

THE EVOLVING HUMAN RIGHTS CRISIS IN NICARAGUA

HEARING BEFORE THE TOM LANTOS HUMAN RIGHTS COMMISSION

**UNITED STATES
HOUSE OF REPRESENTATIVES**

**ONE HUNDRED AND FIFTEENTH CONGRESS
SECOND SESSION**

SEPTEMBER 27, 2018

Official Transcript

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THE EVOLVING HUMAN RIGHTS CRISIS IN NICARAGUA

THURSDAY, SEPTEMBER 27, 2018

HOUSE OF REPRESENTATIVES,
TOM LANTOS HUMAN RIGHTS COMMISSION,
Washington, D.C.

The Commission met, pursuant to call, at 9:30 a.m., in Room 2200, Rayburn House Office Building, Hon. James P. McGovern [co-chair of the Commission] presiding.

Mr. MCGOVERN. Good morning, everybody, and welcome to this Tom Lantos Human Rights Commission hearing on "The Evolving Human Rights Crisis in Nicaragua." I extend a special welcome to our witnesses who have traveled here from Nicaragua and the Nicaraguans in the audience. I know this is a difficult and complex moment in your country's history. I want to assure you that we in the United States Congress are paying attention. We are concerned and we are committed to doing what we can to make sure that U.S. policy contributes in the most constructive way to resolving the internal political conflict that has escalated since April.

I have been around long enough to remember the Nicaraguan Revolution and the Contra War that followed the overthrow of the Somoza regime in the 1980s. I agreed with those who opposed the Reagan administration's aid to the Contras, and, in fact, Congress acted to cut off aid in 1985, in part in response to reports that the Contras were routinely killing civilians, Sandinista officials in the interior of the country, heads of cooperatives, nurses, doctors, and judges.

At the time, some U.S. Government supporters of the Contras justified the violence. One of them was Dwayne Dewey, the Central Intelligence Agency officer in charge of the covert war. "After all," he told the House Intelligence Committee, "this is a war – a paramilitary operation." But enough Members of Congress were sufficiently appalled by the tactics to pass the third Boland Amendment and outlaw the assistance.

For those of us who opposed the Contra War more than 30 years ago, the Nicaragua of today is not what we were rooting for. As you will hear from our witnesses, over 300 Nicaraguans have been killed and some 2,000 injured since social protests erupted in April of this year. The deaths include 24 children and adolescents and 21 police officers. The majority of deaths have been attributed to the government's police forces and to armed pro-government groups. What began as a protest against a government proposal to, quote, reform the social security system, has grown into a major opposition movement that demands that Daniel

Ortega step down – the same Daniel Ortega who was a leader of the Sandinista revolution four decades ago and has been elected President three times since 2006. The man who once stood up against Somoza's oppression has become the oppressor, and this is a tragedy.

After the first burst of violence, the Ortega government responded well to international concern. They cooperated with a May visit by the Inter-American Commission of Human Rights and agreed to follow-up mechanisms. In June, the U.N. High Commissioner for Human Rights sent a mission at the invitation of the government. But as we will hear, cooperation slowed once these agencies began to attribute responsibility for grave human rights abuses to the government. In late August, the government expelled the U.N. High Commissioner's team. Now the government is simply denying that abuses documented by the U.N., the Inter-American system, and highly credible local human rights organizations have occurred.

Meanwhile, as the opposition has evolved, so have the government's tactics. We have heard reports of attacks on churches, the dismissal of health workers who treated the wounded, arbitrary detention and torture, including sexual violence against men, the targeting of families, and the use of a new antiterrorism law to persecute and criminalize dissent.

Unlike many Salvadorans, Hondurans, and Guatemalans I have met over the years, Nicaraguans are not used to being afraid of their government, but today they are. The tactics deployed by the Ortega government are similar to those used around the world by authoritarian leaders whose hold on power is threatened by dissent. The consequences tend to include increased migration and refugee flows as people flee. And, in fact, thousands of Nicaraguans have fled into Costa Rica since the crisis began in April.

So we have convened this hearing today with two objectives: first to get the well-documented evidence of human rights abuses on the record; and, second, to hear recommendations as to how the U.S. Government and Congress can be most helpful to those in Nicaragua seeking a peaceful resolution to the crisis.

As you will hear from our second panel this morning, the opposition movement remains firmly committed to nonviolence. Those recommendations should not focus only on Daniel Ortega. It may be tempting to think that everything would be fine if Ortega were just to step down, but as former U.N. Human Rights Commissioner Zeid Al Hussein observed in June, the repression of violence we have seen in recent months are the product of years of erosion of rights and weakening of institutions. The problem in Nicaragua is bigger than one man.

[The prepared statement of Co-Chair McGovern follows:]

**PREPARED STATEMENT OF THE HONORABLE JAMES P.
MCGOVERN, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF MASSACHUSETTS AND CO-CHAIR OF THE TOM LANTOS
HUMAN RIGHTS COMMISSION**



Tom Lantos Human Rights Commission Hearing

The Evolving Human Rights Crisis in Nicaragua

Thursday, September 27, 2018

9:30 – 11:00 a.m.

2200 Rayburn House Office Building

Opening Remarks as prepared for delivery

Good morning and welcome to this Tom Lantos Human Rights Commission hearing on the evolving human rights crisis in Nicaragua. I extend a special welcome to our witnesses who have traveled here from Nicaragua, and to the Nicaraguans in the audience.

I know this is a difficult and complex moment in your country's history. I want to assure you that we in the United States Congress are paying attention. We are concerned and we are committed to doing what we can to make sure that U.S. policy contributes in the most constructive way possible to resolving the internal political conflict that has escalated since April.

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I agreed with those who opposed the Reagan Administration's aid to the Contras, and in fact Congress acted to cut off the aid in 1985 – in part in response to reports that the Contras were routinely killing civilians, Sandinista officials in the interior of the country, heads of cooperatives, nurses, doctors and judges.

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As you will hear from our witnesses, over 300 Nicaraguans have been killed and some 2,000 injured since social protests erupted in April of this year. The deaths include 24 children and adolescents, and 21 police officers. The majority of the deaths have been attributed to the government's police forces and to armed pro-government groups.

What began as a protest against a government proposal to “reform” the social security system has grown into a major opposition movement that demands that Daniel Ortega step down - the same Daniel Ortega who was a leader of the Sandinista revolution four decades ago and has been elected president three times since 2006.

The man who once stood up against Somoza’s oppression has become the oppressor. This is a tragedy.

After the first burst of violence, the Ortega government responded well to international concern. It cooperated with a May visit by the Inter-American Commission of Human Rights and agreed to follow-up mechanisms. In June the UN High Commissioner for Human Rights sent a mission at the invitation of the government.

But as we will hear, cooperation slowed once these agencies began to attribute responsibility for grave human rights abuses to the government. In late August the government expelled the UN High Commissioner’s team.

Now the government is simply denying that the abuses documented by the UN, the Inter-American system and highly credible local human rights organizations have occurred.

Meanwhile, as the opposition has evolved, so have the government’s tactics. We have heard reports of attacks on churches, the dismissal of health workers who treated the wounded, arbitrary detention and torture – including sexual violence against men –, the targeting of families, and the use of a new anti-terrorism law to persecute and criminalize dissent.

Unlike many Salvadorans, Hondurans and Guatemalans I have met over the years, Nicaraguans are not used to being afraid of their government. But today they are.

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Those recommendations should not focus only on Daniel Ortega.

It may be tempting to think that everything would be fine if Ortega were to just step down. But as former UN Human Rights Commissioner Zeid al Hussein observed in June, the repression and violence we’ve seen in recent months are the product of years of erosion of rights and weakening of institutions.

The problem in Nicaragua is bigger than one man.

I will now introduce our first panel of witnesses.

Mr. MCGOVERN. And so, with that, I would like to introduce our first panel of witnesses. First, Maria Claudia Pulido, she has been the Assistant Executive Secretary for Monitoring Promotion and Technical Cooperation at the Inter-American Commission for Human Rights since September 1, 2017. She is from Colombia and has worked for the Commission since 2001.

And Guillermo Fernández-Maldonado has been the Deputy Representative of the Office of the United Nations High Commissioner for Human Rights in Colombia since 2014, and between July and August of 2018, he was the senior human rights officer and coordinator of the mission team deployed by the U.N. Human Rights Regional Office for Central America to Nicaragua.

Both these individuals have incredible resumes, but I would be here all day reading them, and so I want to welcome you both to the hearing.

Ms. Pulido, we will begin with you.

STATEMENTS OF MARIA CLAUDIA PULIDO, ASSISTANT EXECUTIVE SECRETARY FOR MONITORING, PROMOTION, AND TECHNICAL COOPERATION, INTER AMERICAN COMMISSION FOR HUMAN RIGHTS (IACHR); AND GUILLERMO FERNÁNDEZ-MALDONADO, SENIOR HUMAN RIGHTS OFFICER, OFFICE OF THE U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR)

STATEMENT OF MARIA CLAUDIA PULIDO, ASSISTANT EXECUTIVE SECRETARY FOR MONITORING, PROMOTION, AND TECHNICAL COOPERATION, INTER-AMERICAN HUMAN RIGHTS COMMISSION (IACHR)

Ms. PULIDO. Thank you. Good morning. The Inter-American Commission on Human Rights wishes to thank Congressman James McGovern and Congressman Randy Hultgren, the chairmen of the Tom Lantos Human Rights Commission, for the invitation to be here today.

The Commission also welcomes the presence of Guillermo Fernández, senior human rights officer of the Office of the United Nations High Commissioner for Human Rights.

The Inter-American Commission on Human Rights has been conducting a special follow-up to the situation of human rights in Nicaragua since April 2018 in the face of the serious acts of violence that have been taking place in the country.

From May 17 to 21, the Commission undertook a working visit to Nicaragua in which it traveled to different parts of the country, interviewed dozens of people and received hundreds of testimonies from victims, relatives of victims, particularly mothers, and witnesses of serious human rights violations. The Inter-American Commission prepared their report, "Gross Human Rights Violations in the Context of Social Protests in Nicaragua," which was presented to the Permanent Council of the Organization of American States on June 21 with 15 recommendations to the state of Nicaragua.

Following up of these recommendations on June 24, the Special Monitoring Mechanism for Nicaragua, MESENI, was established in Managua, and on July 3, the Interdisciplinary Group of Independent Experts for the investigation of acts of violence that took place from the 18 of April to May 13 was also installed. On May 30 was signed an agreement for the creation of this group between the Inter-American Commission of Human Rights, the General Secretariat of the OAS, and the state of Nicaragua.

To date, the Inter-American Commission, as you mentioned, has documented 325 people killed in the context of the human rights crisis, in which 24 children and adolescents were killed, and 21 police officers.

Also, there have been allegedly more than 300 people arrested. Three hundred health professionals have been also dismissed for caring for some of the more than 2,000 people wounded, and 40 professionals from the university have been also dismissed.

According to information received on the site by the teams of the Inter-American Commission, three phases with different patterns of human rights violations have been identified.

The first phase begins with a strong repression of the peaceful protest initiated in the country and the consequent violation of human rights that began in April 18. These include the violation of the right to life and personal integrity due to arbitrary use of force by police agents and parapolice agents using lethal and nonlethal weapons, selective executions of people, and violation of freedom of expression, including attacks against journalists and the media. Also, irregularities and denial of medical attention and the obstruction of humanitarian work to assist persons injured in the context of the acts of violence and repression. Arbitrary detentions with excessive use of force, ill treatment, including torture, incommunicado detention, and lack of judicial control and violations of access to justice.

As of July, the Inter-American Commission identified a second phase of violations that begins with the so-called "clean up" operations of the government and the demobilization of the barricades and roadblocks by parapolice and police groups. The situation becomes more aggravated. Repression and selective and arbitrary detentions and raids are reported in search of the names of people who participated in the protests and in the barricades. Likewise, degrading treatment is observed against the families of the detainees and their visits are obstructed. Repression is extended to the relatives and neighbors of the persons identified by the active participation of the Councils of Citizen Power. Hatred and attacks are inflicted against the Catholic Church. The number of people fleeing their homes in search of safe houses and asylum increases. According to information received, as of July 2018, at least 23,000 people had allegedly requested asylum in Costa Rica.

The third phase, characterized by retaliation, highlights a selective persecution of protesters, particularly human rights defenders, students, social leaders, and government opponents, which includes threats, stigmatization, and

criminalization through hundreds of judicial processes brought under unfounded and disproportionate charges, such as terrorism and organized crime.

During this phase, there were also incidents of violence against police officers and supporters of the government party that, due to the nature, were also condemned by the Inter-American Commission.

To date, the Commission notes with concern that this strategy of criminalization and stigmatization continues to create an adverse context for the social protests. The situation has been creating a climate of terror and despair among the population. Human rights defenders, women, and children find themselves at great risk.

While in the beginning dialogue with the government and the exchange of information was fluid, since the beginning of July the Inter-American Commission has requested from the state, without any success, information in order to be able to collect data about the victims, access to detention centers to observe the situation of persons deprived of liberty, and access to files that the Group of Independent Experts can provide technical assistance in the criminal investigations.

