



HUMAN RIGHTS VIOLATIONS AND ABUSES IN THE CONTEXT OF PROTESTS IN NICARAGUA

18 April - 18 August 2018



**UNITED NATIONS
HUMAN RIGHTS**
OFFICE OF THE HIGH COMMISSIONER

Office of the United Nations High Commissioner for Human Rights (OHCHR), Geneva, August 2018
(original: English).

Cover photo: Group of students march on the streets of Managua in July 2018. Photo by Artículo 66.

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Report by the Office of the United Nations High
Commissioner for Human Rights



“The violence and repression seen in Nicaragua since demonstrations began in April are products of the systematic erosion of human rights over the years, and highlight the overall fragility of institutions and the rule of law.”

Zeid Ra’ad Al Hussein
United Nations High Commissioner for Human Rights
5 July 2018

Acronyms

ANPDH	National Association for Human Rights
CENIDH	Nicaraguan Human Rights Centre
CODENI	Nicaraguan Coordination of NGOs Working with Children and Adolescent
COSEP	High Council of Private Enterprise
CPDH	Permanent Commission for Human Rights
CVS	Verification and Security Commission
IACHR	Inter American Commission for Human Rights
FSLN	Sandinista National Liberation Front
FUNIDES	Nicaraguan Foundation for Social and Economic Development
GIEI	Group of Independent Experts
IMF	International Monetary Fund
INSS	National Institute for Social Security
MESENI	Special Monitoring Mechanism for Nicaragua
MRS	Sandinista Renovation Movement
NGO	Non-governmental organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
PLC	Liberal Constitutional Party
RACCS	South Caribbean Coast Autonomous Region
UCA	Central American University
UNA	National Agrarian University
UNAN	National Autonomous University of Nicaragua
UNHCR	United Nations High Commissioner for Refugees
UPANIC	National Agrobusiness Union
UPOLI	Polytechnic University

Table of contents

I.	Introduction	10
II.	Evolution of the crisis.....	12
1.	Context before April 2018.....	12
2.	The eruption of the protests and their repression	13
3.	The “clean-up operation”	16
4.	Systematic repression and persecution of individuals and groups perceived as supportive of the protests or as opposed to the Government	17
III.	Patterns of prevailing human rights violations and abuses committed between 18 April and 18 August 2018	21
1.	Main human rights violations by State authorities.....	21
a.	Violations of Right to Freedom of Peaceful Assembly	21
b.	Violations of the rights to life and physical integrity	22
c.	Violations of the right to health.....	25
d.	Enforced disappearances.....	26
e.	Violations of the rights to liberty and security of the person.....	27
f.	Torture and ill-treatment.....	29
g.	Violations of due process rights.....	30
h.	Violations of the right to freedom of expression.....	32
2.	Abuses by pro-Government armed elements	33
3.	Abuses by anti-Government protesters.....	34
4.	Other human rights consequences of the ongoing crisis	36
IV.	Investigations and judicial response	37
V.	RECOMMENDATIONS.....	39
	ANNEX I: Applicable legal framework and voluntary pledges and commitments.....	41

Executive Summary

The present report describes the patterns of human rights violations and abuses committed between 18 April and 18 August 2018 in relation to the social protests and ensuing political crisis in Nicaragua. The report is based on human rights monitoring conducted by the OHCHR Regional Office for Central America and, since 26 June, by an OHCHR team deployed in Managua. It is produced pursuant to the universal mandate of the High Commissioner for Human Rights under General Assembly resolution 48/141.

The serious human rights crisis in Nicaragua since the social protests began on April 2018 has been characterised by multiple forms of repression and other forms of violence that resulted in thousands of victims, including approximately 300 deaths and 2,000 persons injured. As noted by the High Commissioner for Human Rights on 5 July 2018, the repression and the violence “*are products of the systematic erosion of human rights over the years, and highlight the overall fragility of institutions and the rule of law.*” This crisis has deepened the polarization within Nicaraguan society.

In early April, demonstrations led by environmental groups, the rural peasant population and students erupted in different parts of Nicaragua to denounce the slow and insufficient response of the Government to forest fires in the Indio Maíz Biological Reserve. From 18 April, more massive protests spread across the country after the Government announced reform of the National Institute of Social Security and the reduction of pension payments. The crisis has taken several forms and experienced different phases. The initial phase was characterized by the State’s repressive reply to public demonstrations and by protests spreading across the country in different formats (including barricades and roadblocks). The second stage (mid-June to mid-July) saw the forcible removal of roadblocks and barricades by State authorities and pro-Government armed elements. The third and current stage, which followed the suppression of the protests, has seen the criminalisation and persecution of those who participated in the demonstrations or are otherwise perceived as Government opponents.

Based on analysis of information available to OHCHR, the overall response of the authorities to protests failed to meet applicable standards of the management of assemblies, in violation of international human rights law. Although some demonstrations turned violent, the majority of protesters were peaceful. In cases where protesters were violent, the use of lethal force by authorities against non-lethal threats and the reliance on pro-Government armed elements, also violated international human rights law. This response systematically repressed dissent against the Government.

Human rights violations documented by OHCHR include disproportionate use of force by the police that sometimes resulted in extrajudicial killings; enforced disappearances; obstructions to access to medical care; widespread arbitrary or illegal detentions; prevalent ill-treatment and instances of torture and sexual violence in detention centres; violations of freedoms of peaceful assembly and expression, including the criminalization of social leaders, human rights defenders, journalists and protesters considered critical of the Government. At the time of writing this report, the number of protests has decreased which indicates the chilling effect of repression.

Information obtained by OHCHR strongly indicates that pro-Government armed elements, including those known as “shock forces” (*fuerzas de choque*) or “mobs” (*turbas*), acted with the acquiescence of high-level State authorities and of the National Police, and often in a joint and

coordinated manner. These groups participated in raids and attacks against protesters and carried out illegal detentions. Although the Government no longer denies the existence of pro-Government armed elements, it condones their actions and allows them to operate with impunity.

The human rights crisis in Nicaragua is ongoing, and authorities continue to resort to smear campaigns, threats of prosecution, arbitrary dismissals of civil servants and other forms of harassment or intimidation against individuals perceived as critical of the Government. Leaders of rural movements (*Movimiento Campesino*) and of student movements have been particularly targeted. This pattern has created a climate of fear and mistrust amongst the population. The level of persecution is such that many of those who have participated in the protests, defended the rights of the protesters, or simply expressed dissenting opinion, have been forced to hide, have left Nicaragua or are trying to do so. According to UNHCR, 23,000 applications have been filed by Nicaraguans (from April to July) for refugee status in Costa Rica.

According to estimates made by non-governmental organizations, as of 18 August at least 300 individuals, including human rights defenders, were facing trials for serious crimes, including charges of terrorism and organized crime, for having participated or supported the protests. On 16 August, the National Assembly adopted legislation to include new crimes related to terrorism. The trials of people charged in relation to the protests have serious flaws and do not observe due process, including the impartiality of the courts.

The overall enjoyment of the rights to health, work, education and food has been severely impacted since the beginning of the crisis. The approval on 14 August by the National Assembly of cuts to the national budget will likely further undermine the enjoyment of these rights in the context of a deteriorating economic situation.

Rather than recognizing responsibility for any wrongdoing during the crisis, the Government has placed the blame on social and opposition leaders, human rights defenders and media outlets for what they have termed “coup-related violence”; as well as for the negative impact of the political crisis on the country’s economy. Moreover, the Government has attributed the responsibility for all violent actions to those who participated in the protests, including concerning the 197 deaths it had recognized as of 25 July. It has not acknowledged any disproportionate use of force or illegal action by police agents.

The repression of protests by the police and pro-Government armed elements led to violent clashes with protesters and outbursts of violence that have spread in urban and rural communities throughout the country. Serious abuses committed by individuals who took part in the protests, including the killing and injuring of police officers and members of the Sandinista party and the destruction of public infrastructure, should be duly investigated and those responsible should be penalized within fair trials. These abuses do not legitimize in any way a response by the State that is not in line with international human rights law.

The State’s lack of will to carry out prompt, impartial, thorough and independent investigations on alleged human rights violations and abuses seriously jeopardizes victims’ rights to justice, truth and an effective remedy. The lack of independence of the judiciary and reported irregularities of the Office of the Attorney-General and the Legal Medical Institute pose serious concerns in terms of accountability.

The OHCHR team in Nicaragua has faced obstacles to conduct monitoring. OHCHR continues to request full and unfettered access to the whole country, including to places of detention and stands ready to engage in dialogue with the Government, including on technical cooperation.

OHCHR offers recommendations to the authorities of Nicaragua, including to the national human rights institution, to the Human Rights Council and to the international community aimed at addressing the serious human rights violations documented in the report and at preventing further violations.

I. Introduction

1. This report presents patterns of human rights violations and abuses committed between 18 April and 18 August 2018 in relation to the social protests and the ensuing political crisis in Nicaragua. The report is based on human rights monitoring remotely conducted by the OHCHR Regional Office for Central America and, since 26 June, by an OHCHR team deployed in Managua, further to the invitation of the Government.¹ In its invitation, the Government also requested OHCHR to support the work of the Verification and Security Commission (CVS by its Spanish acronym).² The report is produced pursuant to the universal mandate of the High Commissioner under resolution 48/141 of the United Nations General Assembly.³
2. Following the start of a fire in the biological reserve of Indio Maíz on 3 April, the OHCHR Regional Office for Central America started receiving information on restrictions on the rights to freedom of peaceful assembly and association, limitations of and attacks on independent media, and threats against human rights defenders. The Regional Office maintained regular contacts with different stakeholders and conducted remote interviews through internet-based technologies and face-to-face meetings with victims, witnesses and other sources. OHCHR also took into account communications sent by special procedures mandate holders⁴ and observations made to Nicaragua by treaty bodies since 2007.⁵
3. The OHCHR team deployed in Managua has been meeting a broad range of stakeholders, including Government officials, police officers, victims and their families, witnesses, civil society organizations, journalists, lawyers, business sector representatives, students, medical doctors, and first responders. OHCHR examined available official documentation, including public statements, reports from different sources⁶, videos, photos, and media (including social media).

¹ On 19 June 2018, the Minister for Foreign Affairs of Nicaragua sent a letter to the OHCHR Regional Representative for Central America extending an invitation to visit the country.

² CVS is one of the commissions set up by the National Dialogue involving Government officials and representatives from various sectors and mediated by the Catholic Church. The Government of Nicaragua invited the Inter-American Commission on Human Rights and OHCHR to participate in CVS as observers. Part of the information gathered by OHCHR through its monitoring was in the context of the joint visits and meetings held with the CVS.

³ Resolution 48/141 of the United Nations General Assembly *inter alia* mandates the High Commissioner for Human Rights “to promote and protect the effective enjoyment by all of all civil, cultural, economic, political and social rights” and “to play an active role in removing the current obstacles and in meeting the challenges to the full realization of all human rights and in preventing the continuation of human rights violations throughout the world”.

⁴ Communications and responses received are available at:

<https://www.ohchr.org/en/hrbodies/sp/pages/communicationsreportssp.aspx>

⁵See Committee on Migrant Workers Concluding observations (2016) CMW/C/NIC/CO/1; Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict Concluding observations (2010) CRC/C/OPAC/NIC/CO/1; Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography Concluding observations (2010) CRC/C/OPSC/NIC/CO/1; Committee on the Rights of the Child Concluding observations (2010) CRC/C/NIC/CO/4; Committee against Torture Concluding observations (2009) CAT/C/NIC/CO/1; Human Rights Committee Concluding observations (2008) CCPR/C/NIC/CO/3; Committee on Economic, Social and Cultural Rights Concluding observations (2008) E/C.12/NIC/CO/4; Committee on the Elimination of Racial Discrimination Concluding observations (2008) CERD/C/NIC/CO/14; Committee on the Elimination of Discrimination against Women Concluding observations (2007) CEDAW/C/NIC/CO/6. Available at <https://www.ohchr.org/EN/Countries/LACRegion/Pages/NIIndex.aspx>

⁶ Issued by the State, international organizations and civil society, amongst others.

