



# General Assembly

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## Human Rights Council

### Forty-third session

24 February–20 March 2020

Agenda item 2

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

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

### 43/... Promotion and protection of human rights in Nicaragua

*The Human Rights Council,*

*Guided* by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international human rights instruments,

*Reaffirming* the primary responsibility of States to respect, protect and fulfil all human rights and fundamental freedoms and to fulfil their obligations under the human rights treaties and agreements to which they are parties, including in the context of assemblies such as peaceful protests, and to ensure that national legislation, policies and practices, including the national framework for the exercise of the rights to freedom of peaceful assembly, of association and of expression, are in compliance with international human rights law,

*Recalling* its resolution 40/2 of 21 March 2019 on the promotion and protection of human rights in Nicaragua,

*Welcoming* the report of the United Nations High Commissioner for Human Rights on the situation of human rights in Nicaragua, presented to the Human Rights Council at its forty-second session,<sup>1</sup>

*Bearing in mind* the continuing sociopolitical and human rights crisis in Nicaragua, as documented in the report of the High Commissioner, and its adverse impact on the enjoyment of civil, political, economic, social and cultural rights,

*Welcoming* the efforts of neighbouring and other States in the region to host Nicaraguan migrants, refugees and asylum seekers, and acknowledging the associated socioeconomic consequences for those States,

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\* State not a member of the Human Rights Council.

<sup>1</sup> A/HRC/42/18.



*Noting* the submission by the Government of Nicaragua of some national reports to relevant human rights treaty bodies, and in the context of the universal periodic review,

*Welcoming* the release of persons arbitrarily deprived of their liberty in relation to the 2018 protests, while remaining concerned that more persons remain detained or are subject to alternative measures to detention, including several previously released under the Amnesty Law,

*Expressing concern* that the broad scope of Law No. 996 (Amnesty Law) may lead to impunity for human rights violations, contrary to international law, and fail to provide adequate protections for persons released from arbitrary detention in relation to the 2018 protests,

*Noting* that, according to the Global Alliance of National Human Rights Institutions, the national human rights institution of Nicaragua, the Office of the Human Rights Advocate (*Procuraduría para la Defensa de los Derechos Humanos*), does not demonstrate the independence required by, nor act in a manner that is fully compliant with, the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles),

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

*Affirming* that free, fair, transparent and credible elections, in accordance with international standards, are essential to a peaceful and democratic solution to the human rights crisis in Nicaragua, as is the unhindered participation of the political opposition and independent national and international electoral observers,

1. *Expresses grave concern* at the continuing reports of serious human rights violations and abuses since April 2018, and the persisting disproportionate use of force by the police to repress social protests, and acts of violence by armed groups, as well as reports of ongoing unlawful arrests and arbitrary detentions, harassment, and torture and sexual and gender-based violence in detention;

2. *Expresses concern* at the persisting restrictions on civic space and the repression of dissent in Nicaragua targeting civil society, human rights defenders, including women human rights defenders, community and religious leaders, journalists and other media workers, students, victims and their family members, and individuals expressing critical views of the Government;

3. *Urges* the Government of Nicaragua to respect the rights to freedom of peaceful assembly, of association and of expression, and the independence of the media, the prosecution authority and the judiciary by authorizing peaceful and public demonstrations, restoring the legal registration of civil society organizations and independent media outlets that were cancelled, and returning seized assets;

4. *Calls upon* the Government of Nicaragua to cease using arbitrary arrests and arbitrary detentions or alternative measures of detention as a means to repress dissent, to release all those arbitrarily or illegally detained without condition, to guarantee due process rights, to ensure that conditions of detention have due regard to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela rules) and comply with applicable human rights obligations and standards, and to carry out prompt and impartial investigations into any allegations of extrajudicial execution, torture or ill-treatment, and take effective action against sexual and gender-based violence;

5. *Urges* the Government of Nicaragua to guarantee a safe and enabling environment for human rights defenders including women human rights defenders, and adequate conditions for them to carry out their work freely;

6. *Calls upon* the Government of Nicaragua to take effective measures to guarantee the independence and impartiality of the justice system and the Office of the Human Rights Advocate;

7. *Urges* the Government of Nicaragua to develop a comprehensive, inclusive and victim- and survivor-centred action plan for accountability, as recommended by the United Nations High Commissioner for Human Rights in her report, which would include, inter alia, prompt, thorough and transparent criminal investigations into all allegations of, and prosecution of, human rights violations and abuses committed since 2018; measures that ensure access to justice, truth, reparations and guarantees of non-recurrence; participative and inclusive consultations to reform the judicial sector; and comprehensive reform of the security sector, including the dismantlement and disarmament of armed groups;

8. *Calls upon* the Government of Nicaragua to resume its cooperation with the Office of the High Commissioner, the Human Rights Council and its mechanisms, and the Organization of American States and the Inter-American Commission on Human Rights, including by granting unfettered access throughout the country and facilitating visits, and to positively consider the recommendations made in their reports and offers of technical assistance, and to strengthen its cooperation with relevant treaty bodies;

9. *Also calls upon* the Government of Nicaragua to prevent, refrain from and publicly condemn, investigate and punish any acts of intimidation or reprisal, including against those who cooperate or seek to cooperate with international and regional bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, or with the Organization of American States or the Inter-American Commission on Human Rights;

10. *Further calls upon* the Government of Nicaragua to ensure a wide, credible, representative, inclusive and transparent national dialogue with the participation of all parties, and urges the Government to implement fully the agreements reached with the Civic Alliance for Justice and Democracy in March 2019, and in this regard requests the international community to support those efforts;

11. *Urges* the Government of Nicaragua and relevant electoral institutions to undertake and implement legal and institutional reforms to ensure free, fair, transparent and credible elections, in accordance with international standards, that include the presence of independent national and international electoral observers;

12. *Encourages* continued and strengthened cooperation between the Inter-American Commission on Human Rights and the Human Rights Council and its mechanisms for the promotion and protection of human rights in Nicaragua;

13. *Requests* the High Commissioner to enhance monitoring by the Office of the High Commissioner and to continue to report on the situation of human rights in Nicaragua, including by preparing a comprehensive written report that assesses progress and challenges regarding that situation, and to present it to the Human Rights Council at its forty-sixth session, to be followed by an interactive dialogue, and to present oral updates on the situation of human rights to the Council at its forty-fourth and forty-fifth sessions.