes del Centro Nicaragüense de Derechos Humanos \(CENIDH\) y la Comisión Permanente de Derechos humanos \(CPDH\) ante extrema situación de riesgo en Nicaragua](#), IACHR Asks IA Court to Adopt Provisional Measures in Favor of Members of the Nicaraguan Center for Human Rights (CENIDH) and the Permanent Commission on Human Rights (CPDH) in Response to the Extreme Risk They Are Facing in Nicaragua. June 27, 2019; IACHR

<sup>252</sup> IA Court of HR, [Resolución de 12 de julio de 2019, Medidas Provisionales Respecto de Nicaragua, Asunto integrantes del Centro Nicaragüense de Derechos Humanos \(CENIDH\) y de la Comisión Permanente de Derechos Humanos \(CPDH\)](#), Resolution of July 12, 2019, Provisional Measures, Nicaragua. Matter: Members of Nicaraguan Center for Human Rights (CENIDH) and the Permanent Commission on Human Rights (CPDH). par. 22; IACHR, [Medidas Cautelares No. 921-16 y 520-18, Marco Antonio Carmona y otros respecto de Nicaragua \(Personas defensoras de derechos humanos\)](#), Precautionary Measures No. 921-16 and 520-18, Marco Antonio Carmona et al, Nicaragua (Human rights defenders), July 2, 2018.

<sup>253</sup> IA Court of HR, [Resolución de 12 de julio de 2019, Adopción de Medidas Urgentes respecto de Nicaragua, Asunto integrantes del Centro Nicaragüense de Derechos Humanos \(CENIDH\) y de la Comisión Permanente de Derechos Humanos \(CPDH\)](#), Resolution of July 12, 2019, Provisional Measures, Nicaragua. Matter: Members of Nicaraguan Center for Human Rights (CENIDH) and the Permanent Commission on Human Rights (CPDH). par. 22.

<sup>254</sup> IACHR, Press Release No. 162/19 [Comunicado de Prensa No. 162/19, CIDH solicita medidas provisionales a la Corte Interamericana a favor de los integrantes del Centro Nicaragüense de Derechos Humanos \(CENIDH\) y la Comisión Permanente de Derechos Humanos \(CPDH\) ante extrema situación de riesgo en Nicaragua](#), IACHR Asks IA Court to Adopt Provisional Measures in Favor of Members of the Nicaraguan Center for Human Rights (CENIDH) and the Permanent Commission on Human Rights (CPDH) in Response to the Extreme Risk They Are Facing in Nicaragua. June 27, 2019.

<sup>255</sup> IACHR, Press Release No. 162/19, [CIDH solicita medidas provisionales a la Corte Interamericana a favor de los integrantes del Centro Nicaragüense de Derechos Humanos \(CENIDH\) y la Comisión Permanente de Derechos Humanos \(CPDH\) ante extrema situación de riesgo en Nicaragua. Washington](#), IACHR Asks IA Court to Adopt Provisional Measures in Favor of Members of the Nicaraguan Center for Human Rights (CENIDH) and the Permanent Commission on Human Rights (CPDH) in Response to the Extreme Risk They Are Facing in Nicaragua. June 27, 2019.

158. These urgent protection measures were granted under Resolution of the President of the IA Court of HR on July 12, 2019.<sup>256</sup> On October 14, 2019, the Inter-American Court decided to ratify his Resolution and again request the State to immediately adopt the necessary measures to protect the lives and safety of the members of the Nicaraguan Center for Human Rights and of the Permanent Commission on Human Rights of Nicaragua. The IACHR notes that, in the context of the Resolution, the Inter-American Court found that the information provided by the State did not enable it to assess whether or not the “Protocol of conduct for addressing crimes committed against promoters or defenders of human rights” of the Office of the Public Prosecutor and the “Protocol on special measures of protection and security for human rights activists” of February 2018 of the National Police, were being carried out and implemented, or whether or not they had any impact.<sup>257</sup>

159. As was mentioned earlier, over the course of 2019, the IACHR noted that the actions described above took place in context of ongoing speeches, statements and messages, that were disseminated through social networks and other media, to undertake a stigmatization and smear campaign, aimed at justifying and legitimizing the conduct of the authorities against human rights defenders. This context applied as well to civil society organizations, released prisoners and people who played an important role in the negotiating talks. By way of example, on May 6, 2019, senior officials of the Ministry of Foreign Affairs held Civic Alliance responsible for raising the “roadblocks of death” (*Tranques de la muerte*) and “crimes and destructive acts committed during 2018.”<sup>258</sup>

160. The IACHR reiterates its concern over these practices which, on the one hand, seek to discredit civil society organizations and those who have taken on a fundamental role in finding a solution to the current crisis, such as the Church; while, on the other hand, attempting to portray the situation in Nicaragua as largely stable.<sup>259</sup> Accordingly, the IACHR calls on the State to ensure compliance with the recommendation set forth in the country report to “refrain from making public statements that stigmatize demonstrators, human rights defenders, journalists, and refrain from using state media outlets to conduct public campaigns that may encourage violence against persons because of their opinions.”<sup>260</sup>

161. Over the current year, it came to the attention of the IACHR that party-affiliated structures at the local and community level (such as the so-called “Citizen Power Councils”) were politically profiling organizations operating in the country. The IACHR also received information about the introduction of a tax reform bill that would give the power to authorities to grant exemptions or assess taxes on the income of civil society organizations at their own discretion based on the activities of the organization. Such measures, if

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<sup>256</sup> IA Court of HR, [Asunto Integrantes del Centro Nicaragüense de Derechos Humanos \(CENIDH\) y de la Comisión Permanente de Derechos Humanos \(CPDH\)](#), Matter of members of the Nicaraguan Center for Human Rights (CENIDH) and the Permanent Commission on Human Rights (CPDH), Resolution of the President of July 12, 2019.

<sup>257</sup> IA Court of HR, [Resolución de 14 de octubre de 2019, Medidas Provisionales respecto de Nicaragua, Asunto integrantes del Centro Nicaragüense de Derechos Humanos \(CENIDH\) y de la Comisión Permanente de Derechos Humanos \(CPDH\)](#), Resolution of October 14, 2019, Provisional Measures, Nicaragua, Matter: Members of the Nicaraguan Center for Human Rights (CENIDH) and the Permanent Commission on Human Rights (CPDH), par. 30.

<sup>258</sup> Ministry of Foreign Affairs, [Nota de Prensa de la Delegación del GRUN ante la Mesa de Negociación](#), Press Bulletin of the Delegation of GRUN to the Negotiating Table, May 6, 2019.

<sup>259</sup> IACHR, Press Release No. 118/19, [CIDH rechaza campaña de estigmatización en Nicaragua](#), IACHR Speaks Out Against Stigmatization Campaign in Nicaragua, May 16, 2019.

<sup>260</sup> Recommendation No. 10 “Urge the state authorities to refrain from making public statements that stigmatize demonstrators, human rights defenders, journalists, and refrain from using state media outlets to conduct public campaigns that may encourage violence against persons because of their opinions. And to effectively protect human rights defenders and journalists at risk.” IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), Gross Human Rights Violations in the Context of Social Protests in Nicaragua, OEA/Ser.L/V/II, Doc. 86, June 21, 2018.

passed, could facilitate political oversight of civil society organizations.<sup>261</sup> Likewise, the Commission became aware of the amendments to the Law against Terrorism and Asset Laundering (Law 977) and the Law of the Financial Analysis Unit (UAF), which establishes the obligation of attorneys, accountants and notaries public to account to the authorities, recognizing them as “obligated subjects of the law.”<sup>262</sup> Based on information received by the IACHR, these reforms are aimed at continuing to arbitrarily restrict the work of attorneys in the context of the crisis.<sup>263</sup>

162. Additionally, the IACHR received information about increased tracking, harassment and detention of women human rights defenders by State agents and government supporters. On June 26, through the MESENI, the IACHR learned of assaults by government sympathizers on human rights defender Marcela Foster, a member of the community of Kamla territory Twi Yahbra. On August 19, women human rights defenders Mirna Blandón, Tamara Dávila, Neyma Hernández, Amelia Urbina Ramos, Guisella Ortega and Doris Hernandez Mendoza were arrested as they attempted to demonstrate in defense of the political prisoners in Nicaragua.<sup>264</sup> On October 23, feminists of the Department of Matagalpa were intimidated and harassed in the context of a police operation, that was conducted for the purpose of impeding the demonstration that they were preparing to hold to decry the more than 50 femicides reported in Nicaragua over 2019. The women defenders also reported that messages were circulating on the social media against the Colectivo de Mujeres de Matagalpa, accusing them of being “coup-plotters,” “terrorists” and of conspiring against the government.<sup>265</sup>

163. Likewise, attorney Yonarqui Martínez repeatedly reported being followed and harassed by the police.<sup>266</sup> On August 19, 2019, an attorney of Unidad de Defensa Jurídica, Aura Alarcón, was assaulted and her belongings were taken away from her by the “Sandinista mobs,” with the acquiescence of agents of the National Police, who were present at the time and did nothing to stop the assault.<sup>267</sup>

164. The IACHR recalls that women defenders of women’s human rights are especially vulnerable to human rights violations when compared to other groups of human rights defenders, in addition to the

<sup>261</sup> IACHR, Press Release No. 51/19 - [CIDH insta a asegurar condiciones propicias para el goce de los derechos humanos en Nicaragua ante proceso de diálogo](#), IACHR Calls for Conditions that Enable the Enjoyment of Human Rights during Nicaraguan Dialogue. Washington, D.C., February 28, 2019.

<sup>262</sup> Law amending and adding to Law No. 977, [Ley contra el Lavado de Activos, el financiamiento al terrorismo y el financiamiento a la proliferación de armas de destrucción masiva](#), [‘Law against Asset Laundering, Financing of Terrorism and Financing the Proliferation of Weapons of Mass Destruction’], approved on August 7, 2019, published in the Gazette on August 19, 2019; Law amending and adding to Law No. 976, [Ley de la Unidad de Análisis Financiero](#), [‘Law of the Financial Analysis Unit’], approved on September 4, 2019, published in the Gazette on September 13, 2019.

<sup>263</sup> La Prensa, [Entra en vigencia la Ley que obliga a los abogados y a contadores a rendir informes a la UAF](#), [‘Law obligating lawyers and accountants to be accountable to the UAF goes into force’], August 19, 2019; El Nuevo Diario, [Asamblea aprueba reforma a la Ley contra el Lavado de Activos](#), [‘Assembly approves reform of Law against Asset Laundering’], August 7, 2019; Despacho 505, [Defensores del Pueblo recurren contra la reforma a la ley de la UAF](#), [‘Public Defenders challenge reform of the UAF law’], November 1, 2019.

<sup>264</sup> Mesoamerican Initiative of Women Human Rights Defenders, [detención arbitraria de seis defensoras feministas](#), [‘arbitrary detention of six feminist defenders’], August 19, 2019; Autonomous Women’s Movement of Nicaragua, Boletín Informativo, [News bulletin], August 2019.

<sup>265</sup> Mesoamerican Women’s Initiative, [Alerta Defensoras Nicaragua](#), [‘Alert Women Defenders Nicaragua’], October 24, 2019.

<sup>266</sup> IACHR, Press Release No. 194/19 [Comunicado de Prensa No. 194/19, CIDH expresa su preocupación ante el anuncio del Estado de Nicaragua de no continuar con el diálogo y llama al Estado a cumplir con sus obligaciones de garantía y respeto de los derechos humanos](#) IACHR Expresses Concern over Nicaragua’s Announcement That It Will Not Continue Dialogue and Calls on the State to Comply with Its Obligations to Guarantee and Respect Human Rights. August 6, 2019; La Prensa, [Yonarqui Martínez, abogada de presos políticos: “Con mucho orgullo estaría en la cárcel por defenderlos a ellos”](#) [‘Yonarqui Martínez, attorney of political prisoners: “I would proudly go to jail for defending them”’], March 1, 2019; La Prensa, [Policía Orteguista traslada el carro de la abogada Yonarqui Martínez hacia el Depósito Vehicular](#), [‘Pro-Ortega Police transfer attorney Yonarqui Martínez’s car to the Impoundment lot’], July 20, 2019.