Nevertheless, based on the requests and testimonies received, as of September 17, the Commission has issued 23 precautionary measures to directly protect 114 people who are at serious risk. The Commission has also issued 28 press releases disseminating the serious situation of human rights in Nicaragua.

The Inter-American Commission on Human Rights reaffirms the importance of Nicaragua finding a democratic solution to the crisis as well as its commitment to continue monitoring the situation in order to ensure the protection of life and physical integrity of the people, defense of the victims, and the freedom of expression of the Nicaraguan people. Thank you.

[The prepared statement of Ms. Pulido follows:]

Prepared Statement of Maria Claudia Pulido

**House Foreign Affairs Committee
Tom Lantos Human Rights Commission**

**Hearing
on
THE EVOLVING HUMAN RIGHTS CRISIS IN NICARAGUA**

**Thursday, September 27, 2018 – 9:30 a.m.
2200 Rayburn House Office Building**

**Statement of Maria Claudia Pulido
Assistant Executive Secretary for Monitoring, Promotion and Technical
Cooperation
Inter-American Human Rights Commission**

Good morning. The Inter-American Commission on Human Rights wishes to thank Congressman James P. McGovern and Congressman Randy Hultgren, co-chairmen of the Tom Lantos Human Rights Commission of the United States Congress, for the invitation to be here today.

The Commission also welcomes the presence of Guillermo Fernández-Maldonado, Senior Human Rights Officer of the Office of the United Nations High Commissioner for Human Rights.

The Inter-American Commission on Human Rights has been conducting a special follow-up to the situation of human rights in Nicaragua since April 2018 in the face of the serious acts of violence that have been taking place in the country.

From May 17 to 21, the IACHR undertook a working visit to Nicaragua in which it traveled to different parts of the country, interviewed dozens of people, and received hundreds of testimonies from victims, relatives of victims and witnesses of serious human rights violations. The IACHR prepared the report “Gross Human Rights Violations in the Context of Social Protests in Nicaragua” which was presented to the Permanent Council of the Organization of American States on June 21, 2018, with 15 recommendations to the State of Nicaragua. Following up on these recommendations, on June 24, the Special Monitoring Mechanism for Nicaragua (MESENI) was installed in Managua; and on July 3, the Interdisciplinary Group of Independent Experts (GIEI) for the investigation of the acts of violence that took place from April 18 to May 30, 2018, date on which the agreement for its creation was signed between the IACHR, the OAS General Secretariat, and the State of Nicaragua.

To date, the IACHR has documented 325 people killed in the context of the human rights crisis, of which 21 were police officers, and 24 children and adolescents. Also, there have allegedly been more than 300 people arrested, 300 health professionals have allegedly been dismissed for caring for wounded people and 40 professionals from universities have allegedly been dismissed.

According to the information received on-site by the IACHR’s team, 4 phases with different patterns of human rights violations have been clearly identified:

The **first phase** begins with the strong repression of the peaceful protests initiated in the country and the consequent violations of human rights that began on April 18, 2018. These include the violation of the right to life and personal integrity due to arbitrary or disproportionate use of force by parapolice agents, using lethal and non-lethal weapons; selective executions of people; and violations of freedom of expression, including attacks against journalists and the media. Also, irregularities and denial of medical attention, and the obstruction of humanitarian work to assist persons injured in the context of acts of violence and repression; and arbitrary detentions, with excessive use of force, ill-treatment, including torture, and incommunicado detention; lack of judicial control and violations of access to justice. A process of stigmatization of people who participated in and/or supported public demonstrations is also initiated.

As of July, the IACHR identifies a **second phase** of violations that begins with the so-called “clean-up” operation of the government and the demobilization of the barricades and roadblocks by parapolice and police groups. The situation becomes more aggravated. Specifically, repressions and selective and arbitrary detentions and raids are reported in search of the names of people who participated in the protests and in the barricades. Likewise, degrading treatment is observed against the families of detainees and their visits are obstructed. Repression is extended to the relatives and neighbors of persons identified with the active participation of the Councils of Citizen Power (CPC). Hatred and attacks are incited against the Catholic Church. The number of people fleeing their homes in search of safe houses

or asylum increases. According to the information received, as of July 2018, at least 23,000 Nicaraguans had allegedly requested asylum in Costa Rica, and requests to countries such as Panama, Mexico and the United States increased.

The **third phase**, characterized by retaliation, highlights a selective persecution of protesters, particularly human rights defenders, students, social leaders and government opponents, which includes threats, stigmatization, and criminalization through hundreds of judicial processes brought under unfounded and disproportionate charges such as terrorism or organized crime, without due process guarantees. At least 300 people have allegedly been arrested. Likewise, dismissals of health and education professionals are documented. The effects on freedom of expression have worsened.

During this phase, there were also incidents of violence against police officers and supporters of the government party that, due to their nature, were condemned by the IACHR. The State has sent to the IACHR more than 400 communications providing accounts of these facts.

To date, the Commission notes with concern that this strategy of criminalization and stigmatization continues to create an adverse context for social protest. The situation has been creating a climate of terror and despair among the population. Human rights defenders, women, LGBT persons and children find themselves at greater risk.

While in the beginning dialogue with the government and the exchange of information was fluid, since the beginning of July, the IACHR has requested from the State, without success, information in order to be able to collate data on the victims; access to detention centers to observe the situation of persons deprived of their liberty; and access to the files so that the GIEI can provide technical assistance in the investigations.

Nevertheless, based on the requests and testimonies received, as of September 17, the Commission has issued 23 precautionary measures to directly protect 114 people who are at serious risk. It has also issued 28 press releases publicizing the serious situation of human rights in Nicaragua. More information can be found on a special section of the IACHR's website.

The Inter-American Commission on Human Rights reaffirms the importance of Nicaragua finding a democratic solution to the crisis; as well as its commitment to continue monitoring the situation in order to ensure the protection of life and physical integrity of the people, defense of the victims and the freedom of expression of the Nicaraguan people.

Mr. MCGOVERN. Mr. Maldonado.

**STATEMENT OF GUILLERMO FERNÁNDEZ-MALDONADO, SENIOR
HUMAN RIGHTS OFFICER, OFFICE OF THE U.N. HIGH
COMMISSIONER FOR HUMAN RIGHTS (OHCHR)**

Mr. FERNÁNDEZ-MALDONADO. Thank you. Good morning, Chairman McGovern. On behalf of the United Nations High Commissioner for Human Rights, Michelle Bachelet, I would like to thank you for the invitation extended to us to brief the Commission about the findings from our monitoring activities since April 2018 and recommendations made by the High Commissioner for Human Rights to the state of Nicaragua and the international community.

My attendance today is in my capacity as senior human rights officer to the High Commissioner for Human Rights mission coordinator for Nicaragua. I am here to provide an informal unsworn oral briefing to the Commission on the topic of human rights crisis in Nicaragua, and nothing in my remarks should be understood to be a waiver, expressed or implied, of the privilege and immunity of the United Nations under the 1946 Convention.

I would like to start briefly by referring to the OHCHR mandate and then focus my attention on our work in Nicaragua. Our office is the leading U.N. entity on human rights with a unique mandate to promote and protect all the human rights for all people. Within the framework of its global mandate under the General Assembly Resolution 48/141, our Office provides assistance in the form of technical expertise and capacity development in order to support implementation of international human rights norms and standards on the ground.

Monitoring and reporting is a fundamental part of our work. Through the independent voice of the High Commissioner, the Office can identify gaps concerning fulfillment and implementation of human rights and play an important role in raising the alarm of a specific situation with an aim at preventing human rights violations.

Our report on Nicaragua and our recommendations provided therein offer, we believe, an important tool help Nicaragua overcome its current deep political and social crisis, strengthen its institutions, and help in the search for true accountability. I am very happy to have here working with Maria Claudia because this is the way we are working in the field.

At the invitation of the government, a team of our office was deployed in Nicaragua in 26 June of this year to support the work of the Verification and Security Commission established within the national dialogue process and to carry out human rights monitoring.

On 29 August, the then High Commissioner, Zeid Ra'ad Al Hussein, presented the public report "Human Rights Violation and Abuses in the Context of Protests in Nicaragua, 18 April to 18 August 2018." As highlighted and mentioned here by the former High Commissioner, repression and violence observed over the past five months are the product of the systematic erosion of

human rights over the years and highlight the overall fragility of institutions of the rule of law.

Based on analysis of information available for our office, the overall response of authority to protest has failed to meet applicable standards of the management of assemblies in violation of international human rights law.

Human rights violations documented by the Office include disproportionate use of force by the police that sometimes result in extrajudicial killings, enforced disappearances, obstruction to access to medical care, widespread arbitrary or illegal detention, prevalent ill treatment and instances of torture and sexual violence in detention centers, violation of freedom of peaceful assembly and expression, including the criminalization of social leaders, human rights defenders, journalists, and professors considered critical of the government.

In the current state of the crisis, authorities continue to resort to smear campaigns, threats of persecutions, arbitrary dismissal of civil servants, and other forms of harassment or intimidation against individuals and human rights defenders 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 protestors, or simply expressed dissenting opinion have been forced to hide, have left Nicaragua, or are trying to do so. The current number of protests reduced indicates the chilling effect of the repression.

Regarding the state's duty to investigate, 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 the media outlets for what they have termed "coup-related violence."

In the report, the High Commissioner made 16 recommendations: 12 to the government, two to the national human rights institution, and two to the international community. Among them:

Put an immediate end to harassment, intimidation, stigmatization, criminalization, and other types of reprisals in relation to participation in the protests.

Ensure that independent, impartial, effective, and transparent investigations be promptly conducted into all allegations of serious human rights violations and abuses that have occurred since 18 April.

Halt all unlawful arrests and release all persons who have been arbitrarily detained.

Ensure that the due process rights of all persons being persecuted are respected and that any criminal charges brought against them are in line with the principles of legality, proportionality, and individual liability.

Resume the national dialogue in a meaningful and inclusive way to reach agreement based on human rights and democratic principles.

Grant our Office direct and unfettered access to the whole country, including places in detention.

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

And regarding the Human Rights Council and the broader international community, and I will finish with this, monitor the developments in Nicaragua. Consider taking measures to prevent a further deterioration of 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. And call on Nicaragua to abide by its international human rights obligations and to fulfill 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.

Thank you very much.

[The prepared statement of Mr. Fernández-Maldonado follows:]

PREPARED STATEMENT OF GUILLERMO FERNÁNDEZ-MALDONADO

Written Presentation of:

Office of United Nations High Commissioner for Human Rights

Presented by:

Guillermo Fernández Maldonado
Senior Human Rights Officer
Mission Coordinator for Nicaragua

at a hearing on

"The Evolving Human Rights Crisis in Nicaragua"

before the

Tom Lantos Human Rights Commission

September 27, 2018

INTRODUCTION

My attendance today before the Tom Lantos Human Rights Commission is in my capacity as Senior Human Rights Officer of the Office of the United Nations High Commissioner for Human Rights, Mission Coordinator for Nicaragua. I am here to provide an informal, unsworn, oral briefing to the Commission on the topic of human rights crisis in Nicaragua and nothing in my remarks should be understood to be a waiver, express or implied, of the privileges and immunities of the United Nations under the 1946 Convention on the Privileges and Immunities of the United Nations.

Chairman Mc Govern, Chairman Hultgren and members of the Commission, on behalf of the United Nations High Commissioner for Human Rights, Michelle Bachelet, I would like to thank you for the invitation extended to us to brief this Committee about the findings from our monitoring activities, since April 2018, and recommendations made by the High Commissioner for Human Rights to the State of Nicaragua and the international community.

I would like to start by briefly refer to OHCHR's mandate and then focus my intervention on our work on Nicaragua, and in particular on the findings and recommendations of the report we published on 29 August "Human rights violations and abuses in the context of protests in Nicaragua. 18 April-18 August 2018".

OHCHR OVERVIEW

OHCHR is the leading UN entity on human rights with a unique mandate to promote and protect all human rights for all people. Within the framework of its global mandate under General Assembly resolution 48/141, OHCHR provides assistance in the form of technical expertise and capacity-development in order to support the implementation of international human rights norms and standards on the ground. It assists governments, which bear the primary responsibility for the protection of human rights, to fulfil their obligations and supports individuals to claim their rights. Likewise, it is the Secretariat to all UN human rights mechanisms – such as the Human Rights Council and the treaty monitoring bodies.

Monitoring and reporting is a fundamental part of OHCHR work. Through the independent voice of the High Commissioner, the Office can identify gaps concerning fulfilment and implementation of human rights and play an important role in raising the alarm on specific situations with an aim at preventing human rights violations.

In this regard, our report on Nicaragua and the recommendations provided therein offer, we believe, an important tool to help Nicaragua overcome its current deep political and social crisis, strengthen its institutions, and help in the search for truth and accountability.

OHCHR remains ready to support the Nicaraguan State to fulfil its international human rights obligations. We will also continue to cooperate with regional human rights mechanisms and the international community.

