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Agenda item 2

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

Australia,* Austria, Belgium,* Brazil, Bulgaria, Canada,* Chile,* Colombia,* Costa Rica,* Croatia,* Cyprus,* Czechia, Ecuador,* Estonia,* Finland,* France, Georgia,* Germany, Greece,* Hungary,* Ireland,* Italy, Latvia,* Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Monaco,* Montenegro,* Netherlands, North Macedonia,* Norway,* Paraguay,* Peru,* Portugal,* Romania,* Slovakia,* Spain,* Sweden,* Switzerland,* Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America*: draft resolution

46/... 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,

Recalling its resolutions 40/2 of 21 March 2019 and 43/2 of 19 June 2020 on the promotion and protection of human rights in Nicaragua,

Welcoming the updates 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-fourth and forty-fifth sessions, and the report of the High Commissioner on the situation of human rights in Nicaragua, presented to the Council at its forty-sixth session,¹

Bearing in mind the continuing sociopolitical and human rights crisis in Nicaragua, and the effects of the coronavirus disease (COVID-19) pandemic and recent natural disasters, and their multidimensional impact on the enjoyment of civil, political, economic, social and cultural rights,

Commending neighbouring and other States in the region for their continued efforts to host and welcome Nicaraguan migrants, refugees and asylum seekers, and acknowledging the associated socioeconomic consequences for those States,

Welcoming the release of persons arbitrarily deprived of their liberty in the context of the sociopolitical and human rights crisis, while remaining concerned that more than 100

* State not a member of the Human Rights Council.

¹ A/HRC/46/21.



persons remain arbitrarily detained, including several previously released under Law No. 996 (the Amnesty Law) passed by the National Assembly in June 2019,

Expressing grave concern at the broad scope of the Amnesty Law and the implementation of recent legislation by the Government of Nicaragua, including the amendments to some provisions of the Criminal Code and the enactment of the Foreign Agents Registration Law, the Law on Cybercrimes and Law No. 1055 on the Rights of People to Independence, Sovereignty and Self-Determination for Peace, which excludes those who speak in favour of international sanctions from electoral processes, all of which, contrary to international human rights law, hinder victims of human rights violations from exercising their right to an effective remedy, which may include reparations and the right to truth, and further restrict freedom of expression, freedom of association and peaceful assembly, privacy, and the right to take part in the conduct of public affairs, unduly limiting political participation and the activities of human rights defenders and civil society,

Condemning all acts of intimidation and reprisal, 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,

Expressing concern at the violent attacks and repeated acts of intimidation and harassment by police or armed groups reported by the Office of the United Nations High Commissioner for Human Rights,

Affirming that free, fair, transparent and credible elections, in accordance with international obligations and 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,

Noting with grave concern the lack of progress made by the Government of Nicaragua in implementing electoral and institutional reforms aimed at guaranteeing free, fair and transparent elections,

1. *Expresses grave concern* at the continuing reports of human rights violations and abuses and the lack of accountability since April 2018, the persisting bans on public demonstrations, 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, torture and other cruel, inhuman or degrading treatment or punishment, and the increase in gender-related killings 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 which includes acts of intimidation, harassment and unlawful or arbitrary surveillance of human rights defenders, including women, indigenous, Afrodescendent and environmental human rights defenders, community and religious leaders, journalists and other media workers, students, victims of human rights violations and their family members, and individuals expressing critical views of the Government of Nicaragua, including in the context of the response to the COVID-19 pandemic, and urges the Government to publicly condemn and ensure accountability for any attacks or acts of intimidation and to take measures to ensure a safe and enabling environment for the above-mentioned persons to carry out their work freely;

3. *Also expresses concern* at the growing number of civil society organizations and independent media outlets forced to cease their activities owing to restrictive administrative and financial constraints imposed by the legal reforms passed since 2018, and at the arbitrary cancellation of their legal registrations and the impact such closures have on independent human rights monitoring and the enjoyment of human rights, online and offline, especially the right to the freedoms of opinion and expression, association and the right to privacy, as set out in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights, and urges the Government of Nicaragua to restore the legal registration of civil society organizations and independent

media outlets that have been cancelled since 2018, and to return seized assets, including confiscated property;