<sup>267</sup> IACHR, Press Release No. 220/19 [Comunicado de Prensa No. 220/19, CIDH denuncia la persistencia de la represión y expresa su preocupación por incremento de hostigamiento contra personas defensoras de derechos humanos y excarceladas en Nicaragua](#), IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison. September 6, 2019.

historic discrimination they suffer because of their traditional role in society and the gender stereotypes attached to women.<sup>268</sup> Consequently, the State must ensure that human rights defenders are able to go about their work without fear of retaliation or improper pressure.<sup>269</sup>

165. Likewise, the situation of the rights of LGBTI persons in Nicaragua continues to be complex because of the ingrained pattern of violence and discrimination to which this group is subjected. Concretely, the Commission is concerned about the threats faced by these people, mainly, the defenders of the human rights of LGBTI persons. On this score, the IACHR received information about the pattern of violence experienced by these persons, including physical assaults, death threats, crimes against their property and criminalization, which is usually prejudice- and discrimination-based. The Commission was made aware of the attack perpetrated against the president of the Nicaraguan Transgender Association (ANIT), Ludwika Vega, who was assaulted<sup>270</sup> on the night of September 10, 2019, at her organization's offices,<sup>271</sup> which led to the robbery of office materials, thus jeopardizing the security of the trans persons that are assisted by ANIT.<sup>272</sup> Likewise, the IACHR was notified that Ulises Rivas, a defender of LGBTI persons' rights, was arrested after returning from exile in Costa Rica,<sup>273</sup> for allegedly stealing a hat and having caused bodily harm. According to the information, a hood was put over the human rights defender's head and he was beaten<sup>274</sup> following a hearing at the courthouse of Chontales.

166. The IACHR reminds the State of Nicaragua about its obligation to conduct thorough and impartial investigations into cases of violence against LGBTI persons, adopting effective measures to prosecute, punish and provide reparation for the violence endured by these people, while adopting positive measures to enable those who defend rights to freely go about their work, fostering a culture of human rights and an atmosphere free from violence and threats.

167. The Inter-American Commission has repeatedly noted that human rights defenders make a fundamental contribution to strengthening democratic societies. Therefore, respect for human rights in a democratic state depends on them enjoying effective and adequate guarantees so as to freely go about their activities.<sup>275</sup> The IACHR has also noted that defenders perform the necessary citizen oversight of public officials and institutions and, in this way, have come to play "an irreplaceable role in building a solid and lasting democratic society."<sup>276</sup>

<sup>268</sup> IACHR, [Segundo informe sobre la situación de las defensoras y los defensores de derechos humanos en las Américas](#). Second Report on the Situation of Human Rights Defenders in the Americas. OEA/Ser.L/V/II. Doc 66, December 31, 2011, par. 283; IACHR, [Informe sobre la situación de las defensoras y defensores de los derechos humanos en las Américas](#). Report on the Situation of Human Rights Defenders in the Americas. OEA/Ser.L/V/II.124. Doc. 5 rev. 1, March 7, 2006, Chapter X. Recommendation No. 7

<sup>269</sup> IACHR, [Informe sobre la Situación de las Defensoras y Defensores de Derechos Humanos en las Américas](#). Report on the Situation of Human Rights Defenders in the Americas. OEA/Ser.L/V/II.124. Doc. 5 rev.1, March 7, 2006, par. 46

<sup>270</sup> Agencia Presentes, [Intentaron asesinar a una activista trans de Nicaragua en su oficina](#), ['Attempted murder of Nicaraguan trans activist in her office'], September 16, 2019.

<sup>271</sup> 100% Noticias, [Golpean Violentamente a activista transgénero Ludwika Vega](#), ['Transgender activist Ludwika Vega violently beaten'], September 12, 2019.

<sup>272</sup> Caribe Afirmativo, [Caribe Afirmativo, en conjunto con sus aliados, rechaza la violencia contra lideresa trans en Nicaragua](#), ['Caribbean Affirmative, jointly with its partners, rejects violence against trans women leader in Nicaragua']

<sup>273</sup> Today Nicaragua, [Police Arrested Well-Known Nicaraguan LGBTI activist who had returned from exile](#), September 3, 2019.

<sup>274</sup> 100% Noticias, [Encapuchan y golpean a Ulises Rivas tras audiencia en juzgados](#), ['Ulises Rivas hooded and beaten after hearing in courthouse'], September 4, 2019.

<sup>275</sup> IACHR, [Informe sobre la situación de las defensoras y los defensores de derechos humanos en las Américas](#). Report on the Situation of Human Rights Defenders in the Americas. OEA/Ser.L/V/II.124. Doc. 5 rev.1, March 7, 2006, pars. 20-41; IACHR, [Situación de derechos humanos en Honduras](#). Situation of Human Rights in Honduras. OEA/Ser.L/V/II. Doc. 42/15, December 31, 2015, par. 58.

<sup>276</sup> IACHR, [Informe sobre la situación de las defensoras y defensores de los derechos humanos en las Américas](#). Report on the Situation of Human Rights Defenders in the Americas. OEA/Ser.L/V/II.124. Doc. 5 rev.1, March 7, 2006, par. 23; IACHR, [Criminalización de](#)



168. Based on the foregoing, the IACHR understands that the promotion of a culture that publicly and unequivocally recognizes the fundamental role played by human rights defenders to ensure democracy is essential for their overall protection, the exercise of the protection and promotion of human rights is a legitimate action, and that these defenders are contributing to strengthening the rule of law and to expanding all persons' rights and guarantees.<sup>277</sup>

*Situation of family members of the victims of the repression*

169. In the context of the closure of democratic spaces in Nicaragua, the IACHR noticed the State's growing focus on persecuting the family members of fatal victims and of persons who were deprived of liberty as a result of acts linked to the protests beginning on April 18, 2018.

170. The acts of persecution reported include surveillance, intimidation, as well as hampering peaceful actions, [carried out] by both national police and persons identified as government sympathizers, who act with their acquiescence and tolerance. For example, as 2019 came to a close, the IACHR learned of acts of repression that allegedly took place in the context of the hunger strike lasting from November 14 to 22, which was carried out by family members and activists advocating for the release of political prisoners at the Church San Miguel en Masaya. Over that time, the temple was surrounded by police officers to impede people's entry and exit to and from the premises. Additionally, these agents reportedly cut off the drinking water and electricity supply, as well as access to medications and supplies, which jeopardized the safety and lives of the persons on strike and those joining them, such as the parish priest Edwin Roman, who suffers from diabetes and who is a beneficiary of precautionary measures. The Commission also learned of police blockades at the entrances to other temples of worship and attacks on parishioners and members of religious orders at several churches that had yielded to the protest.<sup>278</sup>

171. Additionally, the IACHR has been receiving ongoing reports of intimidation and persecution against the families of victims who lost their lives in the crisis, especially to prevent private and public ceremonies from being held in memory of people who were murdered. One of the testimonies the Commission became aware of was about the surveillance of the family of Matt Romero, consisting of agents patrolling around and being posted outside the family residence, in the context of the one-year anniversary of his death, which took place on September 23, 2018. The MESENI also reported ongoing police surveillance of the family of Richard Pavón, in Tipitapa, such as the incident of October 26 when members of his family were getting ready to visit his gravesite on the occasion of his birthday. Subsequently, in the context of the celebration of the Day of the Dead in Nicaragua, the IACHR also received reports of scratches to and destruction of the plaques of the graves of José Manuel Narváez and Josué Mojica, both of whom were lost their lives in the human rights crisis.<sup>279</sup>

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[defensoras y defensores de derechos humanos](#), Criminalization of Human Rights Defenders, OEA/Ser.L/V/II. Doc. 49/15. December 31, 2015, par. 22.

<sup>277</sup> IACHR, [Informe sobre la situación de las defensoras y defensores de los derechos humanos en las Américas](#), Report on the Situation of Human Rights Defenders in the Americas. OEA/Ser.L/V/II.124. Doc. 5 rev.1, March 7, 2006, recommendatino 2; IACHR, [Criminalización de defensoras y defensores de derechos humanos](#), Criminalization of Human Rights Defenders, OEA/Ser.L/V/II. Doc. 49/15. December 31, 2015, par. 277.

<sup>278</sup> CIDH, Comunicado de Prensa No. 297/19 - [CIDH condena la persecución a las víctimas de la represión en Nicaragua y llama al Estado a evitar la revictimización y a promover la verdad, la justicia, la reparación y medidas de no repetición](#). Washington, D.C., 19 de noviembre de 2019

<sup>279</sup> IACHR, Press Release No. 297/19 - [CIDH condena la persecución a las víctimas de la represión en Nicaragua y llama al Estado a evitar la revictimización y a promover la verdad, la justicia, la reparación y medidas de no repetición](#). IACHR Condemns the Persecution of Victims of Repression in Nicaragua and Calls on State to Prevent Revictimization and Promote Truth, Justice, Reparation and Measures of Nonrepetition. Washington, D.C., November 19, 2019

172. Lastly, in the context of the public hearing “Challenges for the autonomy and independence of the judicial system in Nicaragua,” representatives of the Association of the Mothers of April (AMA) of Nicaragua reported to the IACHR an escalation in acts of harassment, intimidation and verbal aggression against the mothers of the deceased victims following the opening event of the “Museum of Memory against Impunity” in September 2019, a museum intended to preserve the memory of the victims of repression. The organizations further expressed their lack of confidence in the National Police to report the aggression they endured.<sup>280</sup>

173. The Inter-American Commission condemns the repression aimed at the families of the victims of state repression in Nicaragua, inasmuch as far from contributing to reconciliation, it amounts to a form of revictimization that undermines their right to physical integrity, the right to justice and to the truth. As the IACHR noted on other occasions, recognition of the victims signifies a form of admitting the importance and value of the the persons as individuals, victims and as holders of rights.<sup>281</sup>

## **B. Situation of Persons Deprived of Liberty**

174. In 2019, the IACHR notes that the conditions of detention of persons held at the “Jorge Navarro” National Penitentiary (known as “La Modelo”) and at the Comprehensive Women’s Penitentiary Center, known as “La Esperanza,” have not improved, inasmuch as they continue to be overcrowded, unsanitary, lacking medical care, and personal belongings are stolen from inmates, inmates are mistreated and punished in maximum security cells without any objective criteria governing the practice.<sup>282</sup> For these reasons, on May 17, the IACHR requested the Inter-American Court to adopt provisional measures to protect the rights of 17 persons deprived of liberty, who were facing an extremely grave and urgent situation of suffering irreparable harm.

175. On May 21, the President of the aforementioned Court decided to grant the urgent measures requested by the Commission. In his Resolution, the Court concluded that the State had not introduced sufficient evidence to be able to dismiss the information provided by the Inter-American Commission about the conditions of detention of the requesting parties, who, in particular, contended that at “La Modelo” prison, i) the male inmates are subjected to a regime of “maximum security;” ii) they endure high temperatures in their cells; iii) the sanitary conditions are poor because inmates are confined without access to services of electricity, drainage systems, and are exposed to the presence of insects; iv) they are forced to remain in punishment cells for extended periods of time; v) they receive substandard food; vi) they go without natural light for extended periods of time.<sup>283</sup>

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<sup>280</sup> IACHR, 174th Regular Session, public hearing “[Desafíos para la autonomía e independencia del sistema judicial en Nicaragua](#)” ‘Challenges to the autonomy and independence of the judicial system in Nicaragua,’ November 11, 2019;

<sup>281</sup> IACHR, [Derecho a la Verdad](#), Right to the Truth in the Americas OEA/Ser.L/V/II.152 Doc. 2, August 13, 2014, par. 29.