4. In line with the OHCHR methodology on human rights monitoring, the team exercised due diligence to assess the credibility and reliability of sources and cross-checked the information it gathered to confirm its validity. Wherever possible, findings used for this report are based on the primary accounts of victims and/or witnesses. OHCHR has taken all possible measures to protect the confidentiality of sources and to avoid exposing them to possible reprisals.⁷
5. The OHCHR team in Nicaragua has been in regular contact with the Ministry of Foreign Affairs, but has faced obstacles to conduct monitoring. The Government has not permitted OHCHR to directly engage with relevant State institutions.⁸ Every time OHCHR has informed the Government of its intention to undertake missions outside Managua, the Ministry for Foreign Affairs has prevented this on the grounds of security conditions. OHCHR has been unable to visit prisons except for the National Penitentiary System prison in Managua (known as La Modelo) on 17 July. Moreover, while OHCHR has sought to undertake trial monitoring on several occasions, judicial authorities have not provided access to hearings. The authorities have not replied to OHCHR's written requests for specific information regarding alleged human rights violations, statistics and police operations. As of 18 August, a request for information sent to the Ombudsperson and to the Office of the Attorney-General on 15 May remain unanswered.
6. Since June, the Ministry of Foreign Affairs has however sent OHCHR 40 communications on alleged acts of violence related to the social protests imputed to protesters, requesting the Office to take note and speak out. Almost all of them refer to abuses committed against members of the Sandinista National Liberation Front (FSLN) activists and/or the National Police. Most of the communications (16) refer to cases of death by firearm and kidnappings (11) sometimes involving allegations of cruel inhuman or degrading treatment; some cases refer to various forms of threats, including through social media. There are also communications denouncing damage to public and private property (6), especially arson. The information shared by the Government on these cases is succinct and has not been followed by complementary information on ongoing investigations. The Government also provided press statements on police operations and public reports issued by the Truth, Justice and Peace Commission.
7. OHCHR has been coordinating actions with the Inter-American Commission on Human Rights, in particular with the Special Monitoring Mechanism for Nicaragua (MESENI, by its Spanish acronym) established to follow up on the recommendations of the Commission to Nicaragua and on precautionary measures.⁹

⁷ Several United Nations entities are engaged in responding to and reporting on intimidation and reprisals against individuals and groups seeking to cooperate with the United Nations. The Human Rights Council has reiterated that all United Nations State Members, particularly members of the Council, should fully cooperate with it and its mechanisms, and affirmed that failure to take steps to prevent, investigate and ensure accountability for acts of intimidation or reprisal may be inconsistent with this commitment: See <https://www.ohchr.org/EN/Issues/Reprisals/Pages/ReprisalsIndex.aspx>

⁸ Such as the National Police, the national human rights institution and the judiciary. The Government indicated that all OHCHR contacts with State authorities had to be undertaken through the Ministry of Foreign Affairs. See also press release Supreme Court, "CSJ aclara sobre participación del GIEI en las audiencias y juicios", 14 August 2018, available at: https://www.poderjudicial.gob.ni/prensa/notas_prensa_detalle.asp?id_noticia=8947

⁹ Press release Inter-American Commission on Human Rights, "IACHR Launches Special Monitoring Mechanism for Nicaragua (MESENI)", 25 June 2018, available at: http://www.oas.org/en/iachr/media_center/PReleases/2018/135.asp

II. Evolution of the crisis

1. Context before April 2018

8. Given their scope and persistence, the wave of protests, which has been ongoing since April 2018, appears to be the result of deep-rooted grievances. Since the Presidential elections in 2006, the institutional framework has weakened, with a gradual concentration of the different State powers in the hands of the ruling party. This has contributed to reduced civic space, lack of independence of the judiciary and the national human rights institution, recurrent allegations of corruption and electoral fraud and media censorship, and high levels of impunity amongst other issues.¹⁰
9. In 2009, the Committee against Torture noted that Nicaragua “*should adopt effective measures to combat and prevent acts of violence against members of the political opposition, their sympathizers and representatives of NGOs in connection with peaceful demonstrations and to provide proper protection for demonstrators.*”¹¹ More recently, there have been episodes of social and political discontent, manifested through numerous protests (in particular against Law 840 or “*Ley Canalera*” which foresaw the construction of an inter-oceanic canal in Nicaragua with foreign private funding), which were often repressed by the authorities and resulted in deaths, injuries, arrest and detention.¹² In the Atlantic coast, the concession of indigenous lands to farmers “*colonos*” also led to increased violence, including deaths of indigenous peoples in defence of their territories.¹³
10. The presidential and municipal elections that took place in 2016 and 2017 were followed by violence. After the municipal elections in November 2017, five individuals, mainly indigenous and *campesino* leaders were assassinated. In its preliminary report on the November 2017 elections, the Electoral Observation Mission of the Organization of American States reiterated its “profound concern regarding the acts of violence registered after the elections.”¹⁴
11. To date, most of these human rights violations have not yet been investigated, failing to ensure that their perpetrators are held accountable, and thereby also failing to appease

¹⁰ Report of the Working Group on the Universal Periodic Review on Nicaragua, Human Rights Council, 8 October 2014, A/HRC/27/16, para. 109 and 111, available at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/181/93/PDF/G1418193.pdf?OpenElement>, CEJIL, Nicaragua: ¿cómo se reformó la institucionalidad para concentrar el poder?, 2017, available at <https://www.cejil.org/es/nicaragua-se-reformo-institucionalidad-concentrar-poder>;

Transparency International's Corruption Perceptions Index, 2017. Nicaragua is ranked 151 of 180 countries, available at:

<https://www.transparency.org/country/NIC>

Global Impunity Index, 2017. Nicaragua is considered amongst the 13 countries with a very high impunity index, available at: https://www.udlap.mx/cesij/files/IGI-2017_eng.pdf

¹¹ Concluding Observations of the Committee against Torture on Nicaragua, 2009, CAT/C/NIC/CO/1. Available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/NIC/CO/1&Lang=En

¹² See communications from Special Procedures of the Human Rights Council to Nicaragua and responses from the State: of 18 May 2017 (response 2 June 2017), of 14 January 2016 (response 11 March 2016), of 23 February 2015, available at: <https://spcommreports.ohchr.org/TMsearch/TMDocuments>

¹³ Press statement issued by the Special Rapporteur on Indigenous peoples, “Nicaragua: Experto de la ONU pide protección para pueblos indígenas ante creciente tensión en la Reserva Bosawás” (only in Spanish), 13 May 2013, available at: <https://newsarchive.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=13328&LangID=S>

¹⁴ Press statement by Organization of American States, “OAS Mission in Nicaragua Recommends Integral Electoral Reform”, 7 November 2017, available at: http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-079/17

existing social and political grievances. This context is the backdrop for the human rights violations and abuses that will be addressed in this report.

2. The eruption of the protests and their repression

12. In early April peaceful demonstrations led by environmental groups, rural peasant population (*campesinos*) and students erupted in different parts of Nicaragua¹⁵ to denounce the slow and insufficient response of the Government to forest fires in the Indio Maíz Biological Reserve, Río San Juan Department, at the border with Costa Rica. From 18 April, more massive protests spread across the country after the Government announced, on 16 April¹⁶, reforms to the National Institute for Social Security (INSS by its Spanish acronym).¹⁷ The reforms introduced higher contribution rates both for employers and employees and a reduction of five per cent of pensions to be received. The Government justified these reforms as a measure to reduce the mounting deficit of INSS and to implement recommendations made by the International Monetary Fund (IMF).¹⁸
13. On 18 April, peaceful demonstrations took place in Managua¹⁹ and León, spearheaded by university students and pensioners. Protesters were denouncing corruption and mismanagement of resources as the main factors behind the near-bankruptcy of INSS. These protests were immediately met with violent attacks by organized pro-Government groups, known as “shock forces” (*fuerzas de choque*) or “mobs” (*turbas*).²⁰ According to accounts available to OHCHR, these groups, reportedly recruited from the Sandinista Youths, were holding cudgels, sticks and stones and wearing helmets.²¹ Moreover, riot police beat peaceful demonstrators and journalists covering the events, fired tear gas at the crowds, and failed to intervene when pro-Government groups attacked peaceful protesters.
14. These attacks fuelled further student protests in the main university centres²² in Managua and in León²³ the following day, on 19 April. These demonstrations were for the most part peaceful, with some exceptions where protesters threw stones at police officers.²⁴ The police broke them up by using firearms, rubber bullets and tear gas. On 19 April, one individual and one police officer were killed by gunfire in Managua (close to UPOLI); a minor was killed in the town of Tipitapa.
15. During the following days, protests spread throughout the country, including in the cities of Masaya, Granada, Matagalpa, Rivas and Estelí. Clashes between protesters and the

¹⁵ Including in Managua, San Juan, León and Nueva Segovia.

¹⁶ El 19 Digital, “INSS da a conocer reformas de cara a mejorar el balance financiero del sistema de pensiones”, 16 April 2018, available at: <https://www.el19digital.com/articulos/ver/titulo:75972-inss-da-a-conocer-reformas-de-cara-a-mejorar-el-balance-financiero-del-sistema-de-pensiones>

¹⁷ Presidential decree 03-2018, published in *La Gaceta* on 18 April 2018.

¹⁸ International Monetary Fund press statement, “Nicaragua: Staff Concluding Statement of an IMF Staff Visit”, 6 February 2018, available at: <https://www.imf.org/en/News/Articles/2018/02/06/ms020618-nicaragua-staff-concluding-statement-of-an-imf-staff-visit>

¹⁹ Namely in the Universidad Centroamericana (UCA) de Nicaragua.

²⁰ See paragraphs 97 to 103 on abuses by pro-Government armed elements.

²¹ As these groups often use helmets, they are colloquially also referred to as people on motorcycles (“*motorizados*”). See <https://www.youtube.com/watch?v=HKCXn2OXsN4&feature=youtu.be>

²² Universidad Nacional de Ingeniería (UNI), Universidad Agraria and Universidad Politécnica de Nicaragua (UPOLI).

²³ Universidad Nacional Autónoma de León.

²⁴ Comment by UN Human Rights Office spokesperson Liz Throssell on Nicaragua protest violence, 20 April 2018, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22972&LangID=E>

police, with the latter firing live ammunition at protesters, led to a rapid rise in the number of casualties. Reports indicate that pro-Government armed elements (including snipers) started operating against protests as of 19-20 April.²⁵ One of the first reported victims of a sniper was 15 year-old Álvaro Conrado, who was shot in the neck while distributing water to student protesters in Managua, on 20 April.²⁶ After being denied access to an INSS hospital²⁷, he died in another hospital several hours later.

16. On 19 April, transmission for four independent TV channels (*Canal 12*, *Canal de Noticias de Nicaragua*, *Telenorte* and *Canal 51*) was interrupted for several hours; the cable provider alleged technical difficulties. Canal 100% Noticias remained six days off air.
17. On 22 April, President Ortega announced the withdrawal of the proposed reforms of INSS. On 24 April, the Government agreed to enter into a National Dialogue with a group of protesters, known as the “Civic Alliance for Justice and Democracy,” composed of civil society organizations, students, *campesino* organizations and the business sector, with the Catholic Church acting as mediator. Participants in the National Dialogue did not, however, formally convene until 16 May. On 27 April, the National Assembly – which is dominated by the ruling party - decided to establish a Truth, Justice and Peace Commission to investigate the acts of violence committed since 18 April²⁸ and appointed its five members. Student movements and civil society organizations rejected this body alleging its lack of independence from the Government.
18. By 27 April, 30 casualties had been reported, mostly university students, as well as a journalist and two police officers.²⁹ In a joint statement issued that day, several special rapporteurs of the Human Rights Council concluded that the “[h]igh number of deaths of protesters [was] a clear indication that excessive force was used in violation of the principles of necessity and proportionality as required by international law and standards to make the use of force legal” and called for respect for the rights to freedoms of expression and peaceful protest.³⁰
19. These measures did little to quell the protests which had then morphed into a more general outrage and demands for broad political reforms. Organized demonstrations quickly evolved into other forms of protests, including neighbourhood rallies, roadblocks and barricades, including as a means of protection from reprisals and attacks by armed elements. Students started occupying university campuses and other public spaces. The National Autonomous University of Nicaragua (UNAN-Managua), the National Agrarian

²⁵ See Inter-American Commission on Human Rights report “Gross Human Rights Violations in the Context of Social Protests in Nicaragua”, OEA/Ser.L/V/II. Doc. 86, 21 June 2018, para. 42, available at:

<http://www.oas.org/en/iachr/reports/pdfs/Nicaragua2018-en.pdf>

and Amnesty International report “Shoot to kill: Nicaragua’s strategy to repress protest”, 29 May 2018, p. 12, available at <https://www.amnesty.org/download/Documents/AMR4384702018ENGLISH.PDF>

²⁶ Inter-American Commission on Human Rights report “Gross Human Rights Violations in the Context of Social Protests in Nicaragua”, OEA/Ser.L/V/II. Doc. 86, 21 June 2018, para. 42, available at:

<http://www.oas.org/en/iachr/reports/pdfs/Nicaragua2018-en.pdf>

²⁷ See paragraphs 65 to 67.

²⁸ Resolution A.N.N. 01-2018 of the National Assembly, published in *La Gaceta* on 30 April 2018.

²⁹ OHCHR Press release “Nicaragua: Experts say appalled by Government’s violent response to peaceful protests”, 27 April 2018, available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23005&LangID=E>

³⁰ Ibidem

University (UNAN), the Central American University (UCA)³¹ and the UPOLI thus became centres of students' mobilization and were subject to attacks by police and pro-Government armed elements.

20. By mid-May, roadblocks and barricades set up by protesters had spread across the neighbourhoods of Managua and in the 15 Departments of the country³², with reports mentioning the existence of 180 barricades and roadblocks throughout the country at that time. While the protest movement overall remained peaceful, some protesters increasingly responded with violent means to deter or counter attacks, including homemade mortars and weapons, and conventional weapons.
21. The National Dialogue was unable to reach agreements to end the crisis. An initial agreement to a 48-hour truce was not respected as students occupying UNA were attacked by police.³³
22. On 30 May, on Mothers' Day, thousands of people took part in a march in Managua and other cities in support of mothers whose children had been killed during the protests. According to information available to OHCHR, the march in Managua was attacked by pro-Government armed elements located near the National Engineering University while similar attacks targeted marches across the country. According to official records, there were 15 death and 199 injured on 30 May.³⁴ This marked a new peak of violence in the crisis and prompted a wave of condemnation by international entities.³⁵
23. On 16 June, six members of a family, including a three-year old and a baby perished as a result of arson of their residence in the Carlos Marx neighbourhood in Managua. Reportedly, the house was set on fire because the owners did not allow the police and snipers to use the roof. On 23 June a 14-month old baby died of gunshot wounds (in the head) in Managua, close to UPOLI. The parents of the baby publicly stated that persons dressed in civilian clothes who they identified as police had shot at them.³⁶ On the same day the National Police issued a statement indicating that that morning "members of the police had been carrying out tasks to clear streets to ensure unrestricted circulation of persons and vehicles [...] and they were attacked by criminals who roam the neighbourhoods close to the UPOLI, resulting in the death by gunshot of a one-year old".³⁷

³¹ UCA, "Comunicado de la Universidad Centroamericana al pueblo Nicaragüense", 27 May 2018, available at: <http://www.uca.edu.ni/index.php/comunicacion/noticias/2316-comunicado-de-la-universidad-centroamericana-al-pueblo-nicaragueense>

³² Vos TV, "Zonas afectadas por tranques en Nicaragua", 14 May 2018, <https://www.vostv.com.ni/nacionales/7152-zonas-afectadas-por-tranques-en-nicaragua/>

³³ On 19 May 2018.