4. *Urges* the Government of Nicaragua to authorize peaceful and public demonstrations, to repeal or amend legislation that may unduly restrict the rights to the freedoms of expression and association, to privacy and to take part in the conduct of public affairs, and that may prevent victims of human rights violations from exercising their right to seek a remedy or extend the period of detention without formal charge or criminalize dissenting voices, and to authorize peaceful and public demonstrations;

5. *Calls upon* the Government of Nicaragua to cease immediately using arbitrary arrests and arbitrary detentions, as well as threats and other forms of intimidation 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;

6. *Urges* the Government of Nicaragua to combat impunity and to ensure accountability and justice for victims of human rights violations in the context of the 2018 protests, including by conducting independent and impartial investigations into the multiple forms of repression and violence that killed more than 300 people and injured 2,000, including alleged extrajudicial executions, enforced disappearances, torture and other grave human rights violations and abuses reported since April 2018 by the Office of the High Commissioner, and by amending the Amnesty Law;

7. *Also urges* the Government of Nicaragua to take effective measures to prevent and address the increase in sexual and gender-based violence, including gender related killings, by strengthening the capacity of the Attorney General's Office and the Judiciary, in line with international standards as well as implementing preventive educational policies and programs;

8. *Further urges* the Government of Nicaragua to seek free, prior and informed consent as contemplated in the United Nations Declaration on the Rights of Indigenous Peoples, and to take effective measures, in consultation with indigenous peoples, to prevent and address the increasing violence committed against them, including by conducting prompt and independent investigations into alleged killings and land seizures by armed groups;

9. *Calls upon* the Government of Nicaragua to continue to take steps to progressively realize the rights to education and work, and to ensure the right to the enjoyment of the highest attainable standard of health for all;

10. *Urges* the Government of Nicaragua to take effective measures to provide a safe environment for victims of human rights violations, including former political prisoners and opposition members, and those with long-term injuries and disabilities;

11. *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;

12. *Urges* the Government of Nicaragua to adopt a time-bound action plan to implement the recommendations made by international and regional human rights mechanisms, including those made in the reports of the High Commissioner, in consultation with civil society and victims;

13. *Calls upon* the Government of Nicaragua to cooperate fully with the Office of the High Commissioner, including its Regional Office for Central America, 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, the requests for country visits made by the special procedures in accordance with the standing invitation it extended in 2006, and to strengthen its cooperation with relevant treaty bodies;

14. *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, including the United Nations, its representatives and mechanisms in the field of human rights, and with the Organization of American States and the Inter-American Commission on Human Rights;

15. *Urges* the Government of Nicaragua to engage in meaningful and inclusive negotiations with civil society and opposition parties and groups, and to work with international organizations to adopt, by May 2021, as outlined by the Organization of American States in its resolution AG/doc.5710/20, electoral and institutional reforms to ensure free, fair, transparent, representative and credible elections, in accordance with international standards, that include the presence of independent national and international electoral observers;

16. *Requests* the High Commissioner to enhance and broaden 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-ninth- session, to be followed by an interactive dialogue, and to present an oral update on the situation of human rights to the Council at its forty-seventh and forty-eighth sessions;

17. *Also requests* the High Commissioner to monitor closely the situation of human rights in Nicaragua in the context of the electoral process, and to present to the Human Rights Council, before the end of 2021, an interim oral update with recommendations, to be followed by an interactive dialogue;

18. *Requests* that the Office of the High Commissioner be provided with the resources necessary to fulfil its technical cooperation and human rights monitoring and reporting mandates;

19. *Decides* to remain actively seized of the matter and to consider all measures available to the Human Rights Council to strengthen the promotion and protection of human rights in Nicaragua and cooperation with the Office of the High Commissioner.