<sup>282</sup> For example: The Commission expressed its concern about the case of Max Francisco Cruz Gutiérrez, a prisoner in La Modelo with a serious infection in his right leg following a gunshot wound he sustained when he was arrested and did not receive any medical care. The IACHR also became aware of the severe deterioration of the health status of Carlos Brenes and Tomas Maldonado, because they received no medical care. IACHR, [Comunicado de Prensa 51/19 – CIDH insta a asegurar condiciones propicias para el goce de los derechos humanos en Nicaragua ante el proceso de diálogo](#), IACHR Calls for Conditions that Enable the Enjoyment of Human Rights during Nicaraguan Dialogue. February 28, 2019.

<sup>283</sup> In the Resolution, the Court directed the State of Nicaragua to “submit a description of the medical services and care allegedly provided to each of the requesting parties; however, it failed to submit the documentary evidence to enable prove these claims. It submitted several images of the prison cell block of “La Modelo” for the purpose of proving that the prisoners are provided with adequate hygienic sanitary conditions, ventilation, mattresses, and artificial and natural lighting, but failed to submit information to be able to determine whether those are the conditions in which the requestors actually live in, whether the photographs are recent, or whether they are of the facilities.” IA Court of HR. Resolution of May 21, 2019. Adoption of Urgent Measures, Matter of Seventeen Persons Deprived of Liberty, Nicaragua, par 20 and 25.

176. In its observations on the draft of the present report, the Nicaraguan State explained to the IACHR that, since December 31, 2018, on 15 occasions, inmates held in Cell Blocks 16 and 17 caused “grave disturbances of order and peaceful coexistence inside and outside of the blocks,” causing “sizable damages to the infrastructure of the Prison System” and “while attempting against the lives and physical integrity of prison officers, for the purpose of having an impact on the media nationally and internationally in order to blame our Government of Reconciliation and National Unity (GRUN) and create conditions to hurt prison guards or deprive them of life and escape.” In the report it submitted, the State of Nicaragua noted that up until May 14, 2019, at least “17 acts of violence and destruction were committed by inmates of the penitentiary system, without one fatality taking place, which stands as proof of the responsible and rational conduct of the prison authority.”<sup>284</sup>

177. In addition to conditions of detention not improving, over 2019, the IACHR received reports of the worsening situation of persons deprived of liberty, mainly, because of repeated “operations” carried out as a form of punishment or retaliation for acts of protests organized by the inmates to demand their immediate release and improvement of conditions of detention. Based on the information received by the IACHR, anti-riot police agents raid cells, at times unexpectedly, to beat up and kick inmates, sometimes using their batons. During these operations, police dogs and tear gas or smoke bombs have reportedly been used; and some inmates ended up being sent to punishment or solitary confinement cells.<sup>285</sup>

178. By way of example, on the night of December 31, at the facilities of the “Jorge Navarro” National Penitentiary, anti-riot policemen, armed with AK 47 weapons, pepper gas and patrol dogs, assaulted a group of inmates as retaliation for singing the national anthem as a form of protest. In the early morning hours of February 19, anti-riot police carried out a surprise attack on inmates held in modules 16-1 and 16-2 of “La Modelo,” several of whom were seriously injured. The next day, a second raid took place and, consequently, student leader Levis Artola Rugama was moved to the maximum security cell area.<sup>286</sup> Likewise, on March 5, 8 and 9, at “La Modelo,” operations were conducted that led to searches and assaults on inmates, who were demonstrating inside the prison.<sup>287</sup> Through the MASENI, the IACHR was informed that Francisco Sequeira, Chester Membreño, Jeffrey Isaac Jarquín, Fredrych Castillo, Ricardo Baltodano and Yubrank Suazo were allegedly injured and moved to punishment cells known as “el infiernillo” or ‘the little hell.’<sup>288</sup>

179. In its observations on the draft of this report, the State of Nicaragua detailed to the IACHR that, since December 31, 2018, on 15 occasions, prisoners located in Galleries 16 and 17 caused “serious alterations to the order and peaceful coexistence within and outside the galleries”, causing “considerable damage to the infrastructure of the Penitentiary System” and “threatening the life and physical integrity of prison officials,

<sup>284</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pg. 19.

<sup>285</sup> IACHR, Press Release 26/19, [Comunicado de Prensa 26/19 – CIDH denuncia escalada de ataques a la prensa y persistencia de violaciones a los derechos humanos en Nicaragua](#), IACHR Condemns Increasing Attacks on the Press and Ongoing Human Rights Violations in Nicaragua. February 6, 2019.

<sup>286</sup> IACHR, Press Release 51/19, [Comunicado de Prensa 51/19 – CIDH insta a asegurar condiciones propicias para el goce de los derechos humanos en Nicaragua ante el proceso de diálogo](#), IACHR Calls for Conditions that Enable the Enjoyment of Human Rights during Nicaraguan Dialogue. February 28, 2018.

<sup>287</sup> According to a news report, “on March 7, the prisoners of cell block 300 demanded that the guards opened a window of the cells, because the heat was unbearable. The request went unheeded. The prisoners of block 16 heard their fellow prisoners, and joined the demand. The next day, the political prisoners opened a hole and made their way onto the roof of the prison to sing the National Anthem and wave the flag in protest. Yubrank Suazo, leader of the April 19 Movement in Masaya, recorded a video that went viral on the social networks. That same day, the guards sent in special forces with dogs to beat the political prisoners.” El Confidencial, “[Seis palizas contra los presos políticos en las cárceles de la dictadura](#)” [Six beatings of political prisoners in prisons of the dictatorship], April 1, 2019.

<sup>288</sup> IACHR, Press Release 90/19, [Comunicado de Prensa 90/19 – CIDH condena persistencia de actos de represión en Nicaragua en el contexto de la Mesa de Negociación](#), IACHR Condemns Continuing Acts of Repression in Nicaragua during Negotiating Table Talks. April 5, 2019.

with the purpose of generating media impact nationally and internationally to blame our Government of Reconciliation and National Unity (GRUN) and create conditions to injure or deprive prison officers of life and to escape.” In the report presented, the State of Nicaragua stressed that until May 14, 2019 there were at least “17 acts of violence and destruction by prisoners in the Penitentiary System, without a single fatality, which demonstrates the responsible and rational action of the penitentiary authority<sup>289</sup>”.

180. On May 16, 2019, the IACHR was made aware of the death of Eddy Antonio Montes Praslín, a 57 year old, American national, who was being held in custody for the crimes “of terrorism in conjunction with obstructing public services, aggravated theft, fabrication, trafficking, possession and use of restricted weapons, substances or explosive devices.”<sup>290</sup> According to information received by the MESENI, a group of inmates was protesting on the roof of the prison blocks of “La Modelo,” when anti-riot police agents, who were on standby in the vicinity of the facilities reportedly entered the premises using tear gas bombs and firearms. During the operation, one of the agents shot Eddy Antonio Montes, from a distance of 4 meters.<sup>291</sup>

181. In response to these events, in an official release, the State of Nicaragua reported that on May 16, “a serious disturbance of internal order by the prisoners for crimes against public order broke out for the ninth time;”<sup>292</sup> that approximately at 14:30 hours, a sizeable group of inmates rushed the guards manning the prison security perimeter and wrestled with one of the guards “with the clear intention of getting hold of his regulation firearm;” and in that context, a shot was fired off that hit Mr. Montes Praslín “who was immediately transferred to the closest medical assistance facility.”<sup>293</sup> In a second press bulletin, the Ministry of Government specified that Mr. Montes Praslín passed away at 16:05 hours, while he was being treated by medical emergency staff, who were performing resuscitation on him.”<sup>294</sup>

182. The death of Eddy Montes represented a watershed moment in the dialogue that Civic Alliance and the government had been engaging in.<sup>295</sup> In response to the escalation of repression and systematic human rights violations against persons deprived of liberty, on May 20, 2019, the Civic Alliance announced it was leaving the Negotiating Table talks demanding signs of political will from the government to comply with the release of all persons in custody in accordance with the agreements it had signed onto.<sup>296</sup>

183. The Inter-American Commission condemned the events and, at the same time, recalled that the State has the obligation to investigate all deaths of persons who are in its custody *ex officio* and with due diligence. These investigations should not only seek to establish who was responsible for carrying out the crimes in question but should also identify those who may have masterminded them and any authorities who

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<sup>289</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pg. 19.

<sup>290</sup> According to official information, Eddy Antonio Montes Praslín, was under the orders of the seventh district criminal trial court of Managua for participating on May 15, 2018 at 9:00 hours, in the attack on the “Leonardo Mendoza” National Police Unit, located in the City of Matagalpa, wounding by gunshot Police Inspector Jorge Fernando Lanzas, Assistant Inspector Ismael Talavera González, Assistant Inspector Oscar Danilo Otero Blandón, officer Carlos Adán Mendoza González. Ministry of Government, [Segunda Nota de Prensa](#), Second Press Bulletin, May 16, 2019.

<sup>291</sup> IACHR, Press Release 122/19, [Comunicado de Prensa 122/19 - CIDH condena los hechos violentos y la muerte de una persona en cárcel de Nicaragua](#), IACHR Condemns Acts of Violence and the Death of One Person at a Nicaraguan Prison. May 20, 2019.

<sup>292</sup> Ministry of Government, [Nota de Prensa](#), Press Bulletin, May 16, 2019.

<sup>293</sup> Ministry of Government, [Nota de Prensa](#), Press Bulletin, May 16, 2019.

<sup>294</sup> Ministry of Government, [Segunda Nota de Prensa](#), Press Bulletin, May 16, 2019.

<sup>295</sup> International Crisis Group, [Las claves para desbloquear el diálogo en Nicaragua](#), The Keys to Restarting Nicaragua’s Stalled Talks, Report on Latin America No. 74, June 13, 2019, pg. 14.

<sup>296</sup> Civic Alliance for Justice and Democracy, [Nos retiramos de la Mesa hasta la liberación de presos políticos y llamamos a paro nacional](#), We withdraw from the Table until the release of political prisoners and we call a national strike’, May 20, 2019.

by their actions or omissions may also be responsible.<sup>297</sup> Likewise, in keeping with Inter-American standards for cases of violent deaths in the custody of state agents, the conduct of the State must be guided by certain specific criteria, which are: (i) to carry out an investigation *ex officio*, that is complete, impartial and independent, taking into account the level of participation of all state agents; (ii) to give the investigation a certain degree of public scrutiny owing to the possible public interest because of the rank of the agents presumed to be involved; (iii) to immediately go to the scene of the incident and appropriately manage the scene of the crime, as well as preserve it, in order to protect all the evidence; and (iv) to determine whether the body has been touched or moved and to reconstruct the sequence of events that could have led to the death, as well as conduct a preliminary examination of the corpse to protect any evidence that could be lost in its manipulation and transport.<sup>298</sup>

184. Notwithstanding, the information available to the IACHR suggests that the Montes Praslín family is not aware of progress or results of the investigations to determine the circumstances and who is responsible for the death of Eddy Montes. The family denounced that, two months after the events, the Forensic Medicine Institute issued an expert report contradicting both the initial statements of the authorities and the results of the autopsy performed by independent doctors.<sup>299</sup> According to this information, the case of Eddy Montes also illustrates “the lack of autonomy, impartiality, professionalism and credibility of the Forensic Medicine Institute.”<sup>300</sup>

185. In its observations on the draft of the present report, the State of Nicaragua noted that “the National Police took the appropriate investigatory steps. Two parallel investigations were carried out into the same events, taking into consideration the criminal conduct, victims and persons under investigation.”<sup>301</sup> The State further asserted that it became aware of the events that took place and, therefore, “proceeded to legally direct the investigation, for which it held four working meetings with the technical investigation team of the National Police.” The Office of the Public Prosecutor also received a complaint from a family member of Mr. Eddy Montes, “which was appropriately processed for investigation thereof with National Police, and the investigatory steps were joined with the investigation that the National Police had already opened; nonetheless, because this case fell within the scope of application of Law No. 996 Amnesty Law, it was administratively archived at the police headquarters.”<sup>302</sup>

<sup>297</sup> IACHR, Press Release 122/19, [Comunicado de Prensa 122/19 - CIDH condena los hechos violentos y la muerte de una persona en cárcel de Nicaragua](#), IACHR Condemns Acts of Violence and the Death of One Person at a Nicaraguan Prison. May 20, 2019.