³⁴ La Voz del Sandinismo, "Acciones delincuenciales recientes dejaron 15 muertos y 199 heridos", 31 May 2018, available at: <http://www.lavozdelsandinismo.com/nicaragua/2018-05-31/acciones-delincuenciales-recientes-dejaron-15-muertos-y-199-heridos/>

³⁵ Press statement UN Secretary-General, "Secretary-General Condemns Ongoing Violence in Nicaragua," SG/SM/19063, 1 June 2018, available at: <https://www.un.org/press/en/2018/sqsm19063.doc.htm>

³⁶ See <https://www.youtube.com/watch?v=XsHy3xO2xbU> and El Nuevo Diario, "Matan a niño de un año", 24 June 2018, available at: <https://www.elnuevodiario.com.ni/nacionales/467876-matan-nino-ano/>

³⁷ Press statement by National Police No. 71 – 2018, 23 June 2018, available at: <https://www.policia.gob.ni/?p=19649>

3. The “clean-up operation”

24. Starting mid-June, authorities started carrying out what was termed a “clean-up operation”³⁸, whereby anti-riot police and pro-Government armed elements and mobs jointly forcefully dismantled roadblocks and barricades. This led to violent clashes with protesters, escalating the level of violence on both sides.
25. OHCHR gathered information concerning the growing presence of pro-Government armed elements who would usually enter towns led by police and carry out both random and selective shootings in the streets, terrorizing local communities and causing loss of life.³⁹ The “clean-up operation” intensified in the first two weeks of July, in anticipation of the 19 July national celebration (marking the anniversary of the triumph of the 1979 Sandinista Revolution), with forceful removal of roadblocks in the departments of Boaco, Carazo, Granada, Jinotepe, La Trinidad, León, Managua, Masaya, Matagalpa, RACCS and Rivas, amongst others.
26. Attacks against roadblocks and demonstrations led to violent clashes between security forces and demonstrators. One of the most violent incidents took place on 12 July in Morrito, Río San Juan Department, where, according to official sources, at least five people were killed, including four police officers.⁴⁰ Violent attacks and clashes also took place in the *campesino* areas of San Pedro Lóvago, in Chontales, and in Muelle de los Bueyes, in the Southern Caribbean region.
27. On 12 July, despite an ongoing negotiation within CVS to peacefully dismantle the occupation of UNAN-Managua, the police and pro-Government armed elements attacked the barricades laid down at the entrance of the university. Students and other protesters were forced to abandon the university premises and seek shelter at the nearby church of Jesus of Divine Mercy, along with journalists and priests. The church was subject to shootings by police and pro-Government armed elements for several hours, which led to the killing of two individuals and injured at least 16.⁴¹
28. From 15 to 17 July, most of the remaining roadblocks throughout the country were forcefully lifted by police and pro-Government armed elements after operations conducted in the departments in the municipalities of Diriá, Diriomo, Catarina, Niquinohomo and Masaya, including the urban indigenous community of Monimbó. The operation in the latter community led to an undetermined number of casualties, while many residents sought refuge in the forest near the Masaya lake. The operations that took place between 15 and 17 July also involved mass arrests of protesters. The last “clean-up operation” took place on 24 July in Barrio Sandino, Jinotega, Department of Carazo, which had been a main centre of protests. Three young men (including a minor) were killed in the course of an operation “to restore free transit,” according to the police.⁴²

³⁸ This term was widely used by victims and witnesses in their interviews with OHCHR staff, as well as by national and international media.

³⁹ OHCHR Press release “Act now to end violence, Zeid urges Nicaraguan authorities”, 5 July 2018, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23335&LangID=E>

⁴⁰ Press statement by National Police No. 82-2018, 12 July 2018, available at: <https://www.policia.gob.ni/?p=19889>

⁴¹ Inter-American Commission on Human Rights press release “The Special Monitoring Mechanism for Nicaragua (MESENI) Completes Third Week in Action, Observes Tougher Repression and Raids by Police and Parapolice Groups”, 1 July 2019, available at: http://www.oas.org/en/iachr/media_center/PReleases/2018/156.asp

⁴² Press statement by National Police No. 92-2018, 24 July 2018, available at: <https://www.policia.gob.ni/?p=20548>

4. Systematic repression and persecution of individuals and groups perceived as supportive of the protests or as opposed to the Government

"We are trapped in our own country. There are groups of armed hooded men at the border and even inside the universities. Every day some students are arrested and we don't know what will happen after this."

University student and leader of the protests

Interview conducted by OHCHR on 16 August 2018

29. As the roadblocks were being lifted, the crisis entered a new phase characterized by the persecution and criminalization of social and political leaders, human rights defenders and people who were involved in or associated with the protests. This new phase which, in general terms started in mid-July, continues to date. It should be however be noted that collective detentions of protesters started very early on in the crisis (reportedly by 20 April) and has continued throughout.⁴³ On 9 August, a joint press statement signed by 11 special procedures mandate-holders of the Human Rights Council described the situation as a "witch hunt", referring to "*patterns of repression of dissent [...] indicative of a policy implemented by the authorities to eradicate the structural conditions which support opposition voices and critics.*"⁴⁴
30. The "clean-up operation" was followed by a wave of collective arrests and detentions of individuals who had reportedly participated in the protests, blockades or barricades or had provided some humanitarian support, such as medical assistance, food or shelter, to protesters.
31. Pro-Government armed elements, at times together with police, allegedly carried out and participated in many house raids and illegal arrests, often based on allegations by local informants. In some cases, several members of family (primarily young males) would be apprehended in such operations. In many cases, the whereabouts of these persons remained unknown for several days before their relatives would eventually learn they were being detained at a police station or at "El Chipote", La Modelo or La Esperanza prisons.⁴⁵
32. While many of those deprived of liberty were released without charges, others have faced judicial procedures and many have been accused with disproportionate or unfounded offences amidst systematic breaches of minimum due process guarantees. There is serious concern about the lack of evidence to support such charges.
33. Reports by non-governmental organizations indicate that as of 18 August, at least 300 individuals were being prosecuted for involvement in protests - including at least nine women and 10 minors.⁴⁶ Based on the information registered by one NGO, CENIDH, at least 85 individuals are being prosecuted for terrorism-related charges. Many are facing

⁴³ See paragraph 72.

⁴⁴ Press release by Human Rights Council special procedures "Nicaragua must end "witch-hunt" against dissenting voices, say UN experts", 9 August 2018, available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23434&LangID=E>

⁴⁵ See paragraphs 69 to 71 on enforced disappearances.

⁴⁶ Three NGOs (CENIDH, CPDH and Grito por Nicaragua) have provided OHCHR with lists with names of individuals currently detained and being prosecuted in relation to their involvement in protests (on file with OHCHR)

charges of organized crime and/or aggravated murder, all of which are all considered as “complex crimes” according to national legislation. This incurs longer timeframes for the judicial processes, no possibility of conditional release, and no alternative measures to pre-trial detention, except for minors.

34. On 16 July, the National Assembly adopted a law “*against money laundering, terrorist financing and proliferation of mass destruction weapons*”⁴⁷ introducing a new definition of terrorism and the new crime of financing terrorism. The adoption of this law, in the midst of the crisis, has raised concerns that it will be used against individuals and organizations who have expressed dissenting views, including by controlling their finances.⁴⁸ The State has argued that the adoption of this law was in response to its obligations under the Financial Action Task Force (FATF).
35. Prominent human rights defenders and leaders of the protests have been targeted as part of this pattern of criminalization. Leaders of rural movements (*Movimiento Campesino*) and of student movements, including those established in April, such as the *Movimiento 19 de abril*, have been particularly targeted. Thus, on 30 May, four human rights defenders⁴⁹ working with the NGO Permanent Human Rights Commission (CPDH) were arrested by the Army close to the border with Costa Rica. One of them has been accused of murder and the others of causing bodily harm in relation to events which occurred at a roadblock. On 13 July, Medardo Mairena and Pedro Mena, leaders of the *Campesino* movement, were arrested at the Managua airport while about to travel to a meeting abroad. They have been charged with terrorism, murder, organized crime, kidnapping, theft, damages to public property, inter alia, in relation to events at a roadblock. Mr. Mairena is a member of the Civil Alliance and has been involved in the National Dialogue.⁵⁰ On 18 July, Irlanda Jerez, a merchant of the Mercado Oriental in Managua, and leader of the women protest movement, was arrested in Managua. The judicial authorities have stated that her arrest was connected to a fraud-related prison sentence dating back to 2016. On 22 July, Christian Fajardo and María Adilia Peralta, leaders of the student movement in Masaya (*Movimiento 19 de abril*), were arrested while trying to cross the border with Costa Rica and have been charged with terrorism and financing terrorism, organized crime, murder, kidnapping and desecration of a human corpse, inter alia. They were subsequently granted precautionary measures⁵¹ by the Inter-American Commission on Human Rights.⁵² As of 18 August, all these individuals were being held in pre-trial

⁴⁷ Ley contra el lavado de activos, el financiamiento al terrorismo y el financiamiento a la proliferación de armas de destrucción masiva, Ley No. 977, adopted on 16 July 2018, *La Gaceta Diario Oficial* No. 138 (published on 20 July 2018).

⁴⁸ See press release by Human Rights Council special procedures “Nicaragua must end “witch-hunt” against dissenting voices, say UN experts”, 9 August 2018, available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23434&LangID=E>

and

Spokesperson for the High Commissioner for Human Rights: Press briefing notes on Nicaragua, Mali and Kashmir, 17 July 2018, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23383&LangID=E>

⁴⁹ William Ampí Picado, Julio Ampí Machado, Jaime Ampí Toledo and Reynaldo Lira Luqués.

⁵⁰ See Spokesperson for the High Commissioner for Human Rights: Press briefing notes on Nicaragua, Mali and Kashmir, 17 July 2018, available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23383&LangID=E%20and>
<https://twitter.com/OACNUDH/status/1024298369932570624>

⁵¹ The precautionary measures are urgent requests, directed by the Inter-American Commission on Human Rights to Member States of the Organization of American States, to take immediate action in serious cases when an imminent risk of irreparable harm to persons exists. The duty of adopt the necessary measures rest on the Member States.

⁵² See IACHR Resolution 56/2018 of 25 July 2018, Precautionary Measures No. 868/18, 819-18, 777-18, 850-18 and 871-18, available at: <http://www.oas.org/es/cidh/decisiones/pdf/2018/56-18MC868-18-NI.pdf>

detention. Human rights defenders Medardo Mairena, Pedro Mena, William Ampié, Julio Ampié, Jaime Ampié and Reynaldo Lira have all been placed in maximum security cells, with no rationale for this decision. This treatment could constitute a reprisal for their role as defenders.

"I am no longer able to work as a human rights defender. I became scared when I saw my photo hanging on the walls of the building of the Sandinista party in my city. Everyone knows that in that building they hang the photos of the people that they're going to arrest".

Human rights defender

Interview conducted by OHCHR on 4 August 2018

36. Threats of arrests, including allegedly on the basis of fabricated criminal dossiers and warrants, have also become a common instrument to instil fear among human rights defenders and opponents. On 5 June, Felix Maradiaga, an academic and human rights defender, was threatened by National Police with arrest for terrorism charges.⁵³ While he has not been arrested, he was threatened by pro-Government armed elements on 7 July⁵⁴ and physically attacked by them on 11 July.⁵⁵ He was granted precautionary measures by the Inter-American Commission on Human Rights on 9 July.⁵⁶ On 4 August, the president (Álvaro Leiva) and members of the National Association for Human Rights (ANPDH), one the Nicaragua's main human rights NGOs, fled to Costa Rica. ANPDH announced the temporary closure of its offices due to increasing threats and harassment against them, including death threats. On 5 June, the Inter-American Commission on Human Rights had issued precautionary measures in favour of Mr. Leiva.⁵⁷ On 3 August, Carlos Mejia Godoy, a singer who played a historical role in the anti-Somoza struggle, announced that he had sought refuge in Costa Rica for fear of persecution.
37. Harassment against individuals perceived as opposed to the Government include house tagging, death threats, mobbing and smear campaigns in social media. OHCHR has received accounts from individuals who allegedly were warned that their names appeared on "death lists"; these lists would allegedly be circulated by governmental authorities in order to instruct persons of who to harass, arrest or even deprive of their lives.
38. Opposition leaders, particularly of parties such as the Sandinista Renovation Movement (MRS) and of the Constitutionalist Liberal Party (PLC) have been targeted. On 24 July, the Mayor of the town of Mulukukú, Apolonio Fargas (member of PLC) was detained and subsequently charged with terrorism, organized crime and the murder of three policemen.
39. On 22 July, mothers and family members of detainees who had remained outside the El Chipote detention centre for up to weeks, waiting for news about and access to their relatives, were chased away. Pro-Government groups came with loudspeakers and chairs and occupied the space the women had been using. Such harassment towards the mothers compelled them to move to a different location, together with the NGOs providing legal assistance on site. Many families with detained relatives as well as their lawyers

⁵³ See press conference by National Police, 6 June 2018, <https://www.youtube.com/watch?v=qtrKi4cls3k>

⁵⁴ See https://www.youtube.com/watch?v=gVB_gws-4-U

⁵⁵ See <https://www.youtube.com/watch?v=XdQRBnJBRfw>

⁵⁶ See IACHR Res. 50/2018 of 9 July 2018, Precautionary Measures No. 671-18, available at <http://www.oas.org/es/cidh/decisiones/pdf/2018/50-18MC671-18-NI.pdf>

⁵⁷ See IACHR Res. 38/2018 of 5 June 2018, Precautionary Measures No. 660-18, available at: <http://www.oas.org/es/cidh/decisiones/pdf/2018/38-18MC660-18-NI.pdf>

have reported being subjected to threats and acts of intimidation by pro-Government armed elements.