OHCHR ENGAGEMENT WITH NICARAGUA

Since the beginning of April, OHCHR Regional Office for Central America, based in Panama, started to closely monitor and report on the human rights situation in Nicaragua when initial demonstrations alerting on the slow and insufficient response of the Government to forest fires in the Indio Maíz Biological Reserve erupted in the country.

At the invitation of the Government, a team of OHCHR human rights officers was deployed to Nicaragua on 26 June 2018, to support the work of the Verification and Security Commission established within the National Dialogue process, and to carry out human rights monitoring. OHCHR team also coordinated its activities with the Inter-American Commission on Human Rights, as per on-going practice and agreement of cooperation, provided technical assistance to UN agencies present in the country in relation to their contributions to the Universal Periodic Review (UPR) process, and regularly shared information and analysis with the international community.

In addition to these activities, OHCHR Regional Office for Central America, based in Panama, conducted a joint mission with UNESCO to specifically monitor the situation of journalists and media workers, and hosted a two-day training in Managua with 40 human rights defenders on protection measures and civil society engagement with the UPR process.

On 29 August, the then High Commissioner, Zeid Ra'ad Al Hussein, presented the public report "Human rights violations and abuses in the context of protests in Nicaragua. 18 April-18 August 2018", that was the product of the monitoring work conducted both remotely and from Managua (also available at https://www.ohchr.org/Documents/Countries/NI/HumanRightsViolationsNicaraguaApr_Aug2018_EN.pdf).

The next day the Minister of Foreign Affairs of Nicaragua sent a letter to OHCHR informing that the Government was withdrawing the invitation to visit the country given that the reasons for the visit linked to the work of the Verification and Security Commission had ceased. Therefore it asked OHCHR team to leave the country. Since then, a team has continued to monitor remotely the situation from Panama through available open sources,

complaints, reports and interviews carried out remotely and in other neighboring countries.

It must be noted that the international community has echoed the concerns regarding the crisis in Nicaragua and has strongly supported the work of the Office, regretting the expulsion of OHCHR from the country, and acknowledging OHCHR's report. This has been recently reflected in the joint statement issued by 36 States at the Human Rights Council and the adoption of the latest OAS' resolution on Nicaragua on 12 September.

MAIN FINDINGS

I would like now to share with you the main findings from the High Commissioner's report that summarize patterns of human rights violations and abuses committed in relation to the social protests and the ensuing political crisis in Nicaragua.

However, as highlighted by the former High Commissioner, repression and violence observed over the past five months are the *"product of the systematic erosion of human rights over the years, and highlight the overall fragility of institutions and the rule of law."* Communications from several Special Procedures from the Human Rights Council, as well as views and concluding observations from UN treaty bodies and the recommendations emanating from the UPR mechanism of the Council also reflected analogous concerns.

- 1) According to OHCHR report, since the social protests began in April 2018, repression and other forms of violence have resulted in over 300 people killed and 2,000 persons injured.
- 2) The unfolding crisis has undergone three phases. The first one saw a repressive response to the protests by the police and pro-Government armed elements, and was followed by a "clean-up" stage (from mid-June to mid-July), whereby pro-Government armed elements, including those known as "shock forces" (*fuerzas de choque*) and mobs (*turbas*), forcibly dismantled roadblocks and barricades. The third and current stage of the crisis has seen demonstrators and others considered as Government opponents persecuted and criminalized.
- 3) Based on analysis of information available to OHCHR, the overall response of the authorities to protests has failed to meet applicable standards of the management of assemblies, in violation of international human rights law.
- 4) Although some demonstrations turned violent, the vast 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. The response sought to systematically repress dissent against the Government.

- 5) 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 protestors considered critical of the Government.
- 6) Information obtained by OHCHR strongly indicates that pro-Government armed elements, including “shock forces” and “mobs”, 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.

- 7) The overall enjoyment of the rights to health, work, education and food has been severely impacted since the beginning of the crisis. This takes place in context of a deteriorating economic situation.

The repression of protests by the police and pro-Government armed elements generated a violent response by some individuals who took part in the protests. Serious abuses were committed by anti-Government protesters including the killing and injuring of police officers and members of the Sandinista party and the destruction of public infrastructure. These abuses should be duly investigated and those responsible should be penalized within fair trials. OHCHR has stressed that the abuses committed do not legitimize in any way a response that is not in line with international human rights law.

- 8) In the current stage of the crisis, authorities continue to resort to smear campaigns, threats of prosecution, arbitrary dismissals of civil servants and other forms of harassment or intimidation against individuals and human rights defenders perceived as critical of the Government. Leaders of rural movements (*Movimiento Campesino*) and of student movements have been particularly targeted
- 9) 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.
- 10) According to estimates made by non-governmental organizations, as of 18 August more than 300 individuals, including human rights defenders, are facing trials for serious crimes, including charges of terrorism and organized crime, for having participated or supported the protests. 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.

- 11) The current number of protests (reduced) indicates the chilling effect of repression. Throughout September, we have received a number of reports of firearms attacks and intimidation against peaceful protesters in the course of marches held in Managua and other localities by Sandinistas' mobs, pro-government armed elements and Police.

State's duty to investigate:

- 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"
- The Government has attributed the responsibility for all violent actions to those who participated in the protests, including concerning the 198 deaths it had recognized as of 25 July. It has not acknowledged any disproportionate use of force or illegal actions by police officers.
- 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.

RECOMMENDATIONS

In his report, the High Commissioner made 16 recommendations (12 to the Government, 2 to the National Human Rights Institution and 2 to the international community).

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.

I thank you again for convening this hearing and remain at your disposal to answer any questions you may have.

END

Mr. MCGOVERN. Well, thank you very much.

Ms. Pulido, you mentioned the installation of the Special Monitoring Mechanism for Nicaragua in June and the creation of the Interdisciplinary Group of Independent Experts on July 3. Can you explain for us the mandates of these two bodies and how they relate, and if you could update us as to the status of these two bodies, I mean, do they continue to function in Nicaragua?

Ms. PULIDO. Yes.

Mr. MCGOVERN. Just press your mic.

Ms. PULIDO. Yes. The MESENI, the special mechanism for following up in Nicaragua, it has like two mandates, principal mandates. So, on one side, the MESENI has to follow up with the compliance of the 15 recommendations issued by the Commission, and at the beginning, we have the opportunity to have high-level dialogues with the authorities in Nicaragua and exchange information regarding the advance and challenges to fulfill those recommendations. And it was important we have the opportunity to meet with them in a collective manner and also to have like bilateral meetings. But then, as I said, since the beginning of July, those interchange of information stopped.

And the other mandate that has the MESENI is to monitoring the situation in the field, what is happening. And how it do that? It can have meetings with NGOs, with victims, families, relatives of the victims and also now we are working really focused on capacity-building of the civil society, how the civil society can use the Inter-American Commission's mechanism in order to promote the human rights and defense the human rights of the people in Nicaragua.

And on the other side, the Group of Independent Experts have a very particular mandate to help the internal – the national authorities for the prosecutions of crimes committed since August 18 to May 30. So it has like a special time for its mandate, and the situation now is that they never have access to the files in order to review the files and to cooperate directly with the authorities.

So and it is really important to share with you that in the agreement that the Commission signed with the state and the general secretariat was a provision that the state had to provide all the facilities toward this Group to access to the files and to the witnesses and to the hearings, but it never happened.

So the Group is working in the field with experts but with other means in order to collect the data and evidence with the idea to draft and to present a report at the end of its mandate – December of this year.

Mr. MCGOVERN. But essentially, because of the lack of cooperation by the authorities, the mandates are severely diminished. I mean, you can monitor in the field, but that is about it, right?

Ms. PULIDO. Yes, and you can – one of the main concerns that we have is regarding the protection of the people that the Commission issued precautionary measures. We have 114 people beneficiary of the measures, but we don't know how the state is providing that protection. And actually in the last time that we were with Guillermo, that we met with Guillermo in Managua, we discussed with

the people directly how this precautionary measure is being enforced, and they said that there is nothing from the state at that level.

Mr. MCGOVERN. So both your organizations have, you know, along with many others, have called for accountability for human rights abuses that have taken place, you know, and in order to do that, you need to have access to files and the documentation has to be there. There has to be preservation of evidence, and, you know, that might be used for future prosecutions. But you can't do that without the cooperation of the authorities. I am just trying to figure out like what options do you have to encourage the government to grant you access to the people that you want to talk to or to the files that you need? Where is our, where is our ability to get them to cooperate? What could we do better to get them to be more cooperative?

Ms. PULIDO. We think the Commission has been discussing a lot about this issue, and we started looking for different channels. The first one was the diplomatic channel, and the Commission tried to start to retake the dialogue with the state but without any success. So we think that the multilateral approach is really important, and in the case of the Organization of American States, the active role in the Permanent Council, trying to create, and we can see like the environment that can't lead, that the government changed their willingness, that we know that if the government just wants to open the fight, they can do it. If they want – because they did it in the past, so we thought that the role of the international community is crucial at this point because Nicaragua is also reaching the different states and international voice for cooperation, so we think that the international community has a really important role to let the state to change its ways that they have now.

Mr. MCGOVERN. Sir.

Mr. FERNÁNDEZ-MALDONADO. Only to complement that, first, I think that there are different approaches. Regarding human rights violations, I think we have the information. That is why we had reports saying that happened. Another track is regarding individual responsibility, the criminal investigation. That is the problem right now because basically you don't have any kind of respect of due process granted. And I think, according with what is saying here, in different levels, there is a set of recommendations. But the main thing is political will for the implementation, but we discuss a lot. We sent a lot of recommendations, and upon regarding the different phases, they are more or less willing. But only to finish, for us, there are two key approaches. One is victims, rights of victims, and the second one is how to get back to dialogue, create the conditions to get back to the dialogue.

Mr. MCGOVERN. Well, maybe we can talk about that for a minute, and I mean what conditions would it require to accomplish a peaceful, negotiated solution to the current conflict? And, again, we are trying to figure out where the levers are. How much leverage do you think the U.N. and the OAS mechanisms will have to push for democratic reforms and to help push the government toward, you know, a peaceful solution to what is happening now? And because, I mean, you know, as I am looking at this from here, it seems the situation continues to get

worse, and the government seems to get more and more intransigent, and I am just trying to figure out how do we create these conditions, and what are those conditions, so that we can, you know, end the violence and, you know, to get a peaceful, negotiated solution to the political crisis.

Ms. PULIDO. That is a really difficult question because, from our perspective, that is the human rights verification and monitoring in the country. I think that is another level, a level of a political discussion, and the Commission has been really cautious to be a part of that political discussion, and more than to provide information and evidence of what is happening in Nicaragua right now.

But certainly the Commission thinks that the role of the – in the case of the regional level, the role working together the General Secretariat of the OAS, the political bodies of the organization, and particularly the role of the countries that are part of the organization, are crucial to set the conditions that it needs in order to reassume the national dialogue and to legitimize the participation of the different actors that were in the table.

Mr. FERNÁNDEZ-MALDONADO. More or less in the same sense, in fact, the regional universal entities are working in this regard. We are working in the field of human rights, but in both cases, the political entities are working and for sure in OAS, and they have resolutions and recommendations but also the Political Affairs Department of the U.N., we are in contact from Nicaragua, but they are in charge. And the Secretary General has already meetings and recommendations in this regard. Then, but our work regarding monitoring, our recommendations are basically on the field of human rights.

Mr. MCGOVERN. Mr. Maldonado, you mentioned doing the mission with UNESCO to monitor the situation of journalists and media workers. Can you evaluate for us the situation of journalists and media at this point in time in Nicaragua?

Mr. FERNÁNDEZ-MALDONADO. Well, during the period we were there, you really find part of the, what the government, and we mentioned this in the report, feel that it is an opposition created, as part of the victims of different kind of harassment and attacks, and that has happened in many ways. In fact, part of the victims were journalists. There are some kind of harassment against some of the networks, including regarding TV or people that they are part of the demonstration for communication means. And the last information that we are receiving is including some basic needs regarding the elements they have to import for other countries because the lack of funds, that they are saying no or saying – one of the main newspapers, that they mention us, and we mention in the report, that they should start to work only in black and white because they will not receive different [unintelligible] in this regard.

But for sure, on the other hand, you have access to different newspapers on TV and radio of the opposition, but in this complex framework.

Mr. MCGOVERN. So the government of Nicaragua has said that some of the violence has been – I mean, obviously they try to blame the opposition, but then they say some of the violence against the opposition have been done by forces that are not connected to the government, you know, that the government

hasn't done anything, and we know that is not the case, but do we know – what do we know about the origins and compositions of these pro-government armed groups that are doing some of the dirty work for the government?

Ms. PULIDO. From the testimony that we receive on the different investigations that we conduct, we have now a better sense of how the structure is in the different forces. We have a police force that it has a mandate over every single aspect of the civil security enforcement. But then they have like a group of people who work really close to the police agents, and they call them, we call them, parapolice groups because they are following the instructions of the police. They are in charge of the repressions, detention of people, and they conduct all the people that they need to the centrals of the police forces, and they work really close. And we know now, but the government says that is like a voluntary police force, but it is a regular force. It is not subject to any law or protocol, and it seems to have really close ties with the official party.