<sup>298</sup> IA Court of HR. Case of Landaeta Brothers et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 27, 2014. Series C No. 281, pars. 254.

<sup>299</sup> Unidad de Defensa Jurídica, Alternative Report relating to Articles 2, 6, 7, 9, 10 of 14 the International Covenant on Civil and Political Rights, State to be evaluated: Nicaragua, par. 23; According to publicly known information, the Permanent Commission on Human Rights submitted in early September 2019, a third written request to the Office of the Public Prosecutor to investigate and determine who is responsible. Last May 31, Eddy Jafet Montes Montenegro, daughter of the murdered political prisoner, filed a complaint with the Office of the Prosecutor against the senior officials of La Modelo: Julio Guillermo Orozco, Director General of the SPN; Darling Morales Duarte, Director of the Prison, and Donald Pérez Garay, Director of the Maximum Security Area. “Office of the Public Prosecutor has kept silent about this case.” El Confidencial, [“Fiscalía encubre crímenes de la dictadura”](#), [‘Prosecutor’s Office covers up crimes of the dictatorship’], September 25, 2019.

<sup>300</sup> Unidad de Defensa Jurídica, Alternative Report relating to Articles 2, 6, 7, 9, 10 of 14 the International Covenant on Civil and Political Rights, State to be evaluated: Nicaragua, par. 23.â

<sup>301</sup> Based on the information provided, two investigation files were opened, which are: “1. Crime of Reckless Homicide of Eddy Antonio Montes Praslin; 2. Crimes of Attempted Homicide, Aggravated Damages, Obstruction of Functions, Violation of Conviction and Bodily Harm. To the detriment of the State of Nicaragua and officers of the Prison System of the Ministry of Government, with those deprived of liberty under investigation.” State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pgs. 30-31.

<sup>302</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pgs. 31-35.

### ***Situation of Women Deprived of Liberty***

186. In the first half of 2019, the Commission received reports of escalation of repression against women, who are regarded as “political prisoners.” In particular, regarding the assault that took place on February 7, 2019, by twenty guards as they were attempting to move some women inmates to an “unknown location.”<sup>303</sup> As a consequence of these acts of violence, Irlanda Jerez was reportedly unable to get out of bed for several days because she also presented cardiac valvuloplasty, which required care, treatment and permanent monitoring.<sup>304</sup>

187. As for the conditions of detention, in 2019, the IACHR was advised that women were being held in two cells originally designed to hold eight persons, each one with a single bathroom. Additionally, the women endured ongoing hostile treatment from the female and male guards, as they were verbally and physically mistreated, placed in isolation, as well as having family and conjugal visits suspended.<sup>305</sup> In addition, women deprived of liberty endure a lack of medical care and faulty treatment of their ailments or illnesses. Such inmates include Ruth Matute, who had to undergo emergency surgery to repair a pacemaker on January 7, because prison authorities had neglected her medical condition.<sup>306</sup>

188. On February 13, 2019, through a report submitted to the IACHR, the State of Nicaragua recognized that 27 women were deprived of liberty for committing crimes such as murder, organized crime, terrorism, kidnapping, illegally carrying weapons, arson, damage to property, possession and use of a restricted weapon, transporting weapons and ammunition, obstructing public services, conspiracy, threats, exposing persons to danger, among other offenses. The State also reported that “since the entry in prison of the persons detained as a result of the failed coup d’état, their dignity has been respected and they have been provided the care and prerogatives they are entitled to in accordance with the penitentiary Law.”<sup>307</sup>

189. The Inter-American Commission recalls that the State must guarantee that women deprived of liberty have access to specialized medical care, that corresponds to their physical and biological characteristics, and that adequately meets their reproductive health needs.<sup>308</sup> Moreover, in accordance with the legal precedents of the Inter-American system, the State must ensure that persons deprived of liberty are held in conditions befitting their dignity as human beings, that the manner and method of the execution of the measure does not subject them to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent to detention, and that, given the practical demands of imprisonment, their health and

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<sup>303</sup> Comité de Presos Políticos, [Comunicado – Presas Políticas son Agredidas en el Sistema Penitenciario “La Esperanza”](#), [‘Press release: ‘political prisoners are assaulted in prison complex “La Esperanza”’], February 8, 2019; El Comercio, [Grupos de DDHH denuncian agresiones a opositoras detenidas en Nicaragua](#), [‘HR groups denounce assaults on women opposition members detained in Nicaragua’], February 8, 2019.

<sup>304</sup> IACHR, Press Release 51/19 [Comunicado de Prensa 51/19 – CIDH insta a asegurar condiciones propicias para el goce de los derechos humanos en Nicaragua ante el proceso de diálogo](#), IACHR Calls for Conditions that Enable the Enjoyment of Human Rights during Nicaraguan Dialogue. February 28, 2018.

<sup>305</sup> Testimony taken by the MESENI of the IACHR on July 22, 2019.

<sup>306</sup> IACHR, Press Release 26/19 [Comunicado de Prensa 26/19 – CIDH denuncia escalada de ataques a la prensa y persistencia de violaciones a los derechos humanos en Nicaragua](#), IACHR Condemns Increasing Attacks on the Press and Ongoing Human Rights Violations in Nicaragua, February 6, 2019.

<sup>307</sup> Permanent Mission of Nicaragua to the Organization of American States, Note MPN-OEA-00013, Report of the State of Nicaragua to the Inter-American Commission on Human Rights on the hearing convened to address the Topic “Situation of the Rights of Women Deprived of Liberty in Nicaragua,” at its 171<sup>st</sup> Session held in Sucre, Bolivia, February 13, 2019.

<sup>308</sup> Principle X of the [Principios y Buenas Prácticas sobre la Protección de las Personas Privadas de Libertad en las Américas](#), Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, approved by the Commission at the 131<sup>st</sup> Regular Session, held March 3-14, 2008.

wellbeing are adequately secured.<sup>309</sup> The Court has also established, in accordance with Article 5.1 and 5.2 of the Convention, that everyone deprived of liberty is entitled to conditions of detention befitting their dignity as human beings. This means that it is the duty of the State to safeguard the health and wellbeing of persons deprived of liberty and guarantee that the manner and method of deprivation of liberty do not exceed the unavoidable extent of suffering inherent therein.<sup>310</sup>

190. Additionally, according to information received by the IACHR, at least three trans women were deprived of liberty in men's cells of the "La Modelo" National Penitentiary, where they were forced to undress on several occasions in front of the men of the prison. On this score, the OUNHCHR disclosed in its Report that the government admitted that transgender women deprived of liberty were confined in the same cells as the male inmates, "because the penitentiary legislation does not recognize transgender persons according to their gender identity. For this reason, they were subjected to visual inspections of their body cavities in front of male detainees during routine strip searches."<sup>311</sup>

### **Sexual Violence**

191. Through the MESENI, the IACHR has been documenting cases of sexual violence in the context of the crisis in Nicaragua involving forcing inmates to undress and perform squats, groping, threats of rape and rape mostly against women deprived of liberty.<sup>312</sup> In 2019, the IACHR continued to receive information and testimonies about said acts committed by state agents against women in its custody. Thus, for example, in the context of the hearing on "Persecution, repression, criminalization and prosecution of the *campesina* and forcibly displaced population of Nicaragua," the organization Acción Penal apprised the Commission about the case of a *campesina* woman, who was held in detention from May 6 to 13, 2019, was interrogated in order to obtain information about her daughter, and was threatened with death by police agents. According to the testimony provided, "She begged to not be harmed, the first night she was undressed and raped by the agents." Based on the information provided, the rape was repeated over two additional nights. The last two occasions reportedly took place in the presence of other people, among them, a woman."<sup>313</sup>

192. In its Report "Forced Migration of Nicaraguans to Costa Rica," published on September 20, 2019, the IACHR reports on individuals who claimed to have acquired sexually transmitted infections including HIV/AIDS, after being victims of rape during periods of detention in Nicaragua. One of the testimonies to the IACHR, consisting of the following account portrays this situation:

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<sup>309</sup> IA Court of HR. Resolution of May 21, 2019, Adoption of Urgent Measures, Matter of Seventeen Persons Deprived of Liberty, Nicaragua, pars. 20 and 25; Matter of Milagro Sala, Argentina. Request for Provisional Measures. Resolution of the Inter-American Court of Human Rights of November 23, 2017, 'Whereas' clause 27.

<sup>310</sup> Case of the "Juvenile Reeducation Institute" v. Paraguay. Preliminary Objections, Merits, Reparations and Costs. Judgment of the Inter-American Court of Human Rights September 2, 2004. Series C No. 112, par. 159, and Case of Chinchilla Sandoval et al v. Guatemala. Preliminary Objection, Merits, Reparations and Costs. Judgment of the Inter-American Court of Human Rights of February 29, 2016. Series C No. 312, par. 169.

<sup>311</sup> Human Rights Council, Human Rights Situation in Nicaragua, Report of the United Nations High Commissioner. A/HRC/42/18, September 3, 2019, par. 34

<sup>312</sup> In its 2018 Annual Report, the IACHR reports on cases of sexual violence and even rape perpetrated by State agents during operations of clean-up and dismantling of roadblocks; as well as at facilities of the Judicial Police (*Auxilio Judicial*). According to complaints gathered by civil society, the sexual violence was allegedly used as an interrogation technique. Other complaints received by the Commission included reports of women being forced to undress and perform squats for their captors who, in some instances, groped and raped them in order to obtain information. IACHR, 2018 Annual Report, [Capítulo IV.B. Informe especial: Nicaragua](#), Chapter IV.B. Special Report: Nicaragua, March 21, 2019, par. 216.

<sup>313</sup> Colectivo de Derechos Humanos Nunca Más, Acción Penal, Due Process of Law Foundation (DPLF), Movimiento Campesino de Nicaragua. Situation of Human Rights of the *Campesina* Population. Managua and San José, September 22, 2019, pg. 46. (In IACHR archive); IACHR. [Audiencia Pública sobre Persecución, represión, criminalización y judicialización a la población campesina de Nicaragua y desplazada forzosamente. 173 Período de Sesiones](#), [Public Hearing on Persecution repression, criminalization and prosecution of the *campesina* and forcibly displaced population of Nicaragua, September 25, 2019.

That day we were in the barricade in the morning and when we were leaving to rest, the police appeared, and they started to shoot at us. 11 of us were taken into custody. We were mistreated, robbed and beaten, they aimed weapons in front of us and took photos of us. Afterwards, they inspected us and the [woman] lieutenant Guadalupe made me do 50 squats naked. Next, five policemen molested me. I could only see the shoes of those who molested me, there were five individuals who did it. After that, I was taken naked to the women's cell and later, I was taken to El Chipote in a van. In el Chipote, I was insulted and mistreated again, especially against me because I was identified as the leader of the organization [...]. On the 19<sup>th</sup>, I was in Diriamba, in a safehouse my injuries were cured and then, that same date we left in taxi to Rivas. At night, we were brought to the border and at 4AM of the 20<sup>th</sup>, the 10 of us crossed in pairs through a "blind point. Right there we asked for asylum in the Migration offices. Then, we were helped to a farm and I was given the health examination, where I was diagnosed with sexually transmitted infections.<sup>314</sup>

193. The IACHR strenuously condemns these acts of sexual violence and, recalls that rape constitutes a form of sexual violence,<sup>315</sup> which may even be considered, in many instances, as an act of torture and/cruel, inhuman or degrading treatment.<sup>316</sup> The IACHR reiterates that it is the duty of the authorities to adopt all necessary and comprehensive measures for the rights of women deprived of liberty to be effectively respected and guaranteed, so they do not suffer discrimination and are protected against all forms of violence that may derive from their gender status. Accordingly, the State of Nicaragua must adopt the necessary measures to ensure that cases of gender-based violence are investigated with due diligence and in a timely manner, thoroughly and impartially, that the persons responsible are properly punished and that the victims receive comprehensive reparation.<sup>317</sup>

### C. Situation of Nicaraguan Students

194. In 2019, the situation of rights violations and exclusion of Nicaraguan students has grown worse, with many students' academic and other records being expunge from the data bases of their respective institution of higher learning. According to information received, some university students were expelled through procedures that were conducted in irregular circumstances with very little transparency, inasmuch as the students were informally notified about their expulsion, such as when they were prevented from entering the premises of the university on the grounds that they did not appear in the student data base as actively matriculated. In other cases, the students' academic records did not appear to be uploaded onto the university webpage. Likewise, several university students reported that their academic transcripts had been deleted from the university webpage and, in some instances, the grades of the most recent semesters did not appear in the system.<sup>318</sup>

<sup>314</sup> Testimony of a woman who was a victim of rape during detention, taken by the IACHR in San José, October 16, 2018; Also see IACHR, [Informe sobre Migración Forzada de personas nicaragüenses a Costa Rica](#), 'Report on Forced Migration of Nicaraguans to Costa Rica.' OAS/Ser.L/V/II., Doc. 150, September 8, 2019, par. 310.