40. Volunteer firefighters reported threats and intimidation against them for the humanitarian role they played during the protests. Many of them assisted the injured during the repression of protests. As many as 30 were forced to flee their homes due to the persecution they experienced.⁵⁸
41. Public servants have also been subjected to reprisals or threats of reprisals for conducting their work. Medical doctors were arbitrarily dismissed from public hospitals and health centres in Santa Teresa, Jinotepe, Diriamba, San Marcos, León and other cities for attending to people injured during the protests.⁵⁹ Other health care personnel, including nurses and administrative staff, have also been dismissed for the same reason.
42. Teachers and professors have also been affected by such measures. In August, at least two professors at the National Autonomous University (UNA-Managua) and school teachers in the departments of Estelí, Jinotega and Matagalpa, were dismissed for having supported the protests. Also in August, the Government cut State funding to UCA and UNA, which are considered to have played a key role during the protests.
43. With access to public employment strictly controlled by the Government, there is a general fear of speaking out in public institutions. Media reports indicate that since the beginning of the crisis, at least 15 agents of the Office of the Attorney-General have resigned which, according to media reports, might be related to differing opinions regarding the formulation of criminal accusations by the Attorney-General.⁶⁰ Former Army and Police personnel who refused to join the ranks of armed pro-Government elements have also reported facing reprisals.
44. Government authorities, including President Ortega and Vice-President Murillo, and Government-controlled media, have increasingly stigmatized and discredited protesters, and human rights defenders, describing them as “terrorists,” “coup-mongers” or “plagues”. In a speech delivered on 19 July, President Ortega accused the Catholic bishops - the mediators in the National Dialogue of being part of a planned coup d’état.⁶¹ Nuns and priests who provided shelter to wounded persons are also regularly threatened.
45. The crisis has also been marked by an unprecedented wave of illegal occupation of private lands by pro-Government groups. According to estimates of the Union of National Agribusiness (UPANIC), as of 31 July, some 4,000 hectares had been illegally occupied since the beginning of the crisis in the seven departments in the Pacific and centre of the country.⁶² According to reports available to OHCHR, the Government authorities have

⁵⁸ El Nuevo Diario, “Bomberos huyen por sentirse amenazados”, 5 August 2018, available at:

<https://www.elnuevodiario.com.ni/nacionales/471401-bomberos-huyen-amenazados-crisis-nicaragua/>

⁵⁹ Human Rights Watch statement, “Nicaragua: Doctors, Health Workers Arbitrarily Fired Dismissals Compound Effort to Limit Protesters’ Access to Medical Care”, 7 August 2018, available at <https://www.hrw.org/news/2018/08/07/nicaragua-doctors-health-workers-arbitrarily-fired>

⁶⁰ La Prensa, “Renuncian más fiscales en Ministerio Público de Nicaragua”, 10 August 2018, available at: <https://www.laprensa.com.ni/2018/08/10/nacionales/2458357-renuncian-mas-fiscales-en-ministerio-publico-de-nicaragua>

⁶¹ See <https://youtu.be/xmC3-hbFoXk>

⁶² Estrategia y Negocios, “Nicaragua: 5.705 manzanas de tierras productivas ocupadas ilegalmente”, 3 August 2018, available at: <http://www.estrategiaynegocios.net/lasclavesdeldia/1206788-330/nicaragua-5705-manzanas-de-tierras-productivas-ocupadas-ilegalmente>

actively promoted and supported such occupations, including by issuing illegal title deeds and supplying access to water and electricity in what some consider as a deliberate campaign to intimidate the private sector for their perceived opposition to the Government. The High Council of Private Property (COSEP) has denounced other forms of pressure from the Government, including attacks against individual companies and unjustified delays in clearing imported goods.

46. The systematic persecution and suppression of dissent or perceived opposition by Government authorities and pro-Government groups, compounded with the continuous intimidation by pro-Government armed elements, have resulted in a climate of widespread terror, frustration and despair within the population. There are currently no conditions for the free and safe exercise of the rights to freedoms of expression, peaceful assembly and association.
47. The National Dialogue is currently at a standstill and prospects of resuming a constructive and broad dialogue are unclear. While the Government has openly disqualified some members of the Bishops Conference, the Catholic Church has reiterated its intention to continue playing a mediating role. The United Nations Secretary-General has expressed support to the National Dialogue with the mediation of the Church.⁶³

III. Patterns of prevailing human rights violations and abuses committed between 18 April and 18 August 2018

1. Main human rights violations by State authorities

a. Violations of Right to Freedom of Peaceful Assembly

48. The exercise of the right to freedom of peaceful assembly has been progressively undermined through an array of practices that have implied serious violations of other intertwined rights analyzed in sections of this report. OHCHR gathered consistent information that, from the earliest stage of the wake of protests, there was widespread use of excessive force, sometimes resulting in unlawful killings, along with attacks carried out by pro-Government armed elements.
49. While some of the protesters resorted to violent means,⁶⁴ OHCHR observed that the majority of protesters were peaceful. According to international human rights law, individuals do not cease to enjoy the right to peaceful assembly as a result of sporadic violence or other punishable acts committed by others.⁶⁵ States have the duty to protect participants in peaceful assemblies from groups of individuals, including agents provocateurs and counter-demonstrators, who aim at disrupting or dispersing public assemblies.⁶⁶

⁶³ Press statement UN Secretary-General: "Secretary-General Deeply Concerned Over Intensified Violence in Nicaragua", G/SM/19132, 11 July 2018, available at: <https://www.un.org/press/en/2018/sqsm19132.doc.htm>

⁶⁴ See paragraphs 103 to 107 on abuses by anti-Government protesters

⁶⁵ Report of Special Rapporteur on the rights to freedom of assembly and peaceful association, A/HRC/20/27, 21 May 2012, para. 8, available at: <http://undocs.org/>

⁶⁶ Report of Special Rapporteur on the rights to freedom of assembly and peaceful association, A/HRC/20/27, 21 May 2012, para. 33, available at: <https://undocs.org/>

50. OHCHR observed at the end of June that the excessive use of force against demonstrators, as seen during the first phase of the crisis, had by then decreased as police officers had withdrawn from many of their functions. During this period, the government claimed that armed elements were infiltrating the protests, but according to information available to OHCHR, no measures were taken to protect the population or to conduct credible and independent investigations of the incidents.
51. Repression of protests through excessive use of force coupled with collective arbitrary arrests (especially of leaders of the social protests) continued until mid-July during mass demonstrations in the main cities. It culminated in the dismantling of roadblocks and barricades. This has led to very precarious conditions for the free and safe exercise of the rights to freedoms of expression, peaceful assembly and association. At the moment of writing this report, the number of protests has decreased indicating the chilling effect of repression.
52. Based on information available to OHCHR, it can conclude that the response of the authorities to peaceful protests failed to meet applicable standards of the management of assemblies, in violation of international human rights law. OHCHR can also conclude that in many cases where violence by protesters did occur, the use of lethal force against non-lethal threats and the reliance on pro-government armed elements also violated international human rights law.

b. Violations of the rights to life and physical integrity

53. One of the defining characteristics of this crisis is the very high number of deaths resulting from the repression of demonstrations and roadblocks and from clashes between the police, pro-government groups and protesters.
54. The estimates of protest-related deaths vary significantly depending on the sources and, in the absence of credible investigations thus far, the subject has become highly politicized. The fatalities estimates differ as follows:
- According to the figures released on 7 August by the National Police, 197 individuals (191 men and 6 women) were killed between 19 April and 25 July in the context of protests. The police attributes all these fatalities to violent opposition groups;⁶⁷
 - The Truth, Justice and Peace Commission reported 270 fatalities (257 men and 13 women) between 18 April and 2 August;⁶⁸
 - The national human rights institution, the *Procuraduría para la Defensa de los Derechos Humanos*, recorded 192 fatalities between 18 and 21 June;⁶⁹
 - According to the Inter-American Commission on Human Rights, 322 were reportedly killed between 18 April and 20 August, including 23 children;

⁶⁷ National Police, "Policía Nacional presenta cifras de fallecidos en intento de golpe suave", 7 August 2018, available at: <https://www.policia.gob.ni/?p=20995>

⁶⁸ Truth, Justice and Peace Commission, Informe fallecidos del 18 de abril al 2 de agosto, 4 August 2018 (on file with OHCHR)

⁶⁹ National human rights institution, Informe preliminar de la Procuraduría para la Defensa de los Derechos Humanos de la República de Nicaragua en atención al contexto nacional a partir de abril del 2018, 21 June 2018, (on file with OHCHR)

- The NGO Nicaraguan Human Rights Centre (CENIDH), reported 302 fatalities between 18 April and 30 July;⁷⁰
- The NGO Permanent Human Rights Commission (CPDH), provided a preliminary figure of 300 fatalities that occurred between 18 April and 30 July (286 male and 14 female), including 30 children;⁷¹
- The NGO Nicaraguan Association for Human Rights (ANPDH), provided a preliminary figure of 448 deaths from 18 April to 25 July (426 male and 22 female), including 21 children;⁷²
- The Nicaraguan Coordination of NGOs Working with Children and Adolescents (CODENI) reported that 28 children (25 boys and three girls) were killed from 18 April to 10 August during the protests.⁷³

55. Commenting on these divergent estimates, President Ortega criticized the higher figures provided by “activists and international organizations,” arguing that their “*data has not been debugged nor verified*” and that they had “*invented deaths*.”⁷⁴ The Minister of Foreign Affairs, Dennis Moncada, stated that “*human rights organizations, both national and international, continue to manipulate the number of dead persons from various causes... promoting a perception of greater instability and insecurity at the detriment of our Government...*”⁷⁵ In response to these allegations, Cardinal Brenes, who led the mediation in the National Dialogue, has called upon the Government to cooperate with the Truth, Justice and Peace Commission and human rights organizations to reach a consensus on a list of protest-related casualties.⁷⁶

56. Despite repeated requests, OHCHR has not been granted access to official data and documentation regarding the number and circumstances of the killings, including from the Ministry of Health, the forensic institute (Legal Medicine Institute) and the Supreme Court of Justice. Based on the analysis of data published by governmental and non-governmental sources, OHCHR is able to provide the following preliminary conclusions that are relevant for a human rights analysis.

57. The Government has stated that the high number of casualties reported by other sources is inflated by including common deaths. According to the National Police, between 19 April and 25 July, 253 people died as a result of common criminal activities, traffic accidents

⁷⁰ Centro Nicaragüense de Derechos Humanos, Report No. 5 on the human rights situation in Nicaragua, 25 July 2018, available at <https://www.cenidh.org/recursos/63/>

⁷¹ Comisión Permanente de Derechos Humanos, Informe Preliminar Derechos Humanos bajo ataque, 31 July 2018 (on file with OHCHR)

⁷² Asociación Nacional Pro Derechos Humanos, Informe preliminar de ciudadanos nicaragüenses muertos en protesta cívica como un derecho humano y ejecutados por grupos armados no autorizados (parapoliciales o fuerzas de choque) del período 19/04/2018 al 25/07/2018, 27 July 2018 (on file with OHCHR)

⁷³ CODENI, Niñas, niños y adolescentes asesinados producto la crisis sociopolítica que vive el país. Resumen estadístico, reporte del 19 de abril al 10 de agosto, 10 August 2018 (on file with OHCHR)

⁷⁴ CNN en Español: “Daniel Ortega dice que organizaciones de DD.HH. ‘inventan muertos’ que luego aparecen vivos”, 31 July 2018, available at: <https://cnnespanol.cnn.com/video/daniel-ortega-entrevista-nicaragua-cifras-muertos-intw-oppenheimer-cara-a-cara-p1/>

⁷⁵ National Police, “Policía Nacional presenta cifras de fallecidos en intento de golpe suave”, 7 August 2018, available at: <https://www.policia.gob.ni/?p=20995>

⁷⁶ Agencia SNN, “Cardenal Brenes sugiere conciliar cifra de muertos en crisis de Nicaragua”, 9 August 2018, available at: <http://www.agenciasnn.com/2018/08/cardenal-brenes-sugiere-conciliar-cifra.html>.

and other causes; they claim that these deaths were “*manipulated by the coup-mongers and their like-minded organizations to discredit, slander and damage the image of the Government.*”⁷⁷ The figure put forward by the National Police represents over the double of the number of homicides reported in the months of April to July 2017 (105),⁷⁸ which suggests that the official figure of crisis-related fatalities is incomplete significantly diverging from estimates by the Truth, Justice and Peace Commission and several independent sources.