So, and there is another group of people which they call *turbas*. There is people, normal people, ordinary people, who just are paid to be a part of the repression of the demonstrations or to be in the political raids that the party conducts. So there are like the official, unofficial by the structure, of this group of *turbas*.

Mr. MCGOVERN. I am trying to be sensitive to not ask you political questions, but maybe we can kind of close this panel with maybe some description and your concerns about the recent antiterrorism laws that have been put into place and how they are affecting the human rights situation.

Ms. PULIDO. Can you please –

STAFF. The recent antiterrorism legislation.

Mr. MCGOVERN. The antiterrorism legislation that has been proposed.

STAFF. If you could elaborate on the concerns.

Ms. PULIDO. The information that we have now is that this is a very broad terrorism law, and it could be used for any conduct, just to be opposing the regime participating in this – in any kinds of demonstrations or the things that the state assume as a threat. But we have recent information that one organization, the CENIDH, is presented appeal against the law. So we are waiting. It is difficult to have any success with this closed and one head of state, but we are following up really closely.

Mr. FERNÁNDEZ-MALDONADO. The High Commissioner Office issued some kind of a statement regarding the proposal to reform the terrorism law, and we received a very strong response for the government, and –

Mr. MCGOVERN. I assume not happy with your response, right?

Mr. FERNÁNDEZ-MALDONADO. Absolutely.

Mr. MCGOVERN. Right. Okay. Yeah.

Mr. FERNÁNDEZ-MALDONADO. We released that statement because the experience in the region was that this kind of law was used against protests and social indigenous leaders. We alerted the risk regarding not only the content but also when will we discuss this is in the middle of the protest. And we mentioned also in the report, it is not only the content but also the interpretation of the law,

and what we found is that that was incredibly open, basically probably 80, 90 percent of the cases that people that participated in the protests were accused of terrorism and be part of a criminal gang, basically.

Mr. MCGOVERN. And, you know, we have done many hearings on the human rights records by authoritarian regimes all around the world, and the experience is that they pass these antiterrorism laws to put a legal justification on cracking down on their opponents who are engaged in nothing more than peaceful protest.

Let me just finally say, look, we are trying to figure out how we can be constructive in helping to not only highlight the human rights situation, but also to, you know, push for a resolution in terms of this conflict. And it is not so apparent how we can be most constructive here in the Congress. So I don't know if you have any suggestions of things that we might do that might be effective in changing the reality of which, again, seems to me, as I am watching things unfold, to be getting worse and not getting better. But I would let you – or if you have any other final thoughts that you might want to express that I haven't asked, you know, I will afford you this opportunity to do that.

Ms. PULIDO. In our case, we understand that frustration. We have the opportunity to talk with people in different stages of this crisis, and every time that we have this interview, we can have the sense of how the situation is putting more pressure on the people. So the Commission is trying to understand how, with the limits of the mandates, can work more closely and to be more useful in this situation.

The Commission thinks that it is important that the U.S. continue supporting the multilateral mechanisms to protect human rights in Nicaragua. The leadership is really important and the presence in the field is crucial. But I take the homework to transmit this question to the Commission, who is going to have a session in Boulder, Colorado, the next week. So maybe the seven members of the Commission can discuss it, and we can present a written response to this crucial issue.

Mr. MCGOVERN. That would be helpful. That would be helpful.

Ms. PULIDO. Yes.

Mr. FERNÁNDEZ-MALDONADO. More or less in the same sense, we have different functions in the U.N., and I know because we were in touch over the last three months at least with the Department of Political Affairs, and they are working very hard in order to how to improve the situation and offer some kind of services in coordination also with the regional OAS, the international – Inter-American Human Rights Commission.

Again, I think it is very important in both cases to be in the field, in our cases, only to – including the case where staying in Managua, people said that they prefer to stay in Managua, not throughout the country, because they feel a better protection in that case. I think again how to come back to the dialogue, it is interdisciplinary action. Part of it will be human rights; the other will be the other agents. But would be key to find what are the conditions that are acceptable for all parts, and, again, it was mentioned during the discussion also and the report,

not only what will happen in the next month, but in the next years, and that will be absolutely key. Again, we raised this in the presentation of the report: It is not only about the crisis; there are some kinds of measures to face a crisis. But this is, as mentioned by the High Commissioner, a long-term problem related to rule of law and democratic institutions.

Mr. MCGOVERN. No, and I appreciate that, and I know it is a difficult question to ask, but I ask it because, you know, I want to make sure that what we do here doesn't further polarize the situation, and I am just going to say in all candor, I mean, when we talk about human rights, our current administration doesn't always walk the walk when it comes to human rights, and so sometimes depending on who is delivering the message makes a difference. And I don't want you to comment on that, but I am just saying, for the record, that, you know, I think what we are focused on is making sure that, you know, the human rights violations stop and the people of Nicaragua get to determine their own fate without interference from outside sources and to be able to do so in a peaceful way, and to be able to do so like any one of us, all of us, in this room would like to do in terms of our respective governments.

But I would just close by saying that if you have ideas of ways that Members of Congress in particular can be of help, whether it is through doing a visit or going to, you know, or talking directly to the Nicaraguan Government, or what have you, I mean, we are certainly open to that. That is what part of this Commission's mission is, is to try to figure out how we can help move things in a positive direction.

But we have been getting calls from people from all sectors expressing their deep concern over what is happening. We have had members who are Sandinistas. We have had people who call us who are Sandinista. I have had Jesuit priests. I have had teachers. I have had, you know, journalists, you know. I mean, you name, you know, the background of somebody, and they have called us to express their concern over what is happening. And so we want to try to be of help if we can. So thank you very much for being here. I appreciate it.

Ms. PULIDO. Thank you.

Mr. MCGOVERN. Our next panel is George Henríquez. As a member of the Kriol community of the Caribbean coast of Nicaragua with years of experience in community development work and support for the rights of indigenous and Afro-descendent people, and he has advocated for the autonomy for the Caribbean coast and opposed Law 840, which gave Chinese investor group HKND large concessions to build the transoceanic canal. He is one of the founders of the self-convened Coastal Movement created in the context of the recent protests.

And then Julio Martínez Ellsberg lives in Nicaragua and is a member of the Platform for Social Movements and Civil Society Organizations, as well as an adviser to the University Coordinator for Democracy and Justice, one of the main student movements in the national dialogue. Both organizations have been working since April 18 to bring an end to the politically-motivated murders and

detentions in Nicaragua and ensure that there is justice for the repression that has occurred and return the country to a democratic path.

We appreciate both of you being here, and who wants to begin first?

Mr. Henríquez?

Mr. HENRÍQUEZ. Yes.

Mr. MCGOVERN. Thank you.

STATEMENTS OF GEORGE HENRÍQUEZ, MEMBER, PLATFORM FOR SOCIAL MOVEMENTS AND CIVIL SOCIETY ORGANIZATIONS (*ARTICULACIÓN DE MOVIMIENTOS SOCIALES Y ORGANIZACIONES DE SOCIEDAD CIVIL*), AND JULIO MARTÍNEZ ELLSBERG, MEMBER, PLATFORM FOR SOCIAL MOVEMENTS AND CIVIL SOCIETY (*ARTICULACIÓN DE MOVIMIENTOS SOCIALES Y ORGANIZACIONES DE SOCIEDAD CIVIL*).

STATEMENT OF GEORGE HENRÍQUEZ, MEMBER, PLATFORM FOR SOCIAL MOVEMENTS AND CIVIL SOCIETY ORGANIZATIONS (*ARTICULACIÓN DE MOVIMIENTOS SOCIALES Y ORGANIZACIONES DE SOCIEDAD CIVIL*)

Mr. HENRÍQUEZ. Good morning to all. My name is George Henríquez Cayasso, a Kriol Afro-descendant from the Caribbean coast of Nicaragua. On behalf of my country, fellow members and communities, I would like to express my heartfelt thanks and appreciation to all who have contributed to make this opportunity happen.

When I got the privilege to address the Congress of the United States of America, my first thought was, how I can express to you the pain that my country is suffering?

[Nicaragua] is not the same ever since April 19. We do not have peace but turmoil because of the irresponsibility of the central government to respect the basic conditions of human rights of our society. The Nicaraguan Constitution recognizes us the right to protest and speak out against a system that is not beneficial for our people, and we decided to exercise this right.

I am here to tell you that the situation in Nicaragua is a problem that is taking away the lives of our children and youth. At the same time, it is a problem that is affecting migration to our neighbors in Central American area, which soon will be reflected on the United States border because of the over 23,000 people that had left the country since this turmoil started. So it is important to call your attention on the level and intensity of the atrocities committed by the police and paramilitary forces directed by the president of our country in the past five months.

While writing these lines, a friend I have in Costa Rica in a refugee camp told me, people are trying to leave Costa Rica and reach to the USA because here there is no work. We got to depend on people to eat. I am young, and I can't live too long as a beggar.

And I believe the same is happening to other refugees in other countries in Central America. As you may see, those 23,000 people that had emigrated are expecting to go back home to Nicaragua, but if not, their destination would be the USA borders.

In Nicaragua, our human rights as indigenous and Afro-descendant people were also being violated even before April 19, 2018, and for this, we ask all people and countries who are in favor of peace, democracy, justice, and respect for basic human rights to take a close look at what is happening in our country and the fear people are in. Today, we need of your influence for Ortega to comply with the respect of basic human rights, which has been taken away from us because of his incapacity to govern and constant violation of our Constitution.

Nicaraguans today demand changes in a peaceful, non-violent way. Our parents and grandparents already lived two different moments of wars during the seventies and eighties. We believe in a non-violent and non-military revolution is possible for structural changes and fundamental changes in benefit of all Nicaraguans.

Ortega's violations of human rights in Nicaragua didn't begin in April. On the Caribbean coast of Nicaragua, it began way before. Between 2011 and 2018, there are over 3,000 indigenous people displaced, over 100 documented cases of indigenous and Afro-descendant people of the Caribbean coast that had been either kidnapped, injured, or killed because of a policy of colonization of the Ortega government supporting land grabbers to establish themselves on the Caribbean coast of Nicaragua in exchange for electoral votes. Twelve communities on the Caribbean coast of Nicaragua – Francia Sirpi, Santa Clara, La Esperanza, Río Wawa, Wisconsin, San Jerónimo, Santa Fe, Esperanza, Río Coco, Klisnak, Polo Paiwas, Cocal, Naranjal, Wiwinak – had been benefited with precautionary protection measures by the international court of human rights. These are not being respected or supported by Ortega's regime, and they are still suffering constant attacks from a program of colonization supported by Ortega's government.

The actual repression that protestors are facing since April 2018 in different departments in Nicaragua is not new for some people on the Caribbean coast. They perfected this type of repression on the Caribbean coast, but when it was spoken about, very few people decided to listen or help us to speak out about it, and many accused us as racists, radicals, separatists, and others.

The Rapporteur for Indigenous Human Rights called on the Nicaraguan authorities to immediately establish a dialogue with the indigenous communities in order to agree on a long-term solution to this situation and to initiate the sanitation process to which they committed to do, prioritizing the territories in conflict, to proceed to the transfer of the settlers to their places of origin or to their location. However, the authorities ignored their calls making justice for people on the Caribbean coast of Nicaragua and access to land rights a difficult issue. Ortega government is always in a constant negation of incidents, the same way he is in denial of the deaths, tortured, injured, and disappeared people since April of 2018.

But I must speak also for the mestizo campesinos, who led the nation in the first widespread protest against the regime and suffered unnumbered repression from the Ortega's regime. This began in 2013 when a so-called great interoceanic canal law was approved in a matter of hours by the Ortega-controlled national assembly, a coast-to-coast project in which a chunk of Nicaragua was literally handed to a Hong Kong financial tycoon in return for a now legally binding concession that would physically alter the geography and ethnography of the country and whole Central America. There was no consultation with the indigenous, Afro-descendant, campesinos, civil society, or any sector in Nicaragua, notwithstanding the consultation requirements upheld in the Constitution, the Convention 169 of the International Labor Organization, the autonomy law of the Caribbean coast of Nicaragua, and the law for the demarcation and land titling of indigenous and Afro-descendant people of Nicaragua basing on customary rights.

We see that the use of thugs and paramilitary repression that protestors faced in Nicaragua since April 2018 were tried out and perfected years earlier on the Caribbean coast and rural Nicaragua. Ninety-eight marches were held by campesinos and environmental groups accompanied by different sectors of Nicaragua in protest of this canal project. Often they were met with brutal, violent forces from the government, thugs, and police, provoking a number of injuries as a clear statement that in the country there is no freedom of speech and mobilization. But the campesinos kept on marching through violent repression, lifting up the morale of our people through a civil and non-violent protest as they march in the major cities peacefully and non-violently.