<sup>315</sup> IA Court of HR, Case of Fernández Ortega et al v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 30, 2010. Series C No. 215, par. 119; IA Court of HR, Case of López Soto et al v. Venezuela. Merits, Reparations and Costs. Judgment of September 26, 2018. Series C No. 362, par. 187.

<sup>316</sup> IA Court of HR, Case of Women Victims of Sexual Torture in Atenco v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 28, 2018, Series C No. 371, par. 193; IA Court of HR, Case of Rosendo Cantú et al v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 31, 2010. Series C No. 216, Par. 118.

<sup>317</sup> IACHR, 2018 Annual Report, [Capítulo IV.B. Informe especial: Nicaragua](#), Chapter IV.B. Special Report: Nicaragua, March 1, 2019, par. 216.

<sup>318</sup> Some publicly known cases include: El Confidencial, [Alejandra Centeno: Universidades viven su propia "dictadura"](#), ['Alejandra Centeno: Universities are living their own dictatorship'], May 15, 2019; El Confidencial, [UNAN cierra puertas a estudiantes "vandálicos"](#), ['UNAN closes doors to "vandal" students'], September 8, 2019.



195. Under such circumstances, the IACHR notes that it has not been possible to obtain a reliable census of the number of students that have officially been expelled in the context of the protests. Until December 2018, according to the monitoring conducted by the MESENI, 144 students were expelled from the National Autonomous University of Nicaragua (UNAN).<sup>319</sup>

196. In the ongoing climate of persecution and repression in the country, some students reported to be engaging in “student disobedience,” which means, they find that conditions are not adequate to reenter universities. Among other things, they decry the conspicuous presence of police, who are constantly conducting surveillance of university campuses and patrolling the vicinity thereof.<sup>320</sup> The IACHR also received information about student or youth movements that carry out smear campaigns, threaten and, even use violence, to stop opposition students from publicly demonstrating and to undermine their opposition efforts.

197. By way of example, to mark National Student Day several student movements called for a demonstration on July 25, 2019.<sup>321</sup> One day prior to event, the National Police issued a resolution denying the authorization to the students to hold the demonstration.<sup>322</sup> Nonetheless, a group of students decided to go ahead and hold the event. According to information submitted to the IACHR, these students were repressed with tear gas and rubber bullets, several of them were wounded and dozens of persons arrested. The IACHR notes that such acts of violence expose the intention of the National Police to impede any mobilization and reorganization of the student population.<sup>323</sup>

198. Lastly, based on the testimonies received, the MESENI has documented the impact of the targeted repression against the students, including outside Nicaragua. Because of the threats levelled at them for their participation in the protests, many of them were forced to seek international protection in other countries, some even informally mobilized in those countries. As the year progressed, this situation led to restrictions on education, as well as barriers to access to the benefits of scholarships and financing, as a consequence of the lack of documentation accrediting school history and/or identity. This dilemma forces students to work exclusively in trades and jobs, that are entirely unrelated to their university course of study, in order to make somewhat of a living and get by. The young people who currently remain outside of Nicaragua claimed to the IACHR that they do not feel safe returning to the country. They all agree that the political circumstances and repression are impediments to their return, and their exile has become a security measure for them and their families back in Nicaragua.<sup>324</sup>

<sup>319</sup> IACHR, [Informe Anual 2018. Capítulo IV.B Nicaragua](#), 2018 Annual Report, Chapter IV.B. Nicaragua, 2018, par. 13.

<sup>320</sup> As for control of entry into the university, the President of the National Council of Universities (CNU) and president of UNAN-Managua, announced that we are pursuing a “change of culture for entry; we have graffiti on the facilities, toilets destroyed.” CNU, [“No podemos hacer más de lo mismo”](#), [‘We can no longer do more of the same’], January 28, 2019.

<sup>321</sup> IACHR, Press Release No. 194/19, [CIDH expresa su preocupación ante el anuncio del Estado de Nicaragua de no continuar con el diálogo y llama al Estado a cumplir con sus obligaciones de garantía y respeto de los derechos humanos](#), IACHR Expresses Concern over Nicaragua’s Announcement That It Will Not Continue Dialogue and Calls on the State to Comply with Its Obligations to Guarantee and Respect Human Rights. Washington D.C., August 6, 2019.

<sup>322</sup> National Police of Nicaragua, [Resolución no.- 5 2019](#), Resolution No. 5 2019, July 22, 2019.

<sup>323</sup> Aula Abierta Latinoamérica, Criminalización de la Protestas contra Universitarios en Nicaragua [‘Criminalization of protests against university students in Nicaragua’] July 2019. In IACHR archive.

<sup>324</sup> In 2019, the MESENI of the IACHR received 35 students during its working visits to other countries. Likewise, in the context of the working visit to Miami in the State of Florida, United States of America, from June 17 to 18, 2019, the IACHR held a meeting with more than 30 representatives of the student movement, who explained the issues besetting the student population.

## D. Situation of the *Campesina* Population and the Interior of the Country

199. In 2019, the Inter-American Commission has closely monitored with concern the human rights situation of the *campesina*, or rural subsistence farmer, population in Nicaragua, in particular, the repression against the members of the Campesino Movement, as well as the increased violence in rural areas in the interior of the country, including reports of murders of *campesinos* and other persons identified by Nicaraguan civil society as opponents to the government.

### 1. Campesino Movement

200. On June 13, 2013, the National Assembly approved Law No. 840 “Special Law for the development of Nicaraguan infrastructure and transportation pertaining to the canal, free trade zones and associated infrastructure,”<sup>325</sup> which would grant the concession to construct and manage the interoceanic canal through the southern territories of Nicaragua to the Chinese company HKND Group and would have a serious impact on the *campesina* communities of the canal sector and its territories.<sup>326</sup> In response, the *campesina* population of the canal route decided to organize and build up the Campesino Movement in order to file coordinated class action law suits to raise the profile of the protest against the construction of the Interoceanic Canal.<sup>327</sup>

201. Since that time, through its different mechanisms, the IACHR has received information about the systematic repression against the members of the Campesino Movement, such as assaults, threats, arbitrary detentions and other acts committed against them.<sup>328</sup> In the context of the state repression of the social protests that began in April 2018, the Campesino Movement has been the target of selective criminalization stemming from its history of sharp opposition to the current government and the support it has given to the mobilized sectors by organizing demonstrations, sit down strikes and setting up road blocks at several strategic points of the country. As a result of the Campesino Movement leaders’ role in leading the *campesina* population in 2018, they were part of the National Dialogue installed by the National Dialogue Mediation and Witness Commission.<sup>329</sup>

202. In 2019, the State of Nicaragua told the IACHR that “even though the purpose of the self-proclaimed National Council on Defense of the Sovereignty, Land and the Lake of Nicaragua, is allegedly to defend the properties located on the route of the Interoceanic Canal project, its demonstrations, roadblocks and marches are carried out as a protest expressly against the electoral processes and other government

<sup>325</sup> National Assembly, Law no. 840 “[Ley Especial para el desarrollo de infraestructura y transporte nicaragüense atingente a el canal, zonas de libre comercio e infraestructuras asociadas](#)” ‘Special Law for the development of Nicaraguan infrastructure and transportation pertaining to the canal, free trade zones and associated infrastructure,’ June 13, 2013.

<sup>326</sup> Colectivo de Derechos Humanos Nunca Más, Acción Penal, Due Process of Law Foundation (DPLF), Movimiento Campesino de Nicaragua. Situation of Human Rights of the *Campesina* Population. Managua and San José, September 22, 2019. (In IACHR archive); CENIDH, [Informe 2013. Derechos Humanos en Nicaragua](#), 2013 Report, Human Rights in Nicaragua, pgs. 26 - 27

<sup>327</sup> IACHR, [Audiencia Pública sobre Persecución, represión, criminalización y judicialización a la población campesina de Nicaragua y desplazada forzosamente, 173 Periodo de Sesiones](#), Public hearing on Persecution, repression, criminalization and prosecution of the *campesina* and forcibly displaced population. September 25, 2019

<sup>328</sup> IACHR, [Informe Anual 2016. Capítulo IV.A: Panorama de la situación de derechos humanos en el hemisferio. OEA/Ser.L/V/II. Doc.22](#), 2016 Annual Report. Chapter IV.A: Overview of the situation of human rights in the hemisphere. March 15, 2017, Par. 18; IACHR, [Audiencia Pública sobre la Construcción del canal transoceánico y su impacto sobre los derechos humanos en Nicaragua, 154 Periodo de Sesiones](#), Public Hearing on Construction of the transoceanic canal and its impact on human rights in Nicaragua. March 16, 2015; CENIDH and FIDH, [Concesión del Canal Interoceánico en Nicaragua: Grave impacto en los derechos Humanos. Comunidades campesinas movilizadas resisten](#), Concession of the Interoceanic Canal in Nicaragua: Serious impact on Human Rights Mobilized Campesina communities resist. September 2016.

<sup>329</sup> CENIDH, [Informe: Seis meses de resistencia cívica frente a la represión gubernamental, 10 de diciembre de 2018](#), Report: Six months of civic resistance to government repression, December 10, 2018. Pg. 20; Colectivo de Derechos Humanos Nunca Más, Acción Penal, Due Process of Law Foundation (DPLF), Movimiento Campesino de Nicaragua. Situation of Human Rights of the *Campesina* Population. Managua and San José, September 22, 2019. (In IACHR archive).

activities.” The State further recognized that the Council has held more than 100 marches since it was founded, and it believes that “members of political parties and organizations have joined, who claim to belong to ‘civil society,’ as a platform to engage in political activism against the Government of Reconciliation and National Unity, carrying out violent activities and causing a disturbance in public order.”<sup>330</sup>

203. Furthermore, in the context of the public hearing on “Persecution, repression, criminalization and prosecution of the *campesina* and forcibly displaced population,” the IACHR continued to receive information about targeted persecution against the *campesina* population and members of the Campesino Movement. For example, from April 12 to 13, 2019, members of the movement reported that they were heavily harassed by police agents while conducting a meeting at a hotel in the city of Ocotal, Department of Nueva Segovia.<sup>331</sup>

204. On this score, the State of Nicaragua conveyed to the IACHR that at this meeting, “all trade union associations were urged to unite to defeat the government of President Daniel Ortega, to execute actions to move up the elections, to pressure the negotiating table talks for the release of the prisoners, specifically Medardo Mairena, ceasing the alleged political persecution by the authorities of Nueva Segovia.” The State further noted that the National Police “did not harass or persecute the persons, who were at the meeting; the National Police that day conducted patrolling in the area and located two patrols in the vicinity of the Sinai Hotel for the purpose of providing security and protection to the participants in the meeting, and thus in compliance with its constitutional mission to guarantee domestic order, security of persons and their property.”<sup>332</sup>

205. In addition to this, the IACHR was apprised that the impact that the criminalization of the top leadership had weakened and discouraged mobilization, affecting leaders such as Medardo Mairena, Freddy Navas and Mario Lenner Fonseca, all of whom are beneficiaries of IACHR precautionary measures. The Commission recalls that acts of criminalization against social leaders not only affects an organization’s structure and the ability to function as a group,<sup>333</sup> but it also has an intimidating, chilling, numbing effect on other defenders, who out of fear of retaliation, may refrain from carrying on their work to promote and defend human rights.<sup>334</sup>

206. The IACHR notes that, even though the top leaders of the Movement were released from prison in 2019, their families have been forced to go into exile or remain in the country under constant surveillance and police harassment. Furthermore, other leaders of the movement remain in exile as a consequence of the gravity of the acts of harassment against them, particularly, Francisca Ramírez.<sup>335</sup>

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<sup>330</sup> State of Nicaragua, Note MPNOEA/LAR0070, Report of the State of Nicaragua for the Hearing convened by the Inter-American Commission on Human Rights, under the title: “Persecution, Repression, Criminalization and Prosecution of the *Campesina* and Forcibly Displaced Population of Nicaragua.” September 24, 2019.