58. A comparative analysis of the available sources seems to confirm a number of common characteristics related to the incidents of violent deaths. Most of the victims were young men, under 30 (up to 46 per cent, according to CPDH), which coincides with the average profile of the protesters, including university students and young professionals. An analysis of the latest disaggregated data up to 2 August published by the Truth, Justice and Peace Commission leads to the conclusion that approximately 76 per cent of the victims were killed in or around demonstrations, roadblocks or occupation of university premises. The other deaths were associated to other contexts, including crossfire between pro-government and anti-government (15 per cent) attacks against, and destruction of State institutions, public and private property and infrastructure (nine per cent), and other causes.
59. The peaks of violent deaths seem to coincide with the period of massive protests, with major peaks in late April, on 30 May (during the attacks against the Mother’s Day march), and in mid-June, at the beginning of the Government’s “clean-up operation” to forcefully remove roadblocks across the country.
60. The majority of casualties (62 per cent) took place in Managua and in the neighbouring departments of Masaya and Carazo, which were the epicentres of the protest movement. According to the findings of the Truth, Justice and Peace Commission, 50 per cent of the casualties occurred in proximity of roadblocks (“*tranques*”).⁷⁹
61. ANPDH estimates that 80 per cent of the deaths were caused by firearms. Out of the autopsies practiced on 82 individuals reportedly conducted by the Institute for Legal Medicine, 76 died of gunshot wounds.⁸⁰ In the majority of these cases (71 per cent), the wounds were inflicted to the head and thorax.⁸¹ According to CODENI, 86 per cent of the minors killed during the protests were victims of gunfire.⁸²
62. Pending a case-by-case analysis, the above information about fatalities indicates a pattern of excessive or disproportionate use of force that may be related to the use of lethal ammunition by the police and/or to the intervention of armed elements in the repression

⁷⁷ National Police, “Policía Nacional presenta cifras de fallecidos en intento de golpe suave”, 7 August 2018, available at: <https://www.policia.gob.ni/?p=20995>

⁷⁸ World Health Organization (WHO) /Pan-American Health Organization (PAHO), *Mortalidad por Homicidios: Nicaragua, 2017* (on file with OHCHR)

⁷⁹ See Truth, Justice and Peace Commission, Preliminary Report, 10 July 2018, p. 4, available at:

<https://www.cvip.org.ni/uploads/documentos/20180712140852493.pdf>

and Comisión Permanente de Derechos Humanos, Informe Preliminar Derechos Humanos bajo ataque, 31 July 2018, p. 15 (on file with OHCHR)

⁸⁰ Truth, Justice and Peace Commission, Informe fallecidos del 18 de abril al 2 de agosto, 4 August 2018 (on file with OHCHR)

⁸¹ Ibidem

⁸² CODENI, Niñas, niños y adolescentes asesinados producto la crisis sociopolítica que vive el país. Resumen estadístico, reporte del 19 de abril al 10 de agosto, 10 August 2018 (on file with OHCHR)

of protests, notably by firing against protesters participating in marches, roadblocks and barricades. OHCHR can also conclude that in many cases where violence by protesters did occur, police used lethal force against non-lethal threats. These acts would amount to violations of the right to life enshrined in the International Covenant on Civil and Political Rights. This is consistent with the findings of Inter-American Commission on Human Rights.⁸³

63. The Truth, Justice and Peace Commission arguably provides the most complete analysis to date on the number of injured persons during the protests, based on access to the files of the Ministry of Health, INSS and the Nicaraguan Red Cross. According to the Commission, as of 4 July, 1,325 people (1,206 male and 119 female) had reportedly been injured in the context of the protests. An important proportion (68 per cent) are aged between 15 and 35 years, which seem to be consistent with the age of the average participants in the protests. The figure does not include injuries resulting from the removal of roadblocks and is likely to represent only a portion of the actual number of people wounded during the protests as many injured persons did not seek assistance in public hospitals for fear of being reported to the police. The Inter-American Commission on Human Rights has estimated the number of wounded individuals at 2,000 people.⁸⁴

c. Violations of the right to health

“I never imagined that I would be considered a political opponent of the Government. And only because I did something so inherent to our responsibility as doctors as providing medical assistance to injured persons who were part of the protests. (...) A couple of days ago a colleague from the institution where I work alerted me that my name was on a list that was being circulated by the neighbourhood Sandinista organization. My name was there as I had provided medical assistance to demonstrators and now I am considered a terrorist. (...) I had no choice, but to leave the country.”

Medical doctor

Interview conducted by OHCHR on 17 July 2018

64. The enjoyment of the right to health has generally been significantly impacted by the crisis. The total number of wounded persons is estimated to be 2,000 people.⁸⁵ Health services have been disrupted, in particular in those areas where there were protests.
65. OHCHR has received extensive information on hospitals being closed down or cordoned off by authorities, police and/or pro-Government armed elements in different parts of the country during and in the aftermath of the protests, affecting the right to access medical care without discrimination. In public hospitals, medical staff were reportedly ordered by the Ministry of Health to deny services to those participating in protests and/or barricades. Doctors and medical staff who refused to follow these instructions have been subjected to intimidation and reprisals by their superiors. In some hospitals, members of the police reportedly requested the administration to provide personal information on the patients,

⁸³ Inter-American Commission on Human Rights report “Gross Human Rights Violations in the Context of Social Protests in Nicaragua”, OEA/Ser.L/V/II. Doc. 86, 21 June 2018, para. 88, available at:

<http://www.oas.org/en/iachr/reports/pdfs/Nicaragua2018-en.pdf>

⁸⁴ Inter-American Commission on Human Rights press release “The Special Monitoring Mechanism for Nicaragua (MESENI) Completes Third Week in Action, Observes Tougher Repression and Raids by Police and Parapolice Groups”, 1 July 2019, available at: http://www.oas.org/en/iachr/media_center/PReleases/2018/156.asp

⁸⁵ Ibidem

including the names of those injured. Many wounded did not go to public hospitals for fear of being handed over to the police. On 25 May, the Nicaraguan Medical Association publicly denounced the manipulation of the public health system to deny medical attention to people injured during the protests.⁸⁶

66. In several locations where a “clean-up operation” took place (such as at UNAN University⁸⁷ and in Masaya), authorities did not provide guarantees for the rapid and safe evacuation of the wounded. OHCHR received several accounts of wounded people who had been injured during a “clean-up operation” and who could not leave the rural areas they live in to seek adequate medical assistance for fear of being recognized and arrested.
67. In its preliminary report, the Truth, Justice and Peace Commission stated that the Ministry of Health and INSS had given express orders to provide medical care to people wounded in the context of demonstrations who would arrive at hospitals and medical centres. It reported only one case of a hospital not providing service (Hospital Cruz Azul in Managua⁸⁸), reportedly due to “*verbal aggressions by people protesting outside the hospital*”. The Commission also stated that no one had been handed over to the police for receiving medical care in relation to protest-related wounds.⁸⁹
68. Starting end of July, doctors and other medical personnel working in public hospitals have been dismissed. According to the Nicaraguan Medical Association, at least 200 medical doctors were arbitrarily dismissed from public hospitals in León, Managua, Masaya (including Monimbó), Jinotepe and other cities for their alleged assistance to persons injured in the protests or their perceived involvement in the anti-Government protests.⁹⁰ Most are specialized doctors. This measure will affect the quality of the health sector and access to basic and specialized health services. OHCHR has been able to examine the letters of dismissal of several doctors; no justification was provided by employers in doing so.

d. Enforced disappearances

69. Since the beginning of the crisis, OHCHR has received a number of allegations of enforced disappearances of people detained by police and pro-Government armed elements and whose whereabouts remain unknown or who were temporarily enforced disappeared.
70. OHCHR has been able to ascertain that Medardo Mairena, Pedro Mena, Christian Fajardo and María Adilia Peralta⁹¹ were victims of an enforced disappearance for a period of

⁸⁶ Press statement by the Medical Association of Nicaragua, 25 May 2018, available at:

<https://colegiomedico.org.sv/wp-content/uploads/2018/05/PRONUNCIAMIENTO-Internacional-2-1.pdf>

⁸⁷ Centro Nicaragüense de Derechos Humanos, Report No. 5 on the human rights situation in Nicaragua, 25 July 2018, p. 4, available at: <https://www.cenidh.org/recursos/63/>

⁸⁸ See paragraph 15 above.

⁸⁹ Truth, Justice and Peace Commission, Preliminary Report, 10 July 2018, p. 32, available at:

<https://www.cvip.org.ni/uploads/documentos/20180712140852493.pdf>

⁹⁰ El Nuevo Diario, “Mayoría de médicos despedidos son especialistas”, 8 August 2018, available at:

<https://www.elnuevodiario.com.ni/nacionales/471630-despidos-medicos-especialistas-crisis-nicaragua/>

⁹¹ Christian Fajardo and María Adilia Peralta were detained on 22 July by the Army and were placed before judicial authorities on 28 July, six days after they had been detained. See

<https://twitter.com/OACNUDH/status/1023347864582467584>

time.⁹² Medardo Mairena and Pedro Mena⁹³ were arrested on 13 July by police and brought before judicial authorities four days later. Christian Fajardo and María Adilia Peralta were arrested on 22 July by the Army and brought before judicial authorities on 28 July. After being detained by police and the Army respectively, relevant authorities refused to provide information to their families or lawyers as to their whereabouts; habeas corpus and information requests were presented to no avail. All four were brought before judicial authorities beyond the 48-hour period foreseen in national law.⁹⁴ Their whereabouts have now been established.

71. The Truth, Justice and Peace Commission indicated that despite its efforts to confirm the number of disappearances, it has not been able to do so.⁹⁵ National NGOs have documented cases of disappearances from mid-April. In a report issued on 4 May, the *Centro Nicaragüense de Derechos Humanos* (CENIDH) indicated that more than 60 persons were reported to be disappeared.⁹⁶ Another NGO, CPDH had registered 120 complaints of disappearances by 31 July.⁹⁷ In many of these cases, the whereabouts of the victims have now been established. Some were found by their relatives in detention centres; some have fled to other cities or countries. Others were killed and their bodies were identified at the Legal Medical Institute. OHCHR has received reports that forensic authorities had been disposing of bodies without proper identification or due notice to family members, which it has been unable to verify.

e. Violations of the rights to liberty and security of the person

“Since my father and my sister were released from jail, we cannot sleep at night because we are afraid that the paramilitaries will come back. My father did not tell me what they did to him, he says that I will be safer if I don’t know.”

Family member

Interview conducted by OHCHR on 19 August 2018

72. Since the very first days of the crisis,⁹⁸ the security forces have extensively resorted to arrests and detentions as a way to repress those participating in protests and

⁹² See Working Group on Enforced or Involuntary Disappearances, General Comment on Enforced Disappearance as a Continuous Crime, para. 1, “Enforced disappearances are prototypical continuous acts. The act begins at the time of the abduction and extends for the whole period of time that the crime is not complete, that is to say until the State acknowledges the detention or releases information pertaining to the fate or whereabouts of the individual.” Available at: <https://www.ohchr.org/Documents/Issues/Disappearances/GC-EDCC.pdf>

See also para 10.3 of the Communication of the Committee on Enforced Disappearances on the Roberto Agustín Yrusta case, CED/C/10/D/1/2013, 12 April 2016, available at

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=18494&LangID=E>

⁹³ Medardo Mairena and Pedro Mena were detained on 13 July 2018 by the police. See press statement of the National Police 83-2018, 13 July 2018, available at: <https://www.policia.gob.ni/?p=19929>

They were brought before judicial authorities four days later. See press statement of the judiciary, 17 July 2018, available at: https://www.poderjudicial.gob.ni/prensa/notas_prensa_detalle.asp?id_noticia=8892.

⁹⁴ Article 33 (2.2) of the Constitution of Nicaragua.

⁹⁵ Truth, Justice and Peace Commission, Preliminary Report, 10 July 2018, p. 50, available at:

<https://www.cvip.org.ni/uploads/documentos/20180712140852493.pdf>

⁹⁶ Centro Nicaragüense de Derechos Humanos, Report No. 1 on the human rights situation in Nicaragua, 4 May 2018, p. 16 (on file with OHCHR)

⁹⁷ Figures provided to OHCHR by the Permanent Commission of Human Rights as of 31 July 2018.