If we protested, we were accused of being racist, radicals, separatists, and now, because of a recently enacted national security law, protestors are now called terrorists subject to 20-year sentences for protesting. These people Ortega is calling "terrorist" had never left the country. Most of these people don't own a passport or have WiFi access at home. The key campesinos leaders, three of them – Medardo Mairena, Pedro Mena, and Víctor Díaz – is in jail charged with homicide, and other leaders such as Francisca Ramírez, known as Doña Chica, was forced to flee to Costa Rica as a clear way of persecution of leaders in the country.

This Commission, Mr. Chairman, should speak out in support on the behalf of those mentioned today.

Now a question in the matter is, why have all these international treaties of protection for human rights and minority rights for people if they are not being respected? Our struggle for our people on the Caribbean coast has historically been directed at the Nicaraguan state, but today we join everyone in the country against Ortega and his wife's regime. Today, people of Nicaragua from all different scopes of life are united asking for basic human rights respect, such as the right to live, freedom of speech, access to justice, liberty, freedom of mobilization and organization. We are demanding the resignation of the President and Vice President, Ortega and his wife, due to basic human rights violation.

In the United States, at least two presidents barely escaped impeachment for acts that were far less serious than those committed by Ortega. I ask all of you, how can one ethically demand anything less than the resignation of a sitting commander-in-chief that gives orders to shoot to kill his own people?

Our protests in April were not party – politically led. These protests were led by grassroots organizations, feminist organizations, LGBT collectives, civil society, and students based on 11 years of constitutional and human rights violation. Our protests are civic and non-violent. Eighteen kids under the age of 18 had been shot dead by paramilitaries including a 2-year-old baby and an entire family burned up in their houses because they denied paramilitary to enter their house to shoot at protestors. A journalist from Bluefields, Ángel Gahona, shot in his head and killed while transmitting live, and two Kriol boys, Glenn Slate and Brandon Lovo, 20 and 18 years old, wrongfully accused of Ángel's death. Twenty-five deaths in a protest in Carazo, and least 18 deaths on Mother's Day protest.

Nicaragua had in the last 40 years two armed revolutions, the revolution to overthrow Somoza in the seventies, and the Contra Revolution which overthrew the Sandinistas in the late eighties. Both revolutions left the country a death toll of over 50,000 deaths, experience which is not desired by my generation.

The Nicaragua protest is not a fight about lefties against righties or righties against lefties. This is a fight for survival and respect of basic human rights for women, children, indigenous, Afro-descendant, campesinos, students and everyone. This is a fight of Nicaragua people against Ortega and his wife's regime who is persecuting all upcoming leadership and old leadership, including the *Frente Sandinista* revolutionary leaders. The regime criminalizes protestors as terrorists, torturing and depriving of basic human rights of people who are being locked up in El Chipote. Today, we ask you to request *ante* the Nicaraguan Government the closing of El Chipote jailhouse where there is inhuman conditions for prisoners and now political prisoners.

All genocides and war conflicts in human history – I'm going to repeat this – all genocides and war conflicts in human history are started with basic human rights violation. War is not an option for us. No one wins with a war. Our economy and country are too poor and fragile, and we had learned that there is no winner in a war. Our fight is going to continue being a non-violent fight. Avoiding a genocide in Nicaragua may be in the hands and effectiveness of complying with the respect of international human rights.

I am closing this statement with a Martin Luther King, Jr., statement that says: Justice too long denied is a threat to justice anywhere.

Thank you very much, *thinki pali*.

[The prepared statement of Mr. Henríquez follows:]

PREPARED STATEMENT OF GEORGE HENRÍQUEZ

**House Foreign Affairs Committee
Tom Lantos Human Rights Commission**

**Hearing
on
THE EVOLVING HUMAN RIGHTS CRISIS IN NICARAGUA**

**September 27, 2018 – 9:30 a.m.
2200 Rayburn Building**

**Statement of George Henríquez Cayasso
Member
Platform for Social Movements and Civil Society Organizations**

Good morning to all congressmen and congresswomen.

My name is George Henríquez Cayasso a Kriol Afro descendant from the Caribbean coast of Nicaragua. On behalf of my country, fellow members and communities, I would like to express my heartfelt thanks and appreciation to all who have contributed to make this opportunity to happen.

When I got the privilege to address the congress of the United States of America, my first thought was, how I can express to you the pain that my country is suffering Nicaragua is not the same ever since April 19th · we do not have peace but turmoil because of the irresponsibility of the central government to respect the basic condition of the human rights of our society. The Nicaraguan constitution recognizes us the right to protest and speak out against a system that is not beneficial for our people and we decided to exercise this right.

I'm here to tell you distinguished congressmen and congress women that the situation in Nicaragua is a problem that is taking away the lives of our children and youth; at the same time it is a problem that is affecting migration to our neighbors in the central American area, which soon will be reflected on the United States border because of the over 23,000 people that had left the country since this turmoil started, so it is important to call your attention on the level and intensity of the atrocities committed by the police and paramilitary forces directed by the president of our country in the past five months. While writing these lines a Friend I have in Costa Rica in a refugee camp told me "*People are trying to leave Costa Rica and reach to the USA, because here there is no work, we got to depend on people to eat, I'm young and I can't live too long as a beggar*" and I believe the same is happening to other refugees in other countries in Central America, as you may see those 23,000 people that had emigrated are expecting to go back home to Nicaragua but if Not their destination would be the USA borders.

In Nicaragua our human rights as indigenous and afrodescendant people were also being violated even before April 19th 2018 and for this we ask all people and countries who are in favor of peace, democracy, justice and respect for basic human rights to take a close look at what is happening in our country and the fear people are in. Today we need of your influence for Ortega to comply with the respect of basic human rights which has been taken away from us because of his incapacity to govern and constant violation of our constitution.

Nicaraguans today demand changes in a peaceful nonviolent way, our parents and grand parents already lived two different moments of war during the 70's and 80' we believe in a

non violent and non military revolution is possible for structural changes and fundamental changes in benefit of all Nicaraguans.

Ortega's violations of human rights in Nicaragua didn't begin in April, on the Caribbean coast of Nicaragua- it began way before, between 2011 and 2018. There are over 3000 thousand Indigenous people displaced, over 100 documented cases of Indigenous and Afro-descendant people of the Caribbean coast that had been either kidnapped, Injured or killed because of a policy of colonization of the Ortega's government supporting land grabbers to establish themselves on the Caribbean coast of Nicaragua in exchange for electoral votes; 12 communities of the Caribbean coast of Nicaragua (***Francia Sirpi, Santa Clara, La Esperanza Rio Wawa, Wisconsin, San Jerónimo, Santa Fe, Esperanza Rio Coco, Klisnak, Polo Paiwas, Cocal, Naranjal, Wiwinak***) had been benefited with precautionary protection measures by the international court of human rights. These are not being respected or supported by Ortega's regime and they are still suffering constants attacks from a program of colonization supported by Ortega government.

The actual repression that protestors are facing since April 2018 in different departments in Nicaragua is not new for some people on the Caribbean coast, they perfected this type of repression on the Caribbean coast, but when it was spoken about very few people decided to listen or help us to speak out about it, and many accused us as racists, radicals, separatists and other terms.

The Rapporteur for Indigenous Human rights, called on the Nicaraguan authorities to immediately establish a dialogue with the indigenous communities in order to agree on a long-term solution to the situation and to initiate the sanitation process to which they committed to do, prioritizing the territories in conflict; to proceed to the transfer of the settlers to their places of origin or to their relocation. However, the authorities ignored their calls making justice for people on the Caribbean coast of Nicaragua and access to land rights a difficult issue. Ortega Government is always in a constant negation of these incidents the same way he's is in denial of the deaths, tortured, injured and disappeared people since April of 2018

But I must speak also for the mestizo campesinos who led the nation in the first widespread protest against the regime and suffered unnumbered repression from the Ortega's regimen. This began in December of 2013 when a so called "Great inter oceanic canal" law was approved in a matter of hours by the Ortega-controlled National Assembly. A coast to coast project in which a chunk of Nicaragua was literally handed to a Hong Kong financial tycoon in return for a now legally binding concession that would physically alter the geography and ethnography of the country and whole Central America. There was no consultation with the Indigenous, Afro-descendant, campesinos, civil society or any sector in Nicaragua notwithstanding the consultation requirements upheld in the Constitution, the convention 169 of the International labour organization, the autonomy Law of the Caribbean coast of Nicaragua and the law for the demarcation and land titling of indigenous and afro descendant people of Nicaragua basing on customary rights.

We see then that the use of thugs and paramilitary repression that protestors faced in Nicaragua since April 2018 were tried out and perfected years earlier on the Caribbean coast and rural Nicaragua. 98 marches were held by campesinos and environmental

groups accompanied by different sectors of Nicaragua in protest of this canal project. Often they were met with brutal violent forces from the government thugs and police provoking a number of injuries as a clear statement that in the country there is no freedom of speech and mobilisation. But the campesinos kept on marching through violent repression lifting up the moral of our people through a civil and non-violent protest as they march in the major cities peacefully and non-violently.

If we protested we were accused of being racist, radicals, separatist and now because of a recently enacted national security law, protestors are now called terrorists subject to 20 year sentences for protesting, these people Ortega is calling a terrorist, had never left the country, don't most people don't own a passport or have wi-fi access at home, the key campesinos leaders free of them, Medardo Mairena, Pedro Mena and Victor Diaz is in jail charged with homicide and others and leader Francisca Ramirez, was forced to flee to Costa Rica as a clear way of persecution of leaders in the country.

This Commission, Mr. Chairman, should speak out on the behalf of those mentioned today.

Now a question in matter is, Why have all these international treaties of protection for human rights and minority rights for people, if they are not to be respected?

Our struggle for people on the Caribbean coast has historically been directed at the Nicaraguan State but today we join everyone in the country against Ortega and his wife regime, today people of Nicaragua from all different scopes of life are united asking for basic human rights respect such as, the right to live, freedom of speech, access to justice, liberty, freedom of mobilization and organization. We are demanding the resignation of the President and Vice President, Ortega and his wife due to basic human rights violation.

In the United States at least two presidents barely escaped impeachment for acts that were far less serious than those committed by Ortega. I ask all of you: how can one ethically demand anything less than the resignation of a sitting commander in chief that gives orders to shoot to kill his own people?

Our protest in April where not party politically led, these protest were led by grass root organizations, feminist organizations, LGBTTTIQ collectiveness, civil society and students, based on 11 years of constitutional and human rights violation, our protests are civic and non-violent, 18 kids under the age of 18 had being shot dead by paramilitaries including a 2 year old baby and an entire family burned up in their house because the denied paramilitary to enter their house to shoot at protesters, a journalist from Bluefields Angel Gahona shot in his head and killed while transmitting live and two Kriol Boys Glenn Slate and Brandon Lovo 20 and 18 years old wrongfully accused of Angels death, 25 deaths in a protest in Carazo, at least 18 deaths on mother's day protest.

Nicaragua had in the last 40 years 2-armed revolution the Revolution to overthrow Somoza in the 70s and the contra-revolution which overthrew the Sandinistas in late 80's, both revolutions left the country a dead toll of over 50,000 thousand deaths experience which is not desired by my generation.

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and afro-descendant people, students and everyone, this a fight of Nicaragua people against Ortega's and his wife regimen who is persecuting all upcoming leadership an old leadership including the frente sandinistas revolutionary leaders the regime criminalize protestors as terrorist, torturing and depriving of basic human rights of people who are being locked up in el Chipote, today we ask you to request the unto the Nicaraguan government the closing of El Chipote jail house where there is infra human conditions for prisoners and now political prisoners.

All genocides and war conflicts in human history are started with basic human rights violation. War Is not an option for us. No one wins with a war, our economy and country are too poor and fragile and we had learned that there is no winner in a war our fight Is going to continue being a none violent fight, avoiding a genocide in Nicaragua maybe In the hands an effectiveness of complying the respect of international human rights treaty.

I'm closing with a statement of Martin Luther King Junior, that says, "Justice too long denied is a threat to justice anywhere"

Thank you very much, thinki pali, Seremei.

Mr. MCGOVERN. Thank you very much. Mr. Ellsberg?

**STATEMENT OF JULIO MARTÍNEZ ELLSBERG, MEMBER,
PLATFORM FOR SOCIAL MOVEMENTS AND CIVIL SOCIETY
ORGANIZATIONS (*ARTICULACIÓN DE MOVIMIENTOS SOCIALES Y
ORGANIZACIONES DE SOCIEDAD CIVIL*)**

Mr. MARTÍNEZ ELLSBERG. Good morning. My name is Julio Martínez Ellsberg. I am part of the *Articulación de Movimientos Sociales y Organizaciones de Sociedad Civil*, the Platform for Social Movements in Nicaragua.

First of all, we are grateful to the Tom Lantos Human Rights Commission and its taking a sincere interest in the current plight of the Nicaraguan people.

I would like to acknowledge the presence of the Inter-American Commission on Human Rights and the Office of the U.N. High Commissioner for Human Rights, who along with the Nicaraguan and international human rights groups, have provided accurate depictions of the reality that the Nicaraguan Government stubbornly refuses to acknowledge. They have been exemplary in their roles as witnesses and defenders and deserve the recognition of us all.