<sup>331</sup> IACHR, [Audiencia Pública sobre Persecución, represión, criminalización y judicialización a la población campesina de Nicaragua y desplazada forzosamente, 173 Período de Sesiones](#), Public Hearing: “Persecution, Repression, Criminalization and Prosecution of the *Campesina* and Forcibly Displaced Population of Nicaragua.” 173<sup>rd</sup> Session. September 25, 2019

<sup>332</sup> State of Nicaragua, Note MPNOEA/LAR0070, Report of the State of Nicaragua for the Hearing convened by the Inter-American Commission on Human Rights, under the title: “Persecution, Repression, Criminalization and Prosecution of the *Campesina* and Forcibly Displaced Population of Nicaragua.” September 24, 2019, page 19.

<sup>333</sup> IACHR, [Criminalización de la labor de las defensoras y los defensores de derechos humanos. OEA/Ser.L/V/II. Doc. 49/15. 31 diciembre 2015](#), Criminalization of the Work of Human Rights Defenders, December 31, 2015, par. 220

<sup>334</sup> IACHR, [Segundo informe sobre la situación de las defensoras y defensores de derechos humanos en las Américas. OEA/SER.L/V/II/Doc.66](#), Second Report on the Situation of Human Rights Defenders in the Americas. December 31, 2011, par. 21

<sup>335</sup> Colectivo de Derechos Humanos Nunca Más, Acción Penal, Due Process of Law Foundation (DPLF), Movimiento Campesino de Nicaragua. Human Rights Situation of the *Campesina* Population. Managua and San José, September 22, 2019, p. 62

207. Lastly, the IACHR takes note of the announcement issued on August 14, 2019 by the President of Nicaragua about reviving the canal project.<sup>336</sup> In addition to the impact that the project would have on the *campesina* population, the IACHR is concerned that this announcement could mean that the crack-down on Campesino Movement would intensify, as the movement is still facing hounding, harassment, ongoing threats and forced displacement of its members.<sup>337</sup>

## 2. Violence in Rural Areas

208. In the context of the police state in which the country has remained in an attempt by the government to take back control of civic spaces and silence any voices disagreeing with it, the IACHR has been receiving information about acts of repression and murder taking place in rural areas of the municipalities of northern Nicaragua. According to the information and reports the Commission has received, the pattern of these murders is consistent with a strategy of extrajudicial executions, which began in 2008 in the northern part of the country and even on Honduran territory and was perpetrated against the former members of the counter-revolution and *campesinos*, whose leadership opposed the government.<sup>338</sup>

209. The information available to the IACHR suggests that from January to September, 2019, thirty people were murdered, including *campesinos*, opposition members holding positions in city halls, members of the opposition party “Ciudadanos por la Libertad,” publicly recognized opponents, as well as family members of people identified as government opponents. Most of the murdered individuals were allegedly linked to the protests and mobilizations of 2018. Additionally, the killings were reportedly perpetrated mostly by armed civilians.<sup>339</sup>

210. Other reported cases that were brought to the attention of the IACHR included the murder on February 23, in the municipality of El Cuá, of Mr. Oliver Montenegro, apparently, after being ambushed at his home by policemen and “paramilitaries.”<sup>340</sup> Also, on April 13, in the Department of Río de San Juan, Jesús Gregorio Montano was allegedly arrested by “paramilitary” members and his lifeless body was found the next day with signs of torture and bullet holes. According to the victim’s neighbors, the intention was to capture his sister who supported the roadblock of Lóvago.<sup>341</sup> According to publicly known information, on August 27, in the municipality of Wiwilí, Department of Jinotega, Mr. Francisco Blandón Herrera was allegedly murdered by

<sup>336</sup> Infobae, [Daniel Ortega quiere revivir el polémico proyecto del canal interoceánico en Nicaragua](#), [Daniel Ortega wants to revive the interoceanic canal project in Nicaragua], August 14, 2019; Telesur, [Pdte. Ortega confirma proyecto de canal interoceánico en Nicaragua](#), [‘Pres. Ortega confirms interoceanic canal project in Nicaragua’], August 14, 2019.

<sup>337</sup> REDLAD and Movimiento Puente, [Informe conjunto para el Tercer Ciclo del Examen Periódico Universal \(EPU\) a Nicaragua](#), [‘Joint Report for the Third Cycle of the Universal Periodic Review (UPR) of Nicaragua’], May 15, 2019, par. 2.6

<sup>338</sup> Colectivo de Derechos Humanos Nunca Más, Acción Penal, Due Process of Law Foundation (DPLF), Movimiento Campesino de Nicaragua. Human Rights Situation of the *Campesina* Population. Managua and San José, September 22, 2019, p. 62.

<sup>339</sup> IACHR. [Audiencia Pública sobre Persecución, represión, criminalización y judicialización a la población campesina de Nicaragua y desplazada forzosamente, 173 Período de Sesiones](#), Public Hearing: “Persecution, Repression, Criminalization and Prosecution of the *Campesina* and Forcibly Displaced Population of Nicaragua.” 173<sup>rd</sup> Session. September 25, 2019; Colectivo de Derechos Humanos Nunca Más, Acción Penal, Due Process of Law Foundation (DPLF), Movimiento Campesino de Nicaragua. Human Rights Situation of the *Campesina* Population. Managua and San José, September 22, 2019. (In IACHR archives).

<sup>340</sup> UNAB, Departamental de Jinotega, Informe de la situación sociopolítica del Departamento de Jinotega, Departmental Branch Campus of Jinotega, ‘Report on the Socio-Political Situation of Jinotega, July 30, 2019. (In IACHR archive); Colectivo de Derechos Humanos Nunca Más, Acción Penal, Due Process of Law Foundation (DPLF), Movimiento Campesino de Nicaragua. Human Rights Situation of the *Campesina* Population. Managua and San José, September 22, 2019. (In IACHR archives); La Prensa, [Matan a balazos a un caficultor en una finca ubicada en El Cuá](#), [‘A coffee farmer shot to death on a farm located in El Cuá’], January 24, 2019.

<sup>341</sup> Colectivo de Derechos Humanos Nunca Más, Acción Penal, Due Process of Law Foundation (DPLF), Movimiento Campesino de Nicaragua. Human Rights Situation of the *Campesina* Population. Managua and San José, September 22, 2019. (In IACHR archives); Hoy, [18 paramilitares acribillaron a campesino cerca de su finca](#), [‘18 paramilitary members gunned down a *campesino* near his farm’]; July 11, 2019; La Prensa, [Los nueve casos de opositores nicaragüenses que han sido asesinados en lo que va del año](#), [‘La Prensa: The nine cases of Nicaraguan opposition members, who were murdered so far this year’] July 4, 2019.

gunshots fired by a civilian from a motorcycle.<sup>342</sup> This would be the fourth member of the Montenegro family murdered in 2019. According to the information received, the murders have gone unpunished, either because the judicial authorities failed to investigate or because the victims failed to report them out of fear of retaliation.<sup>343</sup>

211. In this regard, the IACHR reiterates that the violation of the right to life and physical integrity as a result of a breach of the duty to respect and guarantee, triggers international responsibility of the State, which is based on the acts or omissions of any branch or entity of the State, acting in their official capacity, irrespective of their hierarchy, even if they overstep the limits of their authority, that violate the American Convention.<sup>344</sup> On this topic, the Inter-American Court has held that responsibility for acts of third parties may be attributed to the State when the State breaches, by action or omission of its agents who play a role of guarantor, the obligations set forth in Articles 1.1 and 2 of the American Convention.<sup>345</sup>

212. The Commission urges the State of Nicaragua to carry out prompt, impartial and effective investigations to try and punish its agents and third-party civilians responsible for human rights violations, and fully compensate the victims and their next of kin. Accordingly, the IACHR reiterates the recommendation issued to the State of Nicaragua: “8. Dismantle the para-police groups and adopt measures to prevent the continued operations of groups of armed third persons, who attack and harass the civilian population;” for which no progress has been made toward compliance therewith.<sup>346</sup>

## **E. Indigenous and Afro-descendant Peoples on the Caribbean Coast of Nicaragua**

213. The Inter-American Commission on Human Rights has been closely and consistently monitoring and following the situation of indigenous and Afro-descendant peoples of the Caribbean coast of Nicaragua, especially with regard to historic claims to their ancestral territories and other acts of violence reported in the communities. In this context, over 2019, the IACHR was informed that the violence, repression, attacks and threats faced by indigenous and Afro-descendant peoples of the Caribbean Coast of Nicaragua, “has intensified even more with the socio-political crisis that the country is living.”<sup>347</sup>

214. The IACHR notes that, on September 6, 2019, it requested the Inter-American Court to extend the provisional measures granted to the inhabitants of particular communities of the Miskitu indigenous people of the northern Caribbean coast region in Nicaragua, to include as beneficiaries the residents of the community of Santa Clara of the Miskitu people. The basis for this request was that the IACHR received reports of serious

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<sup>342</sup> IACHR, Press Release No. 220/2019, [CIDH denuncia la persistencia de la represión y expresa su preocupación por incremento de hostigamiento contra personas defensoras de derechos humanos y excarceladas en Nicaragua](#), IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison. Washington D.C., September 6, 2019.

<sup>343</sup> Colectivo de Derechos Humanos Nunca Más, Acción Penal, Due Process of Law Foundation (DPLF), Movimiento Campesino de Nicaragua. Human Rights Situation of the *Campesina* Population. Managua and San José, September 22, 2019. (In IACHR archives).

<sup>344</sup> IA Court of HR. Case of González et al (“Cotton Field”) v. Mexico. Judgment of November 16, 2009. Series C, No. 205. par. 234; IA Court of HR. Case of Cantoral Huamaní and García Santa Cruz v. Peru. Judgment of July 10, 2007. Series C, No. 167, par. 79 and IA Court of HR. Case of Kawas Fernández v. Honduras. Judgment of April 3, 2009 Series C, No. 196, pars. 72 and 73.

<sup>345</sup> IA Court of HR. Case of the “Massacre of Mapiripán” v. Colombia. Series C, No. 134, pars. 111 and 112; Case of the Moiwana Community v. Suriname. Series C, n° 124, par. 211; Case of the Gómez Paquiyauri Brothers v. Peru. Judgment of July 8, 2004, Serie C, No. 110, paragraph 91; Case of the 19 Merchants v. Colombia. Judgment of July 5, 2004, Series C, No. 109, paragraph 183; Case of Maritza Urrutia v. Guatemala. Judgment of November 27, 2003, Series C, No. 103, par. 71; Case of Bulacio v. Argentina. Judgment of September 18, 2003, Series C, No. 100, paragraph 111.

<sup>346</sup> IACHR, [Graves violaciones a los derechos humanos en el marco de las protestas sociales en Nicaragua](#), Gross Human Rights Violations in the Context of Social Protest in Nicaragua. OEA/Ser.L/V/II, Doc. 86, June 21, 2018. Recommendation 8.