⁹⁸ According to CENIDH, more than 350 individuals are reported to be detained in different cities throughout Nicaragua. These detentions would have started taking place as of 21 April. See, Centro Nicaragüense de Derechos Humanos, Report No. 1 on the human rights situation in Nicaragua, 4 May 2018, p. 16 (on file with OHCHR).

demonstrations. To date, the number of people who have been arrested and/or detained in relation to the protests is unclear as no official public registries exist and the information provided by the relevant authorities has been very scarce.⁹⁹ The Truth, Justice and Peace Commission stated that from 18 April until 2 June, 620 people were detained in relation to the protests (480 male and 25 women, including 64 minors).¹⁰⁰ According to the NGO CENIDH, 1,900 people had been detained from the beginning of the crisis to 25 July.¹⁰¹

73. The majority of those detained in relation to the protests are young men. As of 6 July, the Inter- American Commission of Human Rights had registered eight minors in detention in relation to the protests.¹⁰² On 14 August, a 15-year old girl was arrested by the National Police in Estelí, reportedly after questioning why a group of young people was being arrested.¹⁰³

74. Based on OHCHR monitoring of the human rights situation and documentation of cases, the following patterns have emerged regarding detention:

- Detention is usually carried out by police and/or pro-Government armed elements,¹⁰⁴ exceptionally by the armed forces;
- No arrest or search warrants are presented;
- No information is provided on the grounds for the detention or the persons' rights;
- No public registry exists of the names and places of detention of persons deprived of their liberty;
- Incommunicado detention (without access to family members and lawyers) is common during the initial period of the detention;
- Official confirmation of the detention to family members is usually given only several days after the arrest;
- Cases of collective detentions are common, including of family members;
- Detention usually targets those who participated in some sort of activity opposing the Government or perceived as such;
- Most of the persons detained are young men;
- Cruel, inhuman or degrading treatment is regularly reported in the context of detentions, with allegations of torture during the arrest and the first days of the detention.

75. In none of the cases documented by OHCHR, was a search or arrest warrant presented by the authorities. In none of the cases reported was the person arrested allegedly caught in flagrante delicto.

⁹⁹ OHCHR has requested this information in writing to the State on several occasions but had not received any reply as of 18 August 2018.

¹⁰⁰ Truth, Justice and Peace Commission, Preliminary Report, 10 July 2018, p. 18, available at:

<https://www.cvip.org.ni/uploads/documentos/20180712140852493.pdf>

¹⁰¹ Centro Nicaragüense de Derechos Humanos, Report No. 5 on the human rights situation in Nicaragua, 25 July 2018, p. 19, available at <https://www.cenidh.org/recursos/63/>

¹⁰² Inter-American Commission on Human Rights press release "IACHR Denounces Worsening, Deepening and Diversifying Repression in Nicaragua and Expresses Concern over the Situation of Children and Adolescents in the Country", 11 July 2018, available at:

http://www.oas.org/en/iachr/media_center/PReleases/2018/148.asp

¹⁰³ 100% Noticias, "Policía orteguista detiene arbitrariamente a jovencita de 15 años en Estelí", 15 August 2018, available at <https://100noticias.com.ni/nacionales/92332-policia-detiene-joven-15-anos-esteli/>

¹⁰⁴ See paragraphs 96 to 102 on pro-Government armed elements.

76. When people are deprived of their liberty by police they are taken either to police stations or to the prisons “El Chipote”, La Modelo and La Esperanza. OHCHR has received reports that all prisons in the country and many police stations are facing a situation of overcrowding in relation to the crisis. Information from several sources also point to the existence of illegal detention centres (e.g. public buildings in disuse) which reportedly operated for a few days only. OHCHR has however not been able to confirm such information.
77. Due to the lack of official information regarding the number and identity of people detained as well as their place of detention, many family members have camped outside “El Chipote” detention centre (the main pre-trial detention centre in the country Nicaragua) for days or weeks. During visits conducted in July, OHCHR observed that on a daily basis, there were at least 100 people (mostly family members) outside the gates of the prison, with photos and signs bearing the names of their relatives, waiting to receive informal confirmation from prison guards as to whether their relatives were being held there. This information is often not provided and many relatives mentioned to OHCHR how the only information that they sometimes have of their relative being detained in that prison is when guards accept the meals the family bring them.
78. In light of the above, OHCHR considers that there is sufficient information that indicates that these detentions were arbitrary, including because in many of these cases due process was not guaranteed. Furthermore, these detentions have been perceived as punishment for the legitimate exercise of human rights, in particular freedom of opinion and expression and freedom of peaceful assembly.¹⁰⁵

f. Torture and ill-treatment

“A group of hooded men detained my husband at our house, beat him and took him away naked. A few days later, when I find out where he was, I was able to see him during 15 minutes. He had his fingers and ribs bruised. He told me not to say anything and said to me ‘It is better that you don’t come back and just leave me here to die’ ”

Spouse of a detainee in the La Modelo prison

Interview conducted by OHCHR on 13 August 2018

79. OHCHR has received numerous accounts alleging acts of torture and ill-treatment perpetrated by police or prison authorities during arrest or in the days following the arrest. The majority of the allegations point to “El Chipote” detention centre as the main place where such acts are committed, although other cases have been reported in police stations or at the moment of the arrest.
80. Accounts received by OHCHR indicate that some detainees have been subjected to physical torture -including through burnings with Taser guns and/or cigarettes, use of barbed wires, beatings with fists and tubes and attempted strangulation – as well as psychological torture, including death threats. Both men and women who have been detained have provided OHCHR with accounts of the sexual violence they suffered while deprived of their liberty. Some women have been subject to sexual violence, including rape, and described threats of sexual abuse as common. Male detainees also mentioned

¹⁰⁵ Human Rights Committee, General Comment No. 35 on Article 9 (Liberty and security of person), CCPR/C/CG/35, available at: <https://www.ohchr.org/EN/HRBodies/CCPR/Pages/GC35-Article9LibertyandSecurityofperson.aspx>

cases of rape, including rape with rifles and other objects. Allegations have been received that Medardo Mairena and Pedro Mena (members of the *Campesino* movement) have suffered acts of ill-treatment and/or torture while in prison.

81. Former detainees, in particular those who were subjected to collective detentions, reported to OHCHR that upon arrival to “El Chipote” detention centre, male detainees would be systematically forced to remove their clothes and to remain in their underwear. Some relatives of detainees informed OHCHR that prison guards in “El Chipote” would not accept the clothes they would bring reportedly because detainees were forced to be partially undressed in that detention centre.

g. Violations of due process rights

82. Based on documentation of numerous cases, OHCHR has observed that violations of due process have been rampant in judicial proceedings against those accused of having committed crimes in the context of the protests. These proceedings do not satisfy basic standards of fair trial and equality of arms.
83. Detained persons are often presented before a judge after the 48-hour period established by the Constitution.¹⁰⁶ For instance, two young men involved in protests, Glen Abraham Slate and Brandon Lovo Taylor, and accused of murdering journalist Angel Gahona¹⁰⁷, were detained on 2 and 5 May respectively, but were presented before a judge on 8 May. When analyzing the legality of some detentions that took place from 18 April until 2 June, the Truth, Justice and Peace Commission found that out of the 505 cases of detentions (480 men and 25 women) it had information on, the 48-hour rule was exceeded in 204 cases. All were eventually released.¹⁰⁸
84. Relatives of people whose whereabouts are unknown usually file habeas corpus petitions.¹⁰⁹ OHCHR documented that in some cases, judges who were appointed to issue a resolution on the habeas corpus were dead. This has been perceived as a tactic to delay the resolution by a competent judge. With a few exceptions, habeas corpus petitions have not succeeded.
85. Access to legal assistance of one’s own choosing appears to have been restricted in several ways for people detained in relation to the protests. Some were imposed public defenders in initial hearings despite attempts by human rights organizations to provide them with private lawyers. Accounts provided to OHCHR indicate that in certain cases public defenders have advised accused persons to confess arguing their sentences would then be reduced.
86. Some lawyers defending individuals arrested in relation to the protests have reportedly been regularly threatened by persons close to the Government. In certain cases, this has led to repeated changes in the defence teams. Moreover, lawyers are not being granted access to meet privately with their clients before the hearings, which affects the quality of the defence. OHCHR received accounts as to how detained individuals, including some

¹⁰⁶ See article 33 (2.2) of the Constitution of Nicaragua.

¹⁰⁷ See paragraph 92. Ver párrafo 92

¹⁰⁸ Truth, Justice and Peace Commission, Preliminary Report, 10 July 2018, p. 18, available at: <https://www.cvip.org.ni/uploads/documentos/20180712140852493.pdf>

¹⁰⁹ *Recursos de exhibición personal*

who have spent more than two months in prison, had not been authorized to have a meeting with their lawyer.

87. Lawyers and family members of individuals detained in relation with the protests are not properly notified of the schedule of hearings through the existing online system for judicial notifications. Hearings for these cases are all held in private without the judges clarifying the circumstances that would justify such a decision. This contravenes international norms and standards as well as national legislation. Indeed, article 13 of the Criminal Procedural Code establishes that hearings that are not public are void.¹¹⁰ On 20 July, the Supreme Court dismissed judge Indiana Gallardo Fonseca who, on the previous day, had insisted on holding a public hearing of three members of a student organization who had participated in the protests and who were being accused of organized crime.¹¹¹ The Supreme Court alleged that the judge had committed “irregularities” relating to changes in the classification of crimes presented by the Office of the Attorney-General.¹¹²
88. Family members and defence lawyers are not always allowed to be present during hearings, and international observers (including OHCHR, the Inter-American Commission on Human Rights and the Group of Independent Experts) have been denied authorization to conduct monitoring of hearings.¹¹³ Official media outlets are regularly allowed into the courtroom, and have tended to present those accused in relation to the protests as criminals “manipulated by right wing parties” and as “instigators of a coup d’état”, thus violating the presumption of innocence. Images of many of these trials have been broadcast widely.
89. To date, courts has based mostly on testimonies to charge individuals with serious crimes in relation to the protests, including terrorism, organized crime and murder. In some cases, the Office of the Attorney-General has accepted testimonies of alleged “covert agents” as the only evidence to accuse those being prosecuted. These “covert agents” appear in court wearing hoods not to be identified. Their testimonies, in particular for terrorism charges, tend to present similar allegations and repeat facts from one case to another.
90. The above-mentioned irregularities point to violations of the right to an adequate defence and due process for individuals charged with crimes due to their involvement in social protests. It also underscores the absence of the essential guarantees of judicial independence and impartiality.

¹¹⁰ See for example article 14 of the International Covenant on Civil and Political Rights, General Comment No. 32 of the Human Rights Committee (para. 28) and article 34 of the Constitution of Nicaragua.

¹¹¹ The three accused individuals are Roberto José Cruz Altamirano, Eduardo Manuel Tijerino and Francisco Antonio Castro Jarquín. They were detained together with Solange Centeno and Nelly Marily Roque.

¹¹² Press statement by the Supreme Court, “CSJ destituye a jueza Indiana Gallardo por actuar contra ley expresa”, 20 July 2018, available at: https://www.poderjudicial.gob.ni/prensa/notas_prensa_detalle.asp?id_noticia=8900

¹¹³ Press statement by the Supreme Court, “CSJ aclara sobre participación del GIEI en las audiencias y juicios”, 14 August 2018, available at: https://www.poderjudicial.gob.ni/prensa/notas_prensa_detalle.asp?id_noticia=8947

And See

<https://twitter.com/OACNUDH/status/1023719798306496517>

<https://twitter.com/OACNUDH/status/1023666860146024456>

<https://twitter.com/OACNUDH/status/1023347864582467584>

<https://twitter.com/CIDH/status/1018596169671499776>

<https://twitter.com/OACNUDH/status/1023347548080275457>

<https://twitter.com/OACNUDH/status/1029831549624172544>

h. Violations of the right to freedom of expression

91. Freedom of expression has been restricted in systematic and varied ways throughout the crisis. Such limitations need to be considered in the light of a pre-existing environment characterized by a progressive erosion of media freedom: a high concentration of media outlets in the hands of the governing party and relatives of the president and vice-president; the absence of an independent media regulator; the use of Governmental advertisement to promote official media and indirectly censor independent media; the lack of effective policies to promote and protect access to information.
92. Since the beginning of the protests, journalists have been threatened and attacked. On 21 April, journalist Miguel Ángel Gahona was killed by gunfire while broadcasting on social media in Bluefields, in the South Caribbean Coast Autonomous Region (RACCS, by its Spanish acronym).¹¹⁴ Several media workers have been arbitrarily detained.¹¹⁵ Journalists covering the protests have had their equipment frequently stolen. The Truth, Justice and Peace Commission received reports of physical attacks against journalists and “unlawful seizure of equipment.”¹¹⁶
93. In its preliminary report, the Truth, Justice and Peace Commission referred to the destruction of several premises of independent media outlets.¹¹⁷ One TV channel (100% Noticias) was technically unable to transmit its programmes during six days in mid-April after refusing a request by the Government to change its editorial line on the social protests;¹¹⁸ its signal was subsequently interrupted on several occasions without any notification.¹¹⁹ The Truth, Justice and Peace Commission stated that the “initial censorship of some media outlets was a wrong decision taken by the authorities” and violated freedom of expression, noting the signal was later re-established.¹²⁰
94. Many directors, editors and journalists of independent media have received death threats; some have had their names, addresses and other private information placed on social media by pro-Government supporters. The Government has blamed independent

¹¹⁴ UNESCO press statement: “Director-General calls for investigation into shooting of journalist Ángel Eduardo Gahona in Nicaragua”, 4 May 2018, available at: <https://en.unesco.org/news/director-general-calls-investigation-shooting-journalist-angel-eduardo-gahona-nicaragua>

¹¹⁵ See case of Roberto Antonio Collado, correspondant of Channel 10 in Granada, who according to reports, was deprived of his liberty and beaten by alleged pro-Government armed elements who told him that he was responsible for spreading lies. He was reportedly later handed over to the police. See Press release: “IACHR Confirms Reports of Criminalization and Legal Persecution in Nicaragua”, 2 August 2018, available at: http://www.oas.org/en/iachr/media_center/PReleases/2018/169.asp

¹¹⁶ Truth, Justice and Peace Commission, Preliminary Report, 10 July 2018, p. 34, available at: <https://www.cvip.org.ni/uploads/documentos/20180712140852493.pdf>

¹¹⁷ Radio Darío (León), Radio Ya (Managua), Radio Nicaragua (Managua) and Radio Estereo Yes (Matagalpa). See Truth, Justice and Peace Commission, Preliminary Report, 10 July 2018, p. 21, available at: <https://www.cvip.org.ni/uploads/documentos/20180712140852493.pdf>

¹¹⁸ Other three TV channels had their programmes cut off during several hours on April 20. See Inter-American Commission on Human Rights press statement, “IACHR Expresses Concern over Deaths in the Context of Nicaraguan Protests”, 24 April 2018, available at: http://www.oas.org/en/iachr/media_center/PReleases/2018/090.asp and Knight Center Journalism in the Americas press statement, “Several news outlets deprived of their signals and others suffer attacks during broadcast of protests in Nicaragua”, 1 May 2018, available at: <https://knightcenter.utexas.edu/blog/00-19602-several-news-outlets-deprived-their-signals-and-others-suffer-attacks-during-broadcast>

¹¹⁹ Comment by UN Human Rights Office spokesperson Liz Throssell on Nicaragua protest violence, 20 April 2018, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22972&LangID=E>

¹²⁰ Truth, Justice and Peace Commission, Preliminary Report, 10 July 2018, p. 34, available at: <https://www.cvip.org.ni/uploads/documentos/20180712140852493.pdf>

journalists for the production of “fake news” and for supporting terrorism.¹²¹ On 24 July, the premises of a local radio in Jinotepe (Radio Stereo Romance) were vandalized with graffiti labelling it as “media terrorists” and calling for its journalists to be killed. Independent organizations have registered approximately 250 cases of aggression/attacks against media outlets¹²², with female journalists being particularly targeted. Cyberattacks against independent media were also reported.