I would like to start my testimony by mentioning the names of Yaritza Rostrán, Victoria Obando, Levis Rugama, Jonathan López, Amaya Coppens, Nahiroby Olivas, Luis Quiróz, Byron Corea. These are students within the Nicaraguan public university system who have been bravely organizing students in their faculties and in other universities to demand freedom of expression, freedom from violence of the Nicaraguan state, and university autonomy. These students, most of whom I have known and worked with since the beginning of the protests, were arrested and taken to the El Chipote prison, the same place where the Somoza dictators had used to hold and torture its political prisoners. So were some of the professors, such as Ricardo Baltodano of the UPOLI, as well as over 300 fellow citizens who have been part of the protest.

I will mention that this is no abstract matter for me personally. I became involved during the first days of the protests when I saw students and my friends that were part of the protests were being brutally attacked by government groups and later police and paramilitaries. Like thousands of Nicaraguans, I decided to find a way to help in any way that I could, participating in marches and later helping organize. And this led me to experience attack by paramilitaries and witness horrible situations, such as when I took a teenager who had been wounded by gunshot from one hospital to another in my sedan because his family was terrified of keeping him in the public health system, as the entire public health system has been complicit with the repression, either denying care to protestors, handing over wounded people to police, to denying mothers the bodies of their children until they sign documents saying that they had not died in anything related to the protest.

The current state of affairs in my country is the following: After the massacre of hundreds of my fellow Nicaraguans, Ortega lost the support of all

sectors, the church, the traditional Sandinista communities, and most of the big business of which he has relied upon for support over the last decade.

For fear of losing it all, he is now moving on to intimidating the population by kidnapping all organizers nationwide. We face jail, exile, or death, and we speak here today not knowing if we will be arrested upon arrival in Nicaragua.

He hopes that by intimidating the Nicaraguan people, he discourages them from protesting and, if there are no more people in the streets, that the economy can go back to the so-called "normal" and that he can go back to business as usual with the financial oligarchy of Nicaragua and American businesses, as though nothing had happened.

However, that former state of affairs will not return. The level of violence and murder, and the political and economic crisis that has created, is one that Ortega cannot himself undo and that the Nicaraguan people are not going to just forget. Even in the midst of this murder and intimidation, the Nicaraguan people have not stopped protesting peacefully a single week in five months. And they will not stop until real change is achieved.

The Platform of Social Movements, of which I am a part of and which represents more than 60 grassroots organizations, believe that the following are key demands that must be respected for the country to go back to normality.

One, that the Ortega government must halt the repression of the marches and respect Nicaraguans' right to assemble and protest non-violently. This entails an end to the shootings, arbitrary arrests, and disappearances. We also consider it important for the U.N. High Commissioner for Human Rights to be allowed back into the country and be part of the group that is observing these changes.

He must also free immediately more than 300 political prisoners.

As human rights groups have already documented, the judicial system no longer is capable of delivering justice to the Nicaraguan people. Meanwhile, the government obviously cannot be trusted to investigate its own crimes. That is why, to move past this as a nation, investigations must be carried out by independent groups, ideally by the independent Group of International Experts that are already in the country, led by Ms. Claudia Paz y Paz, to find those responsible for the murders over the past five months, who can then be tried.

Paramilitaries must be disbanded. This apparatus that has been created by the government, and which many have suspect have ties to the army, work side by side with the police to attack the Nicaraguan population. We as a nation fear if they are not disbanded immediately, they will become a new, permanent, destabilizing force, not only for Nicaragua, but for the region as a whole, reinforcing the Mesoamerican gang system.

Early elections must happen as soon as possible after having carried out the necessary electoral reforms so that free elections are truly possible in our country. Through these elections, we want to turn a new page in Nicaraguan history where our government has respect for grassroots movements, local governance; where it has respect for the autonomy of the Caribbean coast, of the

universities, of the municipalities, and respect for all Nicaraguans to organize and express themselves freely.

Yet it is important to mention that the reforms necessary to turn Nicaragua into a republic will not be possible in Nicaragua until after Ortega's resignation. Heads of government have resigned for much less, and we deserve the right to demand that our public servants step down after such attacks on the population. We will continue to demand that resignation of the President and Vice President and all government officials who have been responsible for the atrocities that have been committed.

As social movements, we reiterate that the call has always been for nonviolence, and also we reiterate that our call is for this to be solved by Nicaraguans. No military intervention from any direction, as we know is asked for, as we know from recent history that this would only bring more suffering to our people.

Yet Nicaragua is part of a larger community of nations, and it is important for those in the community to do what they can to help us with the most important human right of all, to stay alive and safe to restore justice to the country. This is why we fully support the resolution that was already put forward by the Organization of American States that, I quote, calls upon member and observer states to implement, in accordance with their respective legal frameworks and applicable international law, appropriate diplomatic measures to assist in the restoration of rule of law and the protection of human rights in Nicaragua. We too hope that all member observer states to the OAS, including this one, will do what is in their power to pressure the Nicaraguan Government and help the Nicaraguan people in this time of need.

We thank you again for your solidarity and invitation to speak here today.
¡Que viva Nicaragua libre!

[The prepared statement of Mr. Martínez Ellsberg follows:]

PREPARED STATEMENT OF JULIO MARTÍNEZ ELLSBERG

**House Foreign Affairs Committee
Tom Lantos Human Rights Commission**

**Hearing
on
THE EVOLVING HUMAN RIGHTS CRISIS IN NICARAGUA**

**Thursday, September 27, 2018 – 9:30 a.m.
2200 Rayburn House Office Building**

**Statement of Julio Martínez Ellsberg
Member
Platform for Social Movements and Civil Society Organizations**

We are grateful for the Tom Lantos Human Rights Commission in its taking a sincere interest in the current plight of the Nicaraguan people.

I would like to acknowledge the presence of the Inter American Human Rights Commission and the UN Office of the High Commissioner for Human Rights, who along with the Nicaraguan and international human rights groups have provided accurate depictions of the reality that the Nicaraguan government stubbornly refuses to acknowledge. They have been exemplary in their roles as witnesses and defenders and deserve the recognition of us all.

I would like to start my testimony by mentioning the names of

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I will mention that this is no abstract matter for me personally. I became involved during the first days of the protest when I saw the students and my friends that were part of the protests being brutally attacked by government groups, and later police and paramilitaries. Like thousands of Nicaraguans, I decided to find a way to help in any way that I could, participating in marches and later helping organize. This led me to experience attacks by paramilitaries, and witness horrible situations such as when I took a teenager who had been wounded by gunshot from one hospital to another in my sedan, because his family was terrified of keeping him in the public health system, as the entire public health system had been complicit with the repression: either denying care to protesters, handing over wounded people to the police, to denying mothers the bodies of their children until they signed documents saying that he had not died in anything related to the protests.

The current state of affairs in my country is the following: After the massacre of hundreds of my fellow Nicaraguans, Ortega lost the support of all sectors (the church, the traditional Sandinista communities, and most of the big business, on which he has relied upon for support over the last decade.) For fear of losing it all, he is now moving on to intimidating the population by kidnapping all organizers nationwide. We face jail, exile or death. And we speak here today not knowing if we will be arrested upon arrival in Nicaragua.

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However, that former state of affairs will not return. The level of violence and murder, and the political and economic crisis that it has created is one that Ortega cannot himself undo and the Nicaraguan people are not going to just forget. Even in the midst of this murder and intimidation, the Nicaraguan people have not stopped protesting, peacefully, a single week in 5 months. And they will not stop, until real change is achieved. The Platform of Social Movements, of which I am a part of and which represents more than sixty grass roots organizations, believe that the following

are key demands that must be respected for the country to go back to normality:

1. The Ortega government must halt the repression of the marches, and respect Nicaraguan's right to assemble and protest non-violently. This entails an end to the shootings, arbitrary arrests and disappearances. We consider it important for the UN High Commissioner for HR should be allowed back in to confirm that these aspirations become reality.
2. He must free the more than 300 political prisoners immediately.
3. As Human Rights groups have already documented, the judicial system no longer is capable of delivering justice to the Nicaraguan people. Meanwhile, the government obviously cannot be trusted to investigate its own crimes. That is why, to move past this as a nation, investigations must be carried out by independent groups, ideally by the Independent Group of International Experts that are already in the country, led by Ms. Claudia Paz y Paz, to find those responsible for the murders over the past 5 months, who can then be tried.
4. Paramilitaries must be disbanded. This apparatus that has been created by the government, and which many suspect have ties to the army, work side by side with the police to attack the Nicaraguan population. We as a nation fear that if they are not disbanded, they will become a new permanent destabilizing force not only for Nicaragua but for the region as a whole reinforcing the Mesoamerican gang system.
5. Early elections must happen as soon as possible, after having carried out the necessary electoral reforms so that free elections are truly possible in the country. Through these elections, we want to turn a new page in Nicaraguan history where our government has respect for grassroots movements, local governance, where it has respect for the autonomy of the Caribbean Coast, of the Universities, of the Municipalities, and respect for all Nicaraguans to organize and express themselves freely.

Yet, it is important to mention that the reforms necessary to turn Nicaragua into a republic will only be possible in Nicaragua until after Ortega's resignation. Heads of government have resigned for much less, and we reserve the right to demand that our public servants step down after such attacks on our population. We will continue to demand the resignation of the president and vice-president, and all government officials who have been responsible for the atrocities that he has committed.

As social movements we reiterate that the call has always been for non-violence. And also, we reiterate that our call is for this to be solved by Nicaraguans initiative. No military intervention from any direction, as we know from recent history that this would only bring more suffering to our people.

Yet, Nicaragua is part of a larger community of nations and it is important for those in the community to do what they can to help us with the most important human right of all: to stay alive and safe and to restore justice to the country. This is why we fully support the resolution that was already put forward by the Organization of American States that, I quote, "calls upon Member and Observer States to implement, in accordance with their respective legal frameworks and applicable international law, appropriate diplomatic measures to assist in the restoration of rule of law and the protection of human rights in Nicaragua." We too hope that all member and observer states to the OAS, including this will do what is in their power to pressure the Nicaraguan government and help the Nicaraguan people in this time of need.

We thank you for your solidarity and invitation to speak with you here today. Que viva Nicaragua libre!

Mr. MCGOVERN. Well, thank you both for your testimony and for your courage, and we appreciate very much you providing testimony to the Commission. And I think what we are looking for is to figure out specifically how we can be helpful. I mean, if you could give us an assignment, what would the assignment be? I mean, I appreciate that all members of the OAS take appropriate measures to demand that rule of law be respected and that human rights be respected and that democracy prevails, but that is kind of vague, and, you know, and so what is an appropriate measure? You know, what should Members of Congress do? What should we be – I mean, other than speaking out against the terrible situation in Nicaragua. We have. We have issued statements about the repression and the crackdown on protests, and we have met with the – I met with the Nicaraguan Ambassador and other government officials who have come up here and expressed my concern. But I think we are at a different point now where that is not enough. And so specifically, you know, if you were our teachers and giving us assignments, what would the assignments be?

Mr. MARTÍNEZ ELLSBERG. I think that one thing that we have to point out is that Daniel Ortega is one of the largest capitalists in our country. He depends fully on positive relations with the United States and the United States private sector. We think that all signs that help create that – he is hoping that he will get the green light from this direction for things to continue going normally. He can't do it without the support from here. All signs that that green light will not be given to him are extremely welcome. And that is from the American private sector, as well as from American politicians.

From our side, we know that you are considering, for instance, individualized sanctions.

Mr. MCGOVERN. Right. The Magnitsky Act.

Mr. MARTÍNEZ ELLSBERG. We think that that is most definitely appropriate. After hurting so many people, this would hurt them, and we think that that is appropriate.

We think that – I will stop there for now.

Mr. HENRÍQUEZ. Yes. I love the question you asked. While we need you all to apply economic, strong economical sanctions on Ortega and his *cúpula* [power elite], and the military and the paramilitary – it – I mean, having tax collectors appear and having United States investment in Nicaragua, invest in doing business with someone that is openly violating human rights, it doesn't work. I mean, economical sanctions need to be applied to Ortega, to his family and to everyone that works with him. And sanctions should not only apply to high-rank individuals, because when they are applied to the high-rank individuals, the one that follows him gets promoted. Then you sanction the other one, and the one that follows him or her also gets promoted. So like, okay, sanction one, sanction two, sanction three, and when all they are promoting someone. So we need collective sanctioning of those high officers and those that come after him. So that is what we need. We need strong economical sanctions on Ortega and also on the military.

Also on the military because having armed, ISIS-looking caravans of groups parading in your country, and your military doesn't intervene to stop this, this means that they are an accomplice of what is taking place, and we know that the military have shares here in the United States, have investments here in the United States. The military is one of the biggest capitalist investors of Nicaragua, and they have investment all over the United States. So I would start with strong economical sanctions to the military, to Ortega's regiment, to his family, and to all those people that are supporting him.