<sup>347</sup> Annex to request for hearing [Nicaragua: Indígenas y Afrodescendientes en Costa Caribe](#). Nicaragua: Indigenous and Afro-descendant Persons on the Caribbean Coast. May 8, 2019. In IACHR archive.

acts of violence taking place in the northern region of the Caribbean coast, which included alleged kidnappings, murders, sexual assaults, threats, arson of residences, robberies, ambushes, and attacks on residents. In addition, the available information suggested that threats, kidnappings, assaults and armed attacks by third parties were cropping up in the Community of Santa Clara against the community residents, who would be injured and wounded while traveling through their own territory or attempting to go about their traditional business and making their living by farming their plots of land.<sup>348</sup>

215. In the request, the Commission underscored that, three years after the adoption of the first provisional measure regarding the matter, there is a continuing presence of armed third parties in the area. Moreover, the State has taken no effective measures to address the serious situation faced by the residents of the Miskitu communities and this has led to an atmosphere that fosters trespassing onto their territories by third parties who seek to settle in the area by violent means and at any cost. As of the present date, seven communities of the Miskitu indigenous people are protected by provisional measures ordered by the Inter-American Court of Human Rights.<sup>349</sup>

216. Furthermore, at its 172<sup>nd</sup> session, the IACHR held a public hearing on the situation of Indigenous and Afro-Descendant Peoples on the Caribbean Coast, where several different civil society organizations explained that Afro-descendant and indigenous people have been kept out of view since before the crisis that Nicaragua is currently experiencing.<sup>350</sup>

217. As for the specific situation of the Afro-descendant population, the organizations claimed that the traditional authorities of these communities have been victims of threats, persecution and racism because they defend their own territories. From 2007 to 2016, twenty-three territories have been demarcated, benefiting 304 Afro-descendant and indigenous communities, but the respective titles have yet to be cleared. The organizations further denounced that young Afro-descendants Brandon Lovo and Glen Slate were falsely charged and found guilty of the murder of journalist Ángel Gahona. On this score, the Commission reminds the Nicaraguan State about the Inter-American standards on equality and non-discrimination vis-à-vis ethno-racial groups who have historically been discriminated against, as well as about preventing and combatting the use of racial profiling.

218. At the same hearing, the organizations informed the IACHR that parallel communal governments have been instituted and that this has weakened traditional institutions and violated the principles of autonomy and self-determination. This has been the case of the Afro-descendant community of

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<sup>348</sup> On this score, the IACHR noted that: “This aggression against the inhabitants of Santa Clara is ongoing: a representative recently reported that women had been kidnapped by 25 armed third parties who threatened them and made them engage in forced labor for approximately five hours until they were rescued by a relative; two brothers were allegedly surrounded and threatened by 20 people, some of whom were armed; and other community members were threatened and interrogated by armed third parties while fishing. Furthermore, third parties carrying firearms and machetes are allegedly continuing to settle in areas adjacent to Santa Clara, limiting the community’s ability to move about freely, and these third parties are even building fences that prevent these indigenous people from freely and safely accessing areas where they go about their traditional subsistence activities. The territory continues to be deforested by armed third parties, and other incidents have taken place that reflect the intentions of armed third parties to reenter the Santa Clara community and seize community lands. IACHR, Press Release No. 219/19, [CIDH solicita a Corte Interamericana ampliar medidas provisionales a favor de los pobladores de las comunidades del pueblo indígena Miskitu en Nicaragua](#), IACHR Requests IA Court Expand Provisional Measures in Favor of Members of Miskitu Indigenous Communities in Nicaragua. September 6, 2019.

<sup>349</sup> On September 1, 2016, the IA Court ordered that provisional measures be granted in favor of the members of the Miskitu indigenous community living in the Klisnak, Wisconsin, Wiwimak, San Jerónimo and Francia Sirpi, communities and of those who were allegedly forced to abandon these communities but wish to return. Likewise, on August 23, 2018, the IA Court decided to extend the provisional measures in favor of human rights defenders Lottie Cunningham Wrem and José Coleman. Another five communities are also currently protected by precautionary measures granted by the Inter-American Commission. IACHR, Press Release No. 219/19, [CIDH solicita a Corte Interamericana ampliar medidas provisionales a favor de los pobladores de las comunidades del pueblo indígena Miskitu en Nicaragua](#), IACHR Requests IA Court Expand Provisional Measures in Favor of Members of Miskitu Indigenous Communities in Nicaragua. September 6, 2019.

<sup>350</sup> IACHR. Hearing. [Nicaragua: Indígenas y Afrodescendientes en Costa Caribe](#). Nicaragua: Indigenous and Afro-descendant Persons on the Caribbean Coast. May 8, 2019.

Bluefields, where the State granted title to the parallel communal government (which is a sympathizer of the government in power), covering approximately 7% of the territory under the scope of the indigenous claim. They contended that there was no free, prior and informed consultation or consent for the development of the megaproject of the interoceanic canal, despite the fact that 52% of the canal route would run through the indigenous and Afro-descendant ancestral properties.<sup>351</sup>

219. Additionally, through a written communication, the State reported to the IACHR that “it recognizes and respects the traditional forms of organization of Native and Afro-descendant Peoples.” Additionally, it noted that “the violence that is being experienced in the areas of the indigenous people’s communities of the Caribbean Coast stems from multiple factors that range from conflicts over land between settlers and community members, conflicts between communities and groups engaged in common crime.” In addition to this phenomenon, there is the phenomenon known as “self-titling by some leaders.” The State further reported about several actions taken by the National Police, the Army and the Office of the Public Prosecutor to ensure the security of the citizens of the communities.<sup>352</sup>

220. In its observation on the draft of the present report, the State noted that the draft report addresses “the topic of restitution of rights and wellbeing of the indigenous and Afrodescendant population lightly and superficially. It does not recognize that Nicaragua has the most advanced legislation in the Hemisphere in terms of indigenous and Afrodescendants’ rights; which guarantees demarcation and effective titling of more than 37,842 square kilometers, the equivalent of 31% of the national territory and the largest public investment in roadway, economic and production infrastructure in the history of Nicaragua. Recently the Government of Nicaragua began construction in the Autonomous Region of the Northern Caribbean, of mostly indigenous population, of the largest hospital infrastructure located in the Caribbean of Central America.”<sup>353</sup>

221. As was mentioned earlier, the indigenous and Afro-descendant peoples of Nicaragua have been facing a scenario of serious deterioration of respect for their human rights for several years as a result of acts of violence taking place in their communities, as well as the failure of state institutions to effectively address the issue of clearing title to their territories. The IACHR notes with concern that, over the reporting period, these infringements have grown even worse as a consequence of the context of continual institutional weakening and the State’s ongoing narrative denying the human rights violations. Consequently, the IACHR calls on the State of Nicaragua to guarantee the right to territory of indigenous and Afro-descendant peoples as a first step to safeguard their fundamental rights, taking into account that Inter-American human rights law has recognized that territorial rights of the peoples are uniquely important to them and to the central role played by territory in the enjoyment and guarantee of their rights.

## **F. Internally Displaced Persons, Migrants, Asylum Seekers, Refugees and Beneficiaries of Additional Protection**

222. The IACHR has been monitoring the situation of Nicaraguans, who have been forced to flee their country since April 18, 2018. In this regard, based on statistics reported by UNHCR, as a consequence of

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<sup>351</sup> IACHR. Hearing. [Nicaragua: Indígenas y Afrodescendientes en Costa Caribe](#). Nicaragua: Indigenous and Afro-descendant Persons on the Caribbean Coast. May 8, 2019.

<sup>352</sup> Permanent Mission of Nicaragua to the Organization of American States, Note MPN-OEA-0046-LAR, Report of the State of Nicaragua to the Inter-American Commission on Human Rights, regarding the Hearing convened on the “Situation of Indigenous and Afro-descendant Peoples of the Caribbean Coast of Nicaragua,” at the 172<sup>nd</sup> Session in Kingston, Jamaica, May 8, 2019

<sup>353</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pg. 45.

the crisis, since April 18, 2018, forced migration of Nicaraguans has surpassed 96,996 people; of whom 77,502 have moved to Costa Rica.<sup>354</sup>

223. On September 20, 2019, the IACHR published in its Report “Forced Migration of Nicaraguans to Costa Rica,” following the working visit conducted by the IACHR to that country from October 14 to 18, 2018. In this report, the IACHR places into context the human rights situation of Nicaraguans, who were forced to migrate from Nicaragua and requested international protection in Costa Rica. The IACHR also addresses the causes of forced displacement to Nicaragua that led the people to flee their country.<sup>355</sup> The IACHR concluded in its report that the forced migration of Nicaraguans inside and out of their country, in and of itself, constitutes a gross human rights violation.

224. The IACHR was able to ascertain the profiles of the major groups of individuals, who were forced to migrate from Nicaragua and request international protection in Costa Rica, and the percentage they represent of the total number of migrants: (i) students who participated in the demonstrations and protests, 23%; (ii) human rights defenders and social and *campesino* movement leaders, 22%; (iii) people who supported those who participated in the protest by providing them with food, safe houses and medicine, 18%; (iv) physicians, 8%; (v) journalists, 2%; and (vi) former members of the military forces and police, who refused to participate in the repressive acts ordered by the Nicaraguan government, 2%. The IACHR further identified the principle actors responsible for the persecution and the forced displacement of Nicaraguans and the respective percentages of the total body of actors responsible: (i) para-police groups, 46%; (ii) National Police, 37%; and (iii) surveillance and control groups, such as the Citizen Power Councils, 17%. The testimonies gathered by the IACHR also showed that most of the Nicaraguans were internally displaced prior to departing the country, leaving behind their homes and first seeking refuge in safe houses, the homes of friends or relatives.<sup>356</sup>

225. Furthermore, the Commission observed a new pattern of repression: even though the social networks (Facebook, Twitter and Instagram) played a fundamental role in documenting human rights violations, they were also used as a means to issue threats and to harass. Thus, the use of the social networks as a means of persecution is examined in this report and the need to adopt policies and requirements based on the principles of human rights in this area is emphasized. In light of the foregoing, the testimonies taken by the IACHR attested that the major causes for Nicaraguans to flee their country were direct threats, in 33% of the cases; threats over social networks, in 23% of the cases; being charged with crimes, in 11% of the cases; state repression, in 8% of the cases; harassment and persecution, in 6% of the cases; arbitrary detention, in 7% of the cases; attempts on their lives, in 5%; as a consequence of injuries, in 5%; rape, in 1%; and for refusal to obey an order, in 1%.<sup>357</sup>

226. Moreover, based on the profiles of people identified as persecuted, the IACHR concluded that the population considered as opponents to the Nicaraguan government were subjected to a context of persecution, abuses and violence. Likewise, the people interviewed during the working visit to Costa Rica stated that after participating in protests, providing medical assistance to demonstrators, reporting irregularities, refusing to participate in extrajudicial executions, among other things, they were intimidated, threatened and harassed. In fact, the Nicaraguans who provided testimonies to the IACHR claimed to have been persecuted by people in vehicles, observed motorcycles circling their residences or found graffiti on the fronts of their houses. Many of them witnessed the murder of a loved one, or were arbitrarily detained and confined. Most of them claimed to have been added to the “lists” of the government and, therefore, they received multiple

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<sup>354</sup> UNHCR, [Monthly Report Americas](#), October, 2019, p. 4.

<sup>355</sup> IACHR, Press Release No. 234/19, [CIDH presenta el Informe sobre Migración Forzada de Personas Nicaragüenses a Costa Rica](#), IACHR presents the Report on Forced Migration of Nicaraguans to Costa Rica, Washington D.C., September 20, 2019.

<sup>356</sup> IACHR, [Informe sobre Migración Forzada de personas nicaragüenses a Costa Rica](#), Report on Forced Migration of Nicaraguans to Costa Rica, OAS/Ser.L/V/II., Doc. 150, September 8, 2019, par. 11.