95. Threats, including of dismissal, were reported against journalists working for pro-Government media outlets in case they would not follow the editorial line imposed by their editors. Media outlets have also expressed concern that they might be legally accused of funding terrorism based on the recently amended legislation on financing of terrorism and money laundering.

2. Abuses by pro-Government armed elements

96. Since the first days of the crisis, a pattern of involvement of pro-Government armed elements¹²³ started to emerge. Soon after the first protests erupted in April in relation to the fire in the Indio Maíz biological reserve and the reform of INSS, individuals associated with the ruling Sandinista party were mobilized to oppose the demonstrations, organize parallel rallies, and harass and intimidate protesters. These groups, known as “shock forces” (*fuerzas de choque*), “mobs” (*turbas*) or “motorizados”, were on the front line of physical attacks against peaceful protesters. These mobs were holding cudgels, sticks and stones and wearing helmets.¹²⁴ On 20 April, Radio Darío, in the city of León, was burned, allegedly by pro-Government armed elements.¹²⁵ They were involved in the mobbing of Church authorities (including the Holy See Representative) on 9 July, in Diriamba.¹²⁶ They have also reportedly been involved in attacks against independent media and private property, including arson attacks of houses and private business, and lootings.

97. The Sandinista party has allegedly played an active role in the mobilization of such groups, including through local Government structures and the so-called Family, Community, and Life Boards (previously known and Citizen Power Councils), active at the community level, and seen by the local population as a main source of intelligence-gathering for the Government. The role in these groups in suppressing anti-Government protests is

¹²¹ La Voz del Sandinismo, “Declaraciones de la compañera Rosario Murillo, vicepresidenta de Nicaragua”, 17 August 2018, available at:

<http://www.lavozdelsandinismo.com/nicaragua/2018-08-17/declaraciones-de-la-companera-rosario-murillo-vicepresidenta-de-nicaragua-17-08-2018-texto-integro/>

“Shame to them, how corrosive of them who think that they can hurt the Nicaraguan soul because they mobilize international media platforms that are of use to the empire, they are filled with lies, slanders, intentional misgivings...false news, alas! Like the publication one of these days by an international media outlet on the multitudinous demonstrations of the Sandinista people, trying to pass them as marches of those other ones, those who are so little! All of Nicaragua repudiates you, rejects you...and the slander, the fake news, who believes it?”

¹²² Information provided by the Violeta Barrios Chamorro Foundation, as of 20 July 2018 (on file with OHCHR)

¹²³ In its reports, the IACHR refers to these elements as “parapolice”. See Inter-American Commission on Human Rights report “Gross Human Rights Violations in the Context of Social Protests in Nicaragua”, OEA/Ser.L/V/II. Doc. 86, 21 June 2018, for example para. 35, available at: <http://www.oas.org/en/iachr/reports/pdfs/Nicaragua2018-en.pdf>

¹²⁴ See <https://www.youtube.com/watch?v=HKCXn2OXsN4&feature=youtu.be>

¹²⁵ At the moment of the fire (20 April), 13 staff members of the radio were in the premises. All were able to evacuate safely. Two of the persons who spread the fuel were reported to have died as a result of the flames.

¹²⁶ See <https://www.youtube.com/watch?v=KngVZuV2d08>

reportedly not new, and similar patterns were seen in the past, for instance, in relation to election-related protests and in the protests against the Trans-oceanic Canal in 2016.

98. According to numerous accounts received by OHCHR, pro-Government armed elements were involved in attacks against protests, roadblocks and barricades. For example, they are said to have been active in the armed attacks against the demonstrations held in Managua on Mother's Day (30 May), where snipers positioned in the Dennis Martínez National Stadium reportedly shot at the demonstrators. They were especially active and visible in the context of the so-called "clean-up operation". In a typical operation, pro-Government armed elements would appear in pick-up trucks, often in full daylight and escorted by the police, sometimes all dressed in the same colour (blue or green) and covered with balaclavas, and would fire randomly or target protesters.
99. A number of accounts have also been gathered by OHCHR indicating that such armed elements have been carrying out arbitrary arrests of persons throughout the country; at times this is done together with police. OHCHR received accounts as to cases of persons being detained by pro-Government armed elements who would then be taken to police stations and handed over. The elements routinely perform activities of surveillance and intimidation in local communities.
100. These armed elements are reportedly well trained and equipped with vehicles, military equipment and weapons, including with high calibre arms such as the AK-47 and Dragunov sniper rifles. There are allegations that these groups have been at least partially integrated and trained by retired police and military personnel. Young persons, reportedly former gang members, would also have been recruited for this purpose.
101. Although the government initially denied the involvement of such groups in the repression of protests and in performing police functions¹²⁷, in an interview with an international TV channel broadcast on 20 July, president Ortega claimed that these groups were "voluntary police" on "special missions," and justified their operating undercover for security reasons.¹²⁸
102. OHCHR has gathered ample information (from confidential and open sources) that pro-Government groups acted with the acquiescence (and often in a joint and coordinated manner) of high-level State authorities and of the National Police, and that they act with total impunity.

3. Abuses by anti-Government protesters

"I was beaten and thrown into the back part of a pick-up truck. They put a hood on my head and they told I would pay a high price for being Sandinista. They put a gun against my head and told me I could send two messages on my phone. I thought I was a dead man".

Employee of the National Institute for Social Security (INSS)

Interview conducted by OHCHR on 7 July 2018

¹²⁷ El 19 Digital: "Rosario en Multinoticias", 31 May del 2018, available at <https://www.el19digital.com/articulos/ver/titulo:77613-rosario-en-multinoticias-31-de-mayo-del-2018>

¹²⁸ Euronews, "Euronews interviews Nicaragua's president Daniel Ortega on country's deadly crisis", 20 July 2018, available at: <https://www.youtube.com/watch?v=vC9DwOL5mA>

103. OHCHR observed that a large number of anti-Government protests were peaceful according to international standards and jurisprudence.¹²⁹ However, the repression of demonstrations and harassment and attacks by pro-Government groups in response to the April demonstrations generated a violent response by certain anti-Government protesters. As the crisis unfolded, the level of violence against protesters by the police and armed civilians further increased, and so did the level of resistance of some individuals participating in roadblocks and occupations. There is ample data on the use of violent means by some protesters, including stones, homemade mortars and weapons, and firearms (mostly rifles). However, OHCHR found no evidence that these violent acts were coordinated or responded to a pre-existing plan. The Catholic Church has on several occasions urged protesters to abstain from using violence.¹³⁰
104. The anger and frustration vis-à-vis the Government's response and the extreme polarization of the population set off outbursts of violence that exceeded the crisis. This gave grounds to episodes of violence between different groups, retaliation and settlement of old scores, and attacks against members of the Sandinista party, Government officials and members of the security forces (in particular the National Police), buildings of public institutions and private property. The levels of brutality in some of these episodes, including burning, amputations and desecration of corpses illustrates the serious degeneration of the crisis. Moreover, the roadblocks gave occasionally rise to criminal practices, such as kidnappings, harassment, robbery and collection illegal tolls. OHCHR met with over 100 members of the police and Sandinista party affiliates who shared their accounts of acts of violence they experienced.
105. State authorities have provided detailed data on the killing and injuries of members of the police and *Sandinista* party militants. The National Police reported that 22 police officers were killed in the context of protests from 19 April to 25 July, including seven in the attacks against police stations in Mulukukú, North Caribbean Coast Autonomous Region, and Morritos, Río San Juan;¹³¹ many others were injured while performing their duties.
106. The Commission on Truth, Reconciliation and Justice estimated that, as of 4 July, the destruction, burning, and looting of vehicles, equipment, buildings, and other infrastructure of State institutions during the crisis had amounted to USD 922,320,780.¹³² 64 ambulances of the Ministry of Public Health and 16 units of the Red Cross were destroyed, according to the Commission.¹³³ In its preliminary report, the national human rights institution (*Procuraduría de Derechos Humanos*) referred to the effects of the barricades and roadblocks on the enjoyment of human rights, including right to health and freedom of

¹²⁹ According to the jurisprudence of international human rights mechanisms, the protection of the right to freedom of peaceful assembly "extends only to those assemblies that are peaceful." However, the "peacefulness of an assembly should be presumed," and the terms should be subject to "broad interpretation." Moreover, "regard must be given to the manner in which the assembly is held and to the intentions of the participants." See Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66, para. 18, 4 February 2016, available at: <https://www.ohchr.org/SP/Issues/AssemblyAssociation/Pages/AnnualReports.aspx>

¹³⁰ Statement of the National Episcopal Conference, 14 July 2018, available at: <http://www.cen-nicaragua.org/noticias.php?recordID=531>

¹³¹ National Police, "Policía Nacional presenta cifras de fallecidos en intento de golpe suave", 7 August 2018, available at: <https://www.policia.gob.ni/?p=20995>

¹³² Truth, Justice and Peace Commission, Preliminary Report, 10 July 2018, available at: <https://www.cvip.org.ni/uploads/documentos/20180712140852493.pdf>

¹³³ Ibidem

movement. The report refers to the case of a pregnant woman who died as the ambulance taking her to the hospital was not allowed to pass through a roadblock.¹³⁴

107. In a context marked by polarisation and social conflict, and in the absence of credible and impartial investigations, the extent to which abuses are to be attributed to anti-Government protesters needs to be elucidated on a case-by-case basis, following procedures that respect due process guarantees and the principles of criminal liability.

"I belong to a Sandinista family. I felt very insecure walking around in my city as I might be attacked by those who control the barricades. They attack us only because we are Sandinista Youth".

Individual from the city of Rivas

Interview conducted by OHCHR on 7 July 2018

4. Other human rights consequences of the ongoing crisis

108. On 31 July, the United Nations High Commissioner for Refugees (UNHCR) reported an exponential growth of asylum seekers from Nicaragua in Costa Rica and other countries; an average of 200 applications per day are being lodged by Nicaraguans in Costa Rica, and 23,000 applications were reportedly filed from April to July.¹³⁵ In addition to Nicaraguans fleeing the country on protection grounds, the number of economic migrants to Costa Rica and other countries is expected to rise as the economic situation continues to deteriorate.
109. On 28 June, the independent Nicaraguan Foundation for Social and Economic Development (FUNIDES) estimated that since the beginning of the crisis, 215,000 people had lost their jobs and 131,000 had fallen under the poverty line. According to FUNIDES, the Gross Domestic Product may decrease by up to 5,6 per cent compared to 2017 which would lead to a negative growth of minus 0,7 per cent and an estimate loss of USD 1,400 million. FUNIDES indicates that if these figures were to be confirmed, Nicaragua would return to the same levels of poverty as in the mid-1990s.¹³⁶ On 15 August, the Chairperson of the Parliamentary Commission on Productivity, Economy and Budget indicated that, as of August, the Gross Domestic Product has decreased up to 2.2 per cent, 119,597 persons had lost their jobs and that 8,708 businesses were forced to shut down.¹³⁷
110. In this context, on 14 August the National Assembly passed a law cutting public spending down to nearly USD 185 million (approximately 7 per cent of the annual budget). These measures will affect governmental projects regarding health, housing, justice and education sectors, among others, and may further jeopardize the enjoyment of the right to

¹³⁴ National human rights institution, Informe preliminar de la Procuraduría para la Defensa de los Derechos Humanos de la República de Nicaragua en atención al contexto nacional a partir de abril del 2018, 21 June 2018 (on file with OHCHR)

¹³⁵ UNHCR press statement, "UNHCR steps up its response as thousands flee violence in Nicaragua", 31 July 2018, available at: <http://www.unhcr.org/news/briefing/2018/7/5b601e4f4/unhcr-steps-its-response-thousands-flee-violence-nicaragua.html>