Mr. MCGOVERN. So let me ask you, if the President and the Vice President agree to step down before the next elections, which right now were due in November of 2021, under the Constitution, who takes their places? How does that work?

Mr. MARTÍNEZ ELLSBERG. Head of Parliament.

Mr. MCGOVERN. And tell me about the head of Parliament.

Mr. MARTÍNEZ ELLSBERG. It is all part of one and the same. This is a one-party state, and everything is run by Daniel Ortega. Nobody else makes any decision outside of the presidential office. So to think that there is some sort of independent legislature that can take care of that, that is unrealistic.

So it really – that is why we have been pushing for there to be a caretaker government. This means people that represent different sectors of Nicaraguan society that can oversee the electoral reforms. If he steps down, there can be a committee made up of people from the private sector, from social movements, from different sectors, people that are respected by Nicaraguans. And there is so much leadership in Nicaragua who have been pushing this broad-based movement, that there are plenty of people that can be part of a caretaker government and oversee the reforms so the elections can take place within six to nine months. We don't see that at all as a power vacuum. There is definitely enough people with experience and capacity inside of Nicaragua to carry this forward.

Mr. MCGOVERN. The Nicaraguan Government told us, when they met with us, that when we urged them to have earlier elections, said that the conditions in Nicaragua are too polarized and too chaotic to be able to have free and fair elections. You obviously dispute that, right? I mean, you think if elections were moved up to nine months from now or whenever the date is, that the conditions are such that people would feel safe enough to go out and vote, and you would be able to have a fair election?

Mr. HENRÍQUEZ. Under the actual conditions, the political system in Nicaragua is politicized in favor of the *Frente Sandinista*. So, if Ortega and his wife leave power without structural changes in our electoral system and our Constitution, we are going to make another Daniel Ortega in the country. So the idea is to have a transitional government that will accompany structural electoral changes with international accompaniment for [unintelligible] six to nine months, go to another election.

So, if Ortega and his wife leaves right now and we go to an election without structural changes in our electoral law and our Constitution, what we are

going to end up doing is giving Ortega and his family another country and more power. So that is what we need, a transitional government with international accompaniment that can help us make structural changes in the electoral system and in the Constitution.

Mr. MARTÍNEZ ELLSBERG. I would also challenge the idea again of this polarization and reasons for which there can't be elections.

There was polarization before. There might have been challenges between people say from the church and the feminist movement, or from the anti-canal movement and the private sector, and for many other groups with – among each other, but all of this is one solid block right now in the social movements. And pretty much the only people that come out to march against are people that are paid by the Ortega government.

The platform that we are part of meets regularly with the Civic Alliance, and in general, the opposition is moving in the same direction, and all these different sectors will support each other. The only thing that is kind of preventing there from being an actual – real possibilities for which there can't be elections tomorrow, is that the Sandinista party has been blocking the participation of many political parties, as well as people running at the local level. And running for local elections, for anything else. So it is once those reforms can take place so the people can start running at the local level, at the parliamentary level, you can have perfectly, perfectly good elections – once you have the reforms to the Constitution.

Mr. MCGOVERN. And I just want to go back to the issue, one of your suggestions before about sanctions. You are talking about targeted sanctions, or are you talking about, you know, more general sanctions? Because I am just trying to figure out, you know, if we are withholding bilateral, multilateral funding, what would that effect be on the average Nicaraguan, I mean, especially those living at or below the poverty line? How might we – as we figure out how to put pressure on the government, how do we do so in a way that protects Nicaragua's poorest citizens from the economic slowdown that already is occurring?

Mr. HENRÍQUEZ. I believe that it cannot get worse than what we are. I believe people in Nicaragua are willing to make the sacrifice to make ends meet than to be facing the sacrifice of trying to be killed by a bullet or by paramilitaries or seek refuge in another country. And we also believe that, once a democratic country is established or a system is established in Nicaragua, our economy will blossom again.

Mr. MCGOVERN. You mentioned the opposition, I think Mr. Henríquez, in your statement about that it is not left or right, or I mean it is a lot of different people. Maybe you can describe for the record a little bit about who the opposition is, and – which leads me to a question about if you could have elections, you know, does the – given the wide diversity of the opposition, who have different agendas and different points of view and different opinions on a variety of things, do you think that the opposition could have viable candidates if an early election were to be held? You know, I mean, as president and as a leader

in Congress, Ortega has deliberately weakened the opposition. How likely is he to allow the opposition to organize – well, I mean, I guess if he remains in office until the next election?

Mr. HENRÍQUEZ. We do not have a lack of leadership. There is enough leadership, new leadership in Nicaragua. Imagine what we had achieved, the unity we had achieved in the country in the last four or five months with a repressive system. Now picture us participating in an election where there is no repression. What we have achieved in the last four – the unity we have achieved in the last four or five months in a repressive system without a possibility of meeting publicly or privately? Now picture us meeting, organizing underneath – in a peaceful country.

So, I mean, that wouldn't be a problem, and the creation of a new force, a political force, it also wouldn't be a problem. But right now, what we are based on is on the basic respect for human rights. When that is established and we are in a peaceful situation, the conditions will be set to have a genuine political opposition within the country. But the actual political parties that are in the countries are the ones responsible with Daniel Ortega for him to have all of this power, he and his wife to have all of this power right now.

Mr. ELLSBERG. About this broad-based, say, yes, many people will have different platforms, but as we have mentioned, I mean, this includes from former Sandinista commanders, to people from the strictly in the private sector who were never part of a movement, to young people who don't identify themselves right or left, and all the social and grassroots movements. There is no division there. But this revolution, because do consider it a revolution because of the changes that have to be made at the institutional level and the entire foundation of the political system in Nicaragua, is strictly anti-dictatorial, and that is what we all agree on. We agree on there can't be a dictatorship in Nicaragua. There has to be plurality in politics for us to actually start thinking about political platforms. And it is once we have those reforms, that we can have parties, parties that can consider themselves more right or left, but for the moment, everyone is part of the same bloc and expecting that we can make those changes.

Mr. MCGOVERN. You know, and just finally, I mean, so as you pursue this peaceful transition, there are some issues right here and now in the immediate, which is all these political prisoners, you know, people being harassed, human rights defenders being harassed. Are there things we can do here in Congress, you know, to put additional pressures on the government in the short term to release the political prisoners, to stop harassing opposition leaders to – and can we provide better protection to human rights defenders who are courageously speaking up against the repression? I mean, are there things you think Members of Congress can do specifically, you know, letters, visits? You know, I am just trying to think about those who right now are in jail who shouldn't be in jail.

Mr. HENRÍQUEZ. Having a high-rank official of the Congress visit Ortega and tell him, "Look, man, you have to stop these things," would really make a big difference. Having someone from here to go physically sit down with him and

talk to him and tell him, "Ortega, you need to stop this, and you need to go. Stop the repression, free our people," that would make a big change because most of the declarations have been done by letters, by emails, by public, but having someone there, having a Congressman or a Senator or some high-rank official in Nicaragua talking to him, telling him that what he is doing he needs to stop it because the world is watching him and he is already condemned, would really make a big difference.

Mr. ELLSBERG. And Ortega really cares about what is, about pressure from the United States. I mean, as George has mentioned several times before, I mean, he is not particularly afraid necessarily of Costa Rica or of Panama necessarily. He really cares what is being said of him and the press that he receives from the United States. And while that is true, our friends could be being tortured right now, people can be killed, people are living in exile, people are living in fear and in this entire five months, and we do appreciate the solidarity, whether it is from the United States Congress and Congressmen who do want to go down and put pressure directly, I think that is absolutely something that could help, as well as the connections with all other international actors, such as the European Union, and continue to push through the pressure from the multilateral organizations, which we also think is essential. The OAS has done a good job, and we also expect that the U.N. can continue pressuring. But yes, that will help and will save lives and help our people.

Mr. MCGOVERN. Well, I appreciate you being here to testify, and I can assure you that there will be follow-up. So thank you very much.

[Whereupon, at 10:54 a.m., the Commission was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD



Tom Lantos Human Rights Commission

Hearing Notice

The Evolving Human Rights Crisis in Nicaragua

Thursday, September 27, 2018

9:30 – 11:00 a.m.

2200 Rayburn House Office Building

Please join the Tom Lantos Human Rights Commission for a **hearing** on the human rights situation in Nicaragua in the context of ongoing socio-political unrest.

Last April, demonstrations erupted in several Nicaraguan cities due to opposition to social security reforms decreed by President Daniel Ortega that would have increased taxes and decreased benefits. President Ortega cancelled the reforms five days later, but the protests continued and have grown into a broad opposition movement that is calling for the president's resignation and a range of democratic reforms. The government has responded with repression, provoking the deadliest violence since the end of the country's internal armed conflict in 1989.

National and international human rights bodies including the Inter-American Human Rights Commission (IACHR) and the Office of the UN High Commissioner for Human Rights (OHCHR) have documented excessive use of force, including hundreds of protest-related deaths, torture and ill-treatment, and enforced disappearance, as well as violations of the fundamental human rights to freedom of expression, assembly and due process. Students, activists, religious leaders, journalists, and medical personnel are facing persecution and judicial harassment. The abuses are attributed primarily to the government, its police force, and pro-government armed groups. Thousands of Nicaraguans have been forced into hiding or have fled the country, according to the UN High Commissioner for Refugees (UNHCR). In spite of the violence deployed against it, the opposition movement has remained firmly committed to non-violence.

Witnesses will provide up-to-date information on the human rights situation in the country and offer recommendations for reducing violence and advancing necessary reforms.

Panel I

- **Maria Claudia Pulido**, Assistant Executive Secretary for Monitoring, Promotion and Technical Cooperation, Inter-American Commission for Human Rights (IACHR)
- **Guillermo Fernández-Maldonado**, Senior Human Rights Officer, Office of the UN High Commissioner for Human Rights (OHCHR)

Panel II

- **George Henríquez**, Member, Platform for Social Movements and Civil Society Organizations (*Articulación de Movimientos Sociales y OSC*)
- **Julio Martínez Ellsberg**, Member, Platform for Social Movements and Civil Society Organizations

This hearing will be open to Members of Congress, congressional staff, the interested public, and the media. The hearing will be livestreamed via the Commission website, <https://humanrightscommission.house.gov/news/watch-live>, and will also be available for viewing on the House digital television system. For any questions, please contact Kimberly Stanton at 202-225-3599 or Kimberly.Stanton@mail.house.gov (for Rep. McGovern) or Jamie Staley at 202-226-1516 or Jamie.Staley@mail.house.gov (for Rep. Hultgren).

Sincerely,

James P. McGovern, M.C.
Co-Chair, TLHRC

Randy Hultgren, M.C.
Co-Chair, TLHRC



Tom Lantos Human Rights Commission

Witness Biographies

The Evolving Human Rights Crisis in Nicaragua

Panel I



Maria Claudia Pulido has been the Assistant Executive Secretary for the Monitoring, Promotion and Technical Cooperation at the Inter-American Commission for Human Rights (IACHR) since September 1st, 2017. A Colombian attorney, she is responsible for the direction and supervision of situation-monitoring mechanisms on human rights, especially in the production of thematic and country reports, promotion activities, technical training and cooperation; and on the monitoring of the recommendations set by the IACHR to the OAS Member States. She has worked for the IACHR since 2001. Previously she worked as an attorney at the Center for Justice and International Law, and prior to that, in Colombia, she coordinated the National Unit for Human Rights Monitoring at the National Inspector-General's Office.



Guillermo Fernández-Maldonado has been the Deputy Representative of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Colombia since 2014. Between July and August 2018, he was the Senior Human Rights Officer and Coordinator of the mission team deployed by the OHCHR Regional Office for Central America to Nicaragua. With OHCHR, he has also served as Acting OHCHR Regional Representative for South America and as OHCHR Senior Human Rights Adviser for the United Nations Resident Coordinator/UN country team in Ecuador (2007-2014). With the United Nations,

he has also served in a number of other positions including as Head of the Justice and Human Rights unit in the United Nations Mission for Guatemala MINUGUA (1994 – 2003). Mr Fernández-Maldonado worked in the Truth Commission for El Salvador and as Legal Advisor and as Chief of the Central Verification Unit of the Human Rights Division of the UN Mission to El Salvador ONUSAL (1993-1995).

Panel II



George Henríquez is a member of the Creole community of the Caribbean coast of Nicaragua with years of experience in community development work and support for the rights of indigenous and afro-descendant peoples. He has advocated for autonomy for the Caribbean coast and opposed Law 840 which gave the Chinese investor group HKND large concessions to build the Trans-Oceanic Canal. He is one of the founders of the Self-Convended Coastal Movement (*Movimiento Costeño Autoconvocado*) created in the context of the recent protests.



Julio Martínez Ellsberg lives in Nicaragua and is a member of the Platform for Social Movements and Civil Society Organizations (*Articulación de Movimientos Sociales y OSC*) as well as an advisor to one of the main student movements in the National Dialogue (*Coordinadora Universitaria por la Democracia y la Justicia*). Both organizations have been working since April 18th to bring an end to the politically motivated murders and detentions in Nicaragua, ensure that there is justice for the repression that has occurred, and return the country to a democratic path.