<sup>357</sup> IACHR, [Informe sobre Migración Forzada de personas nicaragüenses a Costa Rica](#), Report on Forced Migration of Nicaraguans to Costa Rica, OAS/Ser.L/V/II., Doc. 150, September 8, 2019, par. 11.



death threats over the social networks, photographs of family members identified as “the next to be tortured” or, even, direct warnings from police officers that if they did not leave the country, they would be arrested. Consequently, the following sentences were recurring in different witness’ testimonies: “if I return, I’ll be killed,” “there’s a price on my head,” “I am persecuted to be killed,” or “if I return, I was told that my family would pay the consequences.”

227. The IACHR concluded that Nicaraguans, who became forced displaced persons, tended to flee inside and out of their country after being subjected to coercive methods such as threats, both directly and over the social networks or through intermediaries; murder of family members, partners and friends; torture; arbitrary detention; sexual violence; among other forms of coercion. In this regard, the IACHR notes that Nicaraguans, who were considered opponents to the government, did not flee the country of their own free will; rather, fleeing the country was the only option left for them in the face of imminent threats to their lives and safety. In other words, because they were subjected to a state of coercion and fear, in keeping with the criteria outlined above, this also means that they were displaced “by force.” Consequently, thousands of people have been forced to leave their country and request international protection, mostly in the State of Costa Rica.

228. In its observations on the draft of the present report, the State of Nicaragua informed the IACHR about the launching of the “Voluntary Return Program of Nicaraguans who left the country in the context of the events occurring as of April 18, 2018.” According to the State, through this program it has guaranteed the voluntary return, entry and stay of all Nicaraguans outside of the country and residents overseas who wished to return voluntarily to the country. In particular, “we have ensured State Protection and respect for Human Rights in accordance with the provisions of the Political Constitution in Article 46 thereof, which provides that: ‘on national territory every person enjoys state protection and recognition of the rights inherent to the human person, of unrestricted respect, promotion and protection of human rights.’”<sup>358</sup>

## VI. RECOMMENDATIONS

229. Based on the preceding analysis of the human rights situation in Nicaragua, the Inter-American Commission renews its call for the State to comply with and implement the recommendations issued in the Final Report of its working visit to the country, as well as the recommendations issued by the Interdisciplinary Group of Independent Experts (GIEI). Likewise, the IACHR reiterates the following recommendations issued in the context of Chapter IV.B of its 2018 Annual Report, inasmuch as they are still pending compliance:<sup>359</sup>

### Administration of Justice and Judicial Independence

1. Guarantee the independence and impartiality of the judicial branch of government from any kind of pressure, which is necessary to fulfill its duty to investigate, prosecute and punish those who violate human rights.
2. Establish a mechanism for the assignment of cases using objective criteria. These criteria must be public and sufficiently precise to prevent manipulation in case assignments.

<sup>358</sup> State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pgs. 54 and 55.

<sup>359</sup> In its observations on the draft of the present report, the State of Nicaragua expressed its rejection of these recommendations, inasmuch as, besides, “the responsibility of our State and its willingness are expressed in each of the international instruments that we have ratified.” Furthermore, the State considered that “the recommendations, as well as the rest of the draft document, are repetitive and continue to be partial and biased, using as sources of information opposition media and organizations, without verifying them.” State of Nicaragua, Note MPN-OEA-0069-100LAR, Observations of the State of Nicaragua on the preliminary document entitled “Chapter IV.B – Annual Report Inter-American Commission on Human Rights,” December 19, 2019, pg. 56.

3. Establish predictable procedures and objective criteria for transfers from courts, promotion and advancement of operators of justice, based on the merits and professional capacity of the operators of justice. In the case of transfers, take into account the opinion of the operator of justice herself or himself.
4. Revise Law 586 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.
5. To the judicial branch, fully exercise its independence to try defendants under the highest international and Inter-American human rights standards, taking into account the conditions of detention and the crimes they are being charged with and making it possible for the accused to exercise their right to a defense.
6. 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 the death, as well as the truth about the circumstances, events and the motives that led to them.

### **Freedom of Expression**

7. 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 expressly establishing the general presumption in favor of the exercise of the right of assembly and freedom of expression.
8. Guarantee respect for the independence of the media and refrain from the use of prior or indirect censorship by any state body; as well as any prior condition that might entail censorship of the freedom of expression.
9. Urge the state authorities to refrain from making public statements that stigmatize demonstrators, human rights defenders, journalists, or from using state-owned media outlets to conduct public campaigns that might instigate violence against persons because of their opinions.
10. Effectively protect defenders and journalists, who are at risk for practicing [discharging, performing their work, performing their job] their profession as journalists or human rights defenders.
11. Close all court cases against journalists or media outlets that have been arbitrarily opened to repress, sanction and punish the right to freedom of expression.
12. Adopt a variety of meaningful and sustainable measures to address the situation of impunity for crimes against journalists, and promote timely, diligent, independent and transparent investigations, in keeping with international human rights standards and best practices, in consultation with civil society.

### **Economic, Social, Cultural and Environmental Rights**

13. Refrain from adopting any action or engaging in any conduct that may hamper the humanitarian efforts of medical personnel, who provide assistance to wounded and injured persons during demonstrations, or from restricting the health care of people who disagree with or criticize government

14. Take measures to reinstate to their positions wrongfully dismissed medical and health care personnel, determining any liability and compensation that may be appropriate.
15. Ensure that medical students, who have been expelled from medical schools are able to continue their studies and gain access to their university transcripts expeditiously and safely, and also to be able to continue their studies in exile.
16. Establish a decision-making process relating to fiscal and social security reform under a transparent and participatory framework, that adheres to international human rights standards, in order to assess the potential impact and consider alternatives to avoid the adoption of regressive measures.

### **Human Rights Defenders**

17. Cease the harassment and criminalization of human rights defenders and social leaders, guarantee conditions so they can fully carry out their work and exercise their rights, in particular, to freedom of expression, assembly and association.
18. Declare null and void all decrees revoking the legal status of civil society organizations that were approved without guaranteeing due process for the affected persons. Immediately close all administrative and criminal investigations into the organizations themselves.
19. Prevent murders, threats and intimidation against human rights defenders, journalists, communicators and social leaders and opposition members by properly and efficiently implementing the precautionary measures granted by the IACHR and the provisional measures granted by the Inter-American Court.

### **Persons Deprived of Liberty**

20. Eliminate the practice of detaining persons without a written warrant issued by a government official expressly empowered by law to do so, even in cases of *flagrante delicto*, as this practice stands in violation of Article 33, subparagraph 1 of the Political Constitution of Nicaragua.
21. Bring detainees before a judicial authority within the statutory time-limit of no longer than 48 hours –in accordance with Articles 33 of the Constitution and Article 95 of the Code of Criminal Procedure – in order to resolve their legal situation.
22. Immediately verify whether the use of pretrial detention is consistent with international standards on the subject matter, that is, with the criteria of exceptionality, legality, proportionality and reasonableness. When procedural criteria such as risk of flight or obstruction of the investigation are not applicable, then alternative measures to pretrial detention should be ordered.
23. Guarantee due process for the detainees. In particular, immediately inform the detainees, their next of kin and representatives about 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 for their respective hearings. Additionally, it is essential for their legal representatives to have unrestricted access to their clients.
24. Guarantee the decent treatment of persons in the custody of the State. In particular, ensure that they benefit from medical care services in keeping with their individual health conditions, receive enough of food with a high nutritional value, and are living in sanitary conditions.

25. Create the necessary conditions to effectively ensure the contact of persons deprived of liberty with their next-of-kin, by establishing adequate, regular and predictable rules for visits. In this regard, visits must be permitted at least as often as prescribed in the Prison Regulations, take place in a dignified manner and in conditions that in no way will be degrading to the persons deprived of liberty. The State must also guarantee the supply of medicines, food and personal hygiene items.
26. Use solitary confinement associated with maximum security on an exceptional basis, after conducting an individual risk assessment, for the shortest time possible and as a last resort. Solitary confinement orders must be authorized by a competent authority and must be subject to an independent review.

### **Women**

27. Adopt necessary measures to guarantee that all cases of violence against women and, in particular, cases of sexual violence, are investigated with due diligence, on a timely basis, thoroughly and impartially, taking into account factors such as their cultural identity, sex, gender, age and other ones, and that the persons responsible are properly punished and that the victims receive comprehensive reparation.
28. Ensure that the State adopts measures of protection to guarantee the personal, physical and sexual integrity of all women, adolescents and girls, without distinction of race, ethnic origin, religion, age, cultural identity, social status.
29. Adopt a comprehensive, coordinated and adequately funded state policy to ensure that victims of violence have full access to judicial protection, and that acts of violence are adequately prevented, investigated and redressed.
30. Adopt all necessary and comprehensive measures so that the rights of women detainees are effectively respected and guaranteed, so they do not suffer discrimination and are protected against all forms of violence that may derive from their gender status.
31. Adopt investigation protocols to prevent the revictimization of elderly women, women, girls and adolescents, as well as facilitate their comprehensive access to support services and adaptive medical care, including the timely and safe legal termination of pregnancies resulting from sexual violence.

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

32. Adopt the necessary measures to ensure that the decision about where to house transgender persons (who are in detention facilities, including prisons and police stations) is made on a case-by-case basis, taking into account the risk to which they may be exposed, with proper respect for their personal dignity and, whenever possible, after consulting with the transgender person involved.
33. Implement measures to prevent violence against LGBTI persons deprived of liberty, including but not limited to: effective and independent reporting procedures to denounce acts of sexual violence and other abuses; design individualized risk assessment upon their intake; carefully gather data and statistics on LGBTI persons deprived of liberty and the types of violence inflicted upon them, respecting the principles of confidentiality and privacy;
34. Adopt effective measures to ensure due diligence when investigating, prosecuting, and punishing acts of torture and other cruel, inhuman or degrading treatment of LGBTI persons deprived of liberty.

35. Provide training to police officers and prison security at prisons, police stations, immigration detention facilities, and other places of detention, to ensure that these agents adequately protect the lives and physical integrity of LGBTI persons—adolescents and adults—who are deprived of liberty.

#### **Nicaraguan Students**

36. Guarantee access to education for students who were expelled or who were forced to abandon their studies in the context of the events that occurred as of April 18, 2018. This includes the reinsertion in educational institutions, recognition of previous semesters completed, grades received, certificates obtained and the reinstatement of scholarships in applicable cases.

#### **Children and Adolescents**

37. Adopt measures to guarantee the right to life and physical integrity of all persons, but especially of children and adolescents, in keeping with the principle of special protection;
38. Guarantee that all adolescents offenders are subject to a specialized juvenile justice system, separated from the adult criminal system. Also guarantee due process of law and the right to a fair trial, as provided for in domestic and international human rights law;
39. Design and implement a contingency protocol for the continued access to education for children and adolescents, mitigating the impacts stemming from suspension from classes and educational activities. This may entail, among others, to guarantee remedial classes. For children and adolescents who have abandoned formal education, guarantee the opportunities for them to rejoin the education system. Adopt measures to reduce rates of truancy, school dropout and to eliminate all forms of child labor;

#### **Indigenous and Afro-Descendant Communities**

40. Guarantee the right of indigenous and Afro-descendant 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 attached to recognition of the territorial rights of the peoples and the key role that territories play in the enjoyment and guarantee of their rights. In particular, guarantee the complete and effective demarcation, titling and clearing of their territories in accordance with international standards.
41. Adopt all legislative measures to enforce the right to prior, free and informed consultation and consent of indigenous communities, in accordance with international standards.
42. Guarantee the right to a life free from violence of indigenous, Afro-descendant communities and their defenders in the face of threats, assaults 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**

43. Refrain from and immediately cease carrying 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.
44. Provide the necessary guarantees so that persons can move about and freely reside in Nicaragua, which necessarily implies refraining from continuing acts of criminalization and from creating reasons for the force displacement of Nicaraguans.

45. Protect and provide humanitarian aid to persons, who have been or shall be forced to become internally displaced in the country, as well as investigate and punish violent incidents and other incidents leading to internal displacement.
46. Guarantee that all persons are able to leave Nicaraguan territory freely and that their right to seek and receive asylum in foreign country is respected, in accordance with the provisions of Article 22.2 and 22.7 of the American Convention on Human Rights.