¹³⁶ FUNIDES, "Impacto económico de los conflictos sociales en Nicaragua 2018", 28 June 2018, available at: <http://www.funides.com/noticias/435-impacto-economico-de-los-conflictos-sociales-en-ni/>

¹³⁷ Hoy: Gobierno propone reducir exoneraciones y exenciones, 15 August 2018, available at: <http://www.hoy.com.ni/2018/08/15/gobierno-propone-reducir-exoneraciones-y-exenciones/>

work, health, education and food of the population at large that have been already experiencing adverse impacts over the last months.¹³⁸

IV. Investigations and judicial response

111. The High Commissioner for Human Rights has called upon Nicaraguan authorities to guarantee that “there will be effective, independent, impartial and prompt investigations to establish the truth and ensure accountability for the violations and abuses committed since April.”¹³⁹
112. On 26 April, the Office of the Attorney-General issued a press release stating that following a chain of events initiated on 18 April, it had opened investigations regarding “the loss of life and injuries suffered by students, members of the Police and civilians as well as the theft (...) and damages to public and private property”.¹⁴⁰ According to information available to OHCHR, the accusations made to date by the Office of the Attorney-General in this regard have only been against persons who participated in protests or provided support to those protesting (involving at least 300 individuals).¹⁴¹
113. Based on information available to OHCHR, no prosecutions have been initiated against State officials for alleged responsibility for human rights violations. OHCHR has made several requests in writing concerning the status of investigations into human rights violations committed since the beginning of the crisis. Information has not been provided yet.
114. To date, and based on information available to OHCHR, State authorities have failed to properly investigate the facts surrounding the death of people in the context of protests, and to identify, prosecute and adequately penalize those alleged to be responsible. The lack of independence of the judiciary and reported irregularities of the Office of the Attorney-General and the Legal Medicine Institute pose serious concerns in terms of accountability. Regarding the latter, the Truth, Justice and Peace Commission, in its preliminary report, indicated that it had had access to the files of the autopsies conducted by the Legal Medicine Institute, and informed that 82 autopsies had been conducted by the Institute during the crisis, in relation to only 30 per cent of the casualties reported by the Truth, Justice and Peace Commission.¹⁴² During its mission to Nicaragua, the Inter-American Commission on Human Rights documented that the registers of casualties, hospitals and the Legal Medicine Institute fell short of forensic standards.¹⁴³

¹³⁸ Press statement UN Secretary-General: “Secretary-General Deeply Concerned Over Intensified Violence in Nicaragua”, G/SM/19132, 11 July 2018, available at: <https://www.un.org/press/en/2018/sgsm19132.doc.htm>

¹³⁹ OHCHR Press Statement, “Act now to end violence, Zeid urges Nicaraguan authorities”, 5 July 2018, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23335&LangID=E>

¹⁴⁰ Press release of the Office of the Attorney General No. 003-2018, 28 April 2018, available at <https://ministeriopublico.gob.ni/comunicado-03-2018/>

¹⁴¹ See paragraph 33.

¹⁴² Truth, Justice and Peace Commission, Preliminary Report, 10 July 2018, p. 8, available at: <https://www.cvip.org.ni/uploads/documentos/20180712140852493.pdf>

¹⁴³ Inter-American Commission on Human Rights report “Gross Human Rights Violations in the Context of Social Protests in Nicaragua”, OEA/Ser.L/V/II. Doc. 238, 21 June 2018, paras. 150, 237 and 242, available at: <http://www.oas.org/en/iachr/reports/pdfs/Nicaragua2018-en.pdf>

115. On 30 April, the National Assembly established the Truth, Justice and Peace Commission¹⁴⁴ with a mandate to gather information, analyze and establish the events which took place starting 18 April. Its preliminary report covered events that took place until 4 July and focused on violations of the rights to life and personal security, amongst others as well as damage to public and private property. These findings are mentioned throughout this report.
116. The national human rights institution (*Procuraduría para la Defensa de los Derechos Humanos*) created a Committee of Victims to receive complaints after 18 April which as of 21 June had verified 65 out of 192 killings reported to it and documented that 1,616 people had received medical treatment in the public health system.¹⁴⁵ It issued a preliminary report on 21 June and a second one is expected by the end of August.
117. On 30 May, the Inter-American Commission on Human Rights and the Secretary General of the Organization of American States obtained the consent of the Government of Nicaragua to create an international mechanism to investigate violent events that have occurred in the country since 18 April. On 2 July, the Inter-American Commission on Human Rights announced the establishment of the Interdisciplinary Group of Independent Experts for Nicaragua (GIEI, by its Spanish acronym).¹⁴⁶ Its aim is to contribute to and support the investigations of the violent acts committed in the context of the protests between 18 April and 30 May. To date, no provisions have been made for GIEI to cover events beyond 30 May. On 16 August, GIEI publicly informed that so far the Attorney General office had not shared with them any documents on the ongoing criminal investigations. The experts also remarked that although they had had meetings with victims' relatives and authorities, they could not fulfil their mandate without examining case files.¹⁴⁷
118. OHCHR observed that the political discourse from high-level authorities during the period covered by the report has been characterized by recurrent statements discrediting and criminalizing those opposing the Government or leading the protests.¹⁴⁸ The authorities have not acknowledged any responsibility for any wrongdoing during the crisis, rather placing the blame on human rights defenders, media outlets and opposition and social leaders for what they refer to as “coup-related violence”.

¹⁴⁴ Resolution A.N.N. 01-2018 of the National Assembly, published in *La Gaceta* on 30 April 2018. Its mandate was extended for another three-month period on 20 July 2018.

¹⁴⁵ National human rights institution, Informe preliminar de la Procuraduría para la Defensa de los Derechos Humanos de la República de Nicaragua en atención al contexto nacional a partir de abril del 2018, 21 June 2018 (on file with OHCHR)

¹⁴⁶ Inter-American Commission on Human Rights press release, “IACHR to Create Interdisciplinary Group of Independent Experts to Help Investigate Recent Violence in Nicaragua”, 30 May 2018, available at: http://www.oas.org/en/iachr/media_center/PReleases/2018/121.asp

¹⁴⁷ Interdisciplinary Group of Independent Experts for Nicaragua press statement, 16 August 2018, available at: <https://www.oas.org/es/cidh/actividades/visitas/2018Nicaragua/ComunicadoPrensa-GIEI-16Agosto2018.pdf>

¹⁴⁸ El 19 Digital, “Daniel y Rosario en Acto del 39 Aniversario de la Revolución”, 19 July 2018, available at: <https://www.el19digital.com/articulos/ver/titulo:79267-daniel-y-rosario-en-acto-del-39-aniversario-de-la-revolucion-19-de-julio-de-2018>

and see statement of President Ortega, 19 July 2018, available at https://www.youtube.com/watch?v=qe1nt_D9Jfo

V. RECOMMENDATIONS

119. Based on the findings of this report, the High Commissioner for Human Rights makes the following recommendations:

To the Government of Nicaragua:

1. Put an immediate end to harassment, intimidation, stigmatization, criminalization (including through the use of counter-terrorism legislation) and other types of reprisals in relation to participation in the protests, including against demonstrators, human rights defenders, political opponents, journalists and others.
2. Immediately dismantle and disarm pro-Government armed elements and protect the population from attacks and other illegal and violent actions from such groups.
3. Ensure that independent, impartial, effective, thorough and transparent investigations be promptly conducted into all allegations of serious human rights violations and abuses that have occurred since 18 April, especially extrajudicial killings, torture, enforced disappearances and arbitrary or unlawful arrests and detentions; ensure that criminal investigations comprise all those who perpetrated, directly or indirectly, ordered, supported or tolerated such acts, including the chain of command of relevant authorities. These acts should not remain without sanction.
4. Halt all unlawful arrests and release all persons who have been arbitrarily detained; ensure that the due process rights of all persons being prosecuted are respected and that any criminal charges brought against them are in line with the principles of legality, proportionality and individual liability.
5. Ensure that accurate and up-to-date information on individuals deprived of their liberty and on the location of detention is publicly available; that people are promptly informed of the reasons for their arrest, have access to a lawyer of their choice, are brought promptly before a judge and are guaranteed their right to a fair trial.
6. Ensure the right to freedoms of peaceful assembly is fully respected through the proper management of public gatherings, in line with applicable international human rights norms and standards.
7. Take urgent measures to guarantee the independence and impartiality of the judiciary, refraining from any undue interference, pressure or influence.
8. Resume the National Dialogue in a meaningful and inclusive way to reach agreements based on human rights and democratic principles.
9. End and penalize public stigmatizing of those critical of the Government's policies and actions.
10. Grant OHCHR direct and unfettered access to the whole country, including to places of detention, in accordance with the High Commissioner's mandate and standard practices of engagement and technical cooperation with authorities and civil society.

11. Ensure effective cooperation with the Inter-America Commission on Human Rights' Special Monitoring Mechanism for Nicaragua and the Interdisciplinary Group of Independent Experts.

12. Allow access to the country to the Special Procedures of the Human Rights Council that have requested to conduct an official visit, in line with Nicaragua's standing invitation extended in 2006.

To the national human rights institution (*Procuraduría para la Defensa de los Derechos Humanos*):

13. Implement its mandate, including as national preventive mechanism for the prevention of torture, in full compliance with the Paris Principles reinforcing the rule of law and human rights, including by monitoring the human rights situation, publicly reporting on its findings, and making recommendations to authorities.

14. Cooperate fully with the Global Alliance for National Human Rights Institutions; seek technical assistance from OHCHR, with a view to strengthening its operating practices and institutional framework to promote and protect human rights independently from the Government.

To the Human Rights Council and the broader international community:

15. Monitor the developments in Nicaragua, consider taking measures to prevent a further deterioration of the human rights situation and encourage the General Assembly to do the same. Such measures could include the creation of an International Commission of Inquiry or a hybrid (national – international) Truth Commission to ensure access to truth, justice and reparation for victims.

16. Call on Nicaragua to abide by its international human rights obligations and to fulfil its voluntary commitments and pledges, including in the context of the Universal Periodic Review mechanism of the Human Rights Council, and to fully cooperate with human rights bodies and mechanisms.

OHCHR stands ready to provide additional information in a regular manner to the Human Rights Council as appropriate.

ANNEX I: Applicable legal framework and voluntary pledges and commitments

1. In assessing the situation of human rights violations in the context of demonstrations in Nicaragua, OHCHR relied on the binding legal obligations and voluntary commitments that the country has assumed as a Member State of the United Nations¹⁴⁹ and as a State Party to eight of the nine core international human rights treaties,¹⁵⁰ including the Optional Protocol of the Convention against Torture.¹⁵¹ Nicaragua has not ratified the Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, nor the Optional Protocols to the Convention on the Elimination of all Forms of Discrimination Against Women or to the International Covenant on Economic, Social and Cultural Rights.
2. OHCHR reviewed the voluntary pledges and commitments made by Nicaragua in the context of its candidature and election as a member of the Human Rights Council for 2007-2010 and 2011-2014, pursuant to General Assembly resolution 60/251.¹⁵² OHCHR also examined the voluntary pledges and commitments made by Nicaragua in the context of its first¹⁵³ and second¹⁵⁴ universal periodic review process before the Human Rights Council, in 2010 and 2014 respectively. OHCHR notes that in 2006, Nicaragua extended a standing invitation to all thematic special procedures.¹⁵⁵
3. In accordance with the international human rights law, the State of Nicaragua has the obligation to respect, protect and fulfil the human rights and fundamental freedoms enshrined in binding norms, and to take all necessary measures to prevent and remedy violations of these rights. This requires taking appropriate steps to prevent, investigate, punish and redress such abuses through effective policies, legislation, regulations and adjudication. The obligation to protect requires States also to exercise due diligence against human rights abuses within their territory and/or jurisdiction by non-State actors, including armed groups and private companies. States can thus be held liable for human rights abuses committed by non-States actors “because of the lack of due diligence to prevent the violation [committed by non-State actors] or to respond to it.”¹⁵⁶

¹⁴⁹ See UN Founding Member States, <http://www.un.org/depts/dhl/unms/founders.shtml>

¹⁵⁰ For a list of international human rights treaties ratified by Nicaragua, see <https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>

¹⁵¹ Subcommittee on the Prevention of Torture press statement, “Nicaragua: The Subcommittee on the Prevention of Torture concludes its first regular visit”, 16 May 2014, available at

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14626&LangID=E>

¹⁵² Note Verbale dated 18 April 2011 from the Permanent Mission of Nicaragua to the United Nations addressed to the Secretary-General (A/65/823), available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/65/823&Lang=E

¹⁵³ Report of the Working Group on the Universal Periodic Review of Nicaragua, A/HRC/14/3, available at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/121/63/PDF/G1012163.pdf?OpenElement>

and the Report of the fourteenth session of the Human Rights Council (A/HRC/14/37), available at

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/177/81/PDF/G1217781.pdf?OpenElement>

¹⁵⁴ Ibidem

¹⁵⁵ See <https://spinternet.ohchr.org/Layouts/SpecialProceduresInternet/StandingInvitations.aspx>

¹⁵⁶ See United Nations Human Rights Committee, General Comments No. 31 (paragraph 8) and draft General Comment No. 36 (paragraphs 7 and 25). Available at:

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en and https://www.ohchr.org/Documents/HRBodies/CCPR/GCArticle6/GCArticle6_EN.pdf