**The Most Reverend Timothy P. Broglio, Chairman, Committee on
International Justice and Peace, United States Conference of Catholic
Bishops, Statement Submitted for the Record**

House Foreign Affairs Committee
Tom Lantos Human Rights Commission

Hearing
on
The Evolving Human Rights Crisis in Nicaragua

September 27, 2018 – 9:30-11:00 a.m.

WRITTEN TESTIMONY SUBMITTED FOR THE RECORD

Submitted by:

The Most Reverend Timothy P. Broglio
Chairman, Committee on International Justice and Peace
United States Conference of Catholic Bishops

I would like to take this opportunity to thank the Tom Lantos Human Rights Commission and the Department of State for their solicitous concern for the humanitarian, political, and economic crises in Nicaragua. On August 3-6 I visited Nicaragua on behalf of the U.S. Conference of Catholic Bishops to express the steadfast support of the Church in the United States for the mediation efforts of the Nicaraguan Episcopal Conference. I saw firsthand the tremendous suffering of the Nicaraguan people, and yet was filled with hope, for theirs is a living faith that moves them towards reconciliation, peace, and stability.

I would offer the following three general and interrelated recommendations based on extensive interviews, consultations, and analysis:

1. I commend the United States Government's support for the mediation efforts of the Nicaraguan Episcopal Conference. The Nicaraguan bishops, as a corporate and institutional entity, are the only sector of civil society capable of mediating in the present crisis. I was astounded and encouraged as I witnessed the full support given to the bishops by all sectors of society, from "progressives" to "conservatives." The faith community is also united in Nicaragua, and this is a source of great strength for their society.

2. It is imperative that the parties return to the negotiating table as soon as possible. The longer the present impasse lasts, the more difficult it will be to arrive at a rational solution to the crisis. The bishops are willing; it is time that the Nicaraguan Government realizes that this impasse cannot become a *modus vivendi*.

3. And finally, I agree with the statement emitted by the U.S. Embassy in Nicaragua on June 11, 2018, that while there is a place for international observation and accompaniment, this crisis must be resolved by Nicaraguans themselves. This is essential if peace is to prove lasting.

I look forward to continuing to collaborate with you on your efforts to help the Nicaraguan people arrive at a just resolution to the present crisis.

The Most Reverend Timothy P. Broglio
Chairman of the Committee on International Justice and Peace
U.S. Conference of Catholic Bishops

Ligia Gómez, Statement Submitted for the Record

Testimony of Ligia Gómez

September 26, 2018

Introduction

My name is Ligia Gómez, Nicaraguan and former employee of the Central Bank of Nicaragua (BCN). I have a doctorate in economics and graduated from the University of Córdoba-Spain. The majority of my career has been devoted to do research on poverty reduction and governance of natural resources issues in order to inform policy makers. I did this work first as a staff member of the Research and Development Institute Nitlapán at the Universidad Centroamericana UCA (1995 to 2012) and later as the Manager of the BCN (2012 – 2018).

I have decided to speak out about the current crisis in Nicaragua because it not only affects me personally, but it is dividing and destroying my country. There are too many young people dying and afraid to walk freely on the streets just because they do not agree with the government. Too many mothers have lost their children or have had to flee. According to the Report by the Office of the United Nations High Commissioner for Human Rights, more than 300 people have been killed and more than 2,000 injured between April 18 and August 18. Now the number of people killed has increased to more than 400. I believe my testimony will help explain that the problem in Nicaragua is not a soft coup against the FSLN orchestrated by the right. The problem is that we live under a dictatorship that kills, imprisons and exiles those who demonstrate against it. My testimony is relevant because having been a government employee and having held a political position of trust, I am able to explain how the government apparatus works to perpetuate Ortega's regime.

The Political Secretaries and the Government Apparatus

In 2012 I was invited by Alberto Guevara, President of the BCN, to be part of his team in a joint project with the United Nations. The project's goal was to develop a proposal for public policies to achieve the U.N. Millennium Development Goals, with the participation of different ministries. In 2013, at the request of the President of the BCN, I was also appointed Deputy Political Secretary of the Sandinista Leadership Council (CLS). As time passed, my technical and political roles evolved. I was transferred to the Economic Research Division of the BCN where I was later promoted to manager. In addition, the new (and current) president of the BCN, Mr. Ovidio Reyes Ramirez, appointed me as the Political Secretary of the CLS, a position I held from 2014 until April 2018 when I opposed the government repressive measures.

The Political Secretary is a position of trust that serves as the liaison between government institutions and the FSLN. All public institutions have two Political Secretaries appointed with the purpose of mobilizing support and militancy. These officials represent their institutions in the meetings convened by the Political Secretary of Managua, Fidel Antonio Moreno Briones. Mr. Moreno Briones is a trusted man of the presidential couple Ortega Murillo and has been recently sanctioned by the Magnitsky ACT for directing acts of violence committed by the Sandinista Youth and pro-government armed groups.

As a Political Secretary representing the BCN, I could not make independent decisions. I received orders from the President of the BCN and from Moreno Briones, who came to the meetings to assign tasks and logistical support for the public institutions to carry out political activities for the FSLN. We received memorandums written by the “Compañera” Rosario Murillo that we had to circulate among the party militants. These memorandums typically include President Ortega’s sons as first recipients, followed by ministers and ambassadors.

My specific roles as a Political Secretary were summoning and mobilizing the BCN coordinators, who then organized BCN employees to participate in mandatory activities. These activities were as diverse as conducting house to house visits to control mosquitos’ breeding grounds, participating in mass events convened by the Government, or distributing meals to voting stations during electoral periods. For these political activities, the BCN and other public institutions provided vehicles to transport employees, for example, or to take people from their home to the polling stations during elections.

The administrative division of the BCN has the approval of the President and the General Manager, to provide food, transportation, travel expenses and an incentive of C\$400 Córdobas (US\$12 dollars) to each employee for his/her participation at each event. These payments are cumulative and are disbursed twice a year as “Productive Bonuses” for participating in the “social outreach” of the BCN. Likewise, each government institution assumes the responsibility to contribute to political activities without identifying institutional symbols, and provide sound equipment, dais, fuel, chauffeurs, travel expenses and food.

Before each election, the Political Secretaries met with Mr. Lumberto Campbell, current President of the Supreme Electoral Council (CSE), and with Mr. Gustavo Porras, President of the National Assembly. At those meetings it was ordered that all public employees must vote. They argued that they could figure out whether someone voted. To prove it during the meeting, they randomly asked for the ID of a Political Secretary to check if he had gone to vote or not and how many elections he had participated. After the elections, the president of the BCN ordered the verification of those who had voted and retaliate against those who had not gone to vote.

The Facts: The Beginning of the Open Repression

On April 17, 2018, a group of elderly people went out to protest against the social security reform. The police attacked and beat the elders despite the fact that they were protesting peacefully. This generated anger among the population, and on Tuesday, April 18, another group, mostly students went out to demonstrate in support of the elderly. They too were attacked by armed motorcycle groups. According to the coordinator of the Sandinista Youth (JS) in the BCN, the motorized attackers were workers of the Nicaraguan Institute of Social Security (INSS) that deliver mail, and the government uses them in these attacks. That day I was driving home from work when I stopped at the shopping center "Camino de Oriente." I saw a group of mostly young people who had gathered there and were preparing to protest. When I realized they had been attacked by the police and armed mobs, I could not believe it; it was definitely a disproportioned use of violence against a small group of peaceful demonstrators. Little did I know this was just the beginning of a human rights crisis.

On April 19, all the Political Secretaries, the Sandinista Youth coordinators, and the trade union secretaries, were summoned in the auditorium of the Japanese Park. At the entrance, officials scanned all participants' IDs and Moreno Briones forbid people from recording the meeting and ordered all the cell phones to be turned off. The purpose of the meeting was to organize the response to the street protests. Moreno Briones had a clear message: "We must defend the revolution no matter what; we will not allow them to steal the revolution". The implication was that all forms of repression would be implemented.

On the same day, the BCN President, who was in Washington D.C. attending the Spring Meetings of the International Monetary Fund and World Bank Group, phoned me at 9:00 p.m. He asked me to explain what was happening in Nicaragua. I described to him all of what I had witnessed the previous two days and expressed my honest opinion, that I did not believe that repression was right or productive and that these measures were only provoking more unrest in the people. I asked him to convey this message to the FSLN authorities because he is in a higher position in the Government and has access to them. However, he only insisted that I tell him what "orders" we had received; I replied that Moreno Briones told us "We must defend the Revolution no matter what", to which the President replied, "there is nothing to discuss then, just to obey, no matter what". He also ordered me to make a black list of the employees who were opposing the government's actions, stating that he would fire them. I ignored this order because I would have been the first one in such a list. I argued that people were not sharing their views and I was unable to identify their positions.

On April 20, the Party asked the Sandinista Youth to send young government employees to guard the headquarters of the Nicaraguan Institute of Social Security (INSS) along with some members of the Sandinista Leadership Council. Their presence was needed to prevent people from protesting outside the INSS. In addition, we were ordered to place government employees in different parts of Managua permanently, 24 hours a day. The

BCN was assigned a place on a suburban roundabout. On April 21, we settled in the afternoon and took a shift for the weekend. That day I gave a co-worker a ride home when I noticed barricades everywhere and saw people on the streets beating pots and pans. I feared there could be confrontation, and, in order to protect my employees, I called for them to leave their post at the roundabout and not to do the surveillance shifts allocated for the weekend.

My fears proved to be true. The weekend of the April 21 was terrifying. The protests intensified and equally the government repression. We all watched with horror on Facebook live and on television as the government attacked the students; we watched people being wounded or killed. Through social media we learned about young people being injured and how the government did not allow the ambulances and doctors to assist them. By the end of that weekend more than 20 people had been killed and dozens had been injured, mostly youth. I returned to the office on Monday, but I was in shock, I felt morally and physically ill, because I could not support a government that was killing its people and I did not want to be complicit in that. It was something I had never expected to happen again in my country, after having lived during the Somoza dictatorship.

On Monday, April 23, we were summoned again to the meeting of Political Secretaries at the mayor's office in Managua. To that meeting Moreno Briones came with men who had come out on television directing attacks on the occupied INSS¹ years early. They played a video that according to them, showed that what we had seen in the news those days was not true, that everything was staged, that there was no violence. They studied our reactions while we watched the video. We were told that the protesters were not students, that they were gangs who had taken advantage of the situation to generate chaos. Similarly, at another meeting, we were directed not to watch television channels that were not from the government, because everything was a media manipulation and we would get confused. Lumberto Campbell, President of the Supreme Electoral Council said at that meeting that he forbade his wife to look at those news channels, that we should do the same with our families so they would not get confused as well. In addition, we public employees were ordered to pray for peace each evening, in front of the government buildings.

On Tuesday, April 24, I asked for two days off I felt I needed to reflect and process the situation; however, my request was denied because the BCN President had returned to the country and wanted me to be in a meeting with him, the Party coordinators, the Sandinista Youth, and the BCN Union. At that meeting the President said: *"Let no one worry because the power is secure, the political parties are uncoordinated, there is no real opposition, we*

¹ Occupied INSS was a group of elders and students that in 2013 were demanding the right to a minimum pension when workers did not fulfill all requirements to access a regular old age pension. In protest, they occupied for several days the outskirts of the INSS until they were violently evicted by Sandinistas mobs.

know that we should not touch the youth or the elderly, but this happened, and we must move forward."

Resignation and Retaliation

As days passed, my discontent grew. I started to consider quitting my position as a Political Secretary even though I knew I would probably be fired from the BCN as well. On Wednesday, 25 April I was on my way to work when I was ordered to send people from the BCN to guard the Hugo Chavez roundabout, with other government institutions. The BCN would take the night shift. That was it for me and I refused to send anyone from the BCN because I did not want to endanger my employees. The BCN President was upset with my decision and ordered me to comply. I told him to remove me from the Political Secretary position because I was not going to mobilize people. I did not want to be responsible if something happened to my employees. That was the last time the BCN President addressed me directly. At that moment he called a meeting and appointed another person to replace me as Political Secretary. He immediately sent someone from the administration to get my work cell phone, and blocked my access to all institutional mails, including purely technical communications I received as a Manager of the Economic Research Division.

After that I suffered institutional marginalization. I could not even go to the BCN dining room because the employees stopped talking to me, some for being members of the Party who considered me a traitor and others for fear of retaliation for talking to me. I did not leave my office to avoid any problems; I was hopeful that, if they realized that I did not cause problems they would leave me alone. I was trying to keep my job as a manager because I need to support my family and pay for the education of my daughters. I was still able to attend managers meetings, where the BCN President continued to express his support for the repression, saying things like: "everybody grabs their dead and continues living normally, all governments do the same thing, but only this country is criticized." For the next few months I continued working as a manager, keeping a low profile. However, on July 17th, I was called by the human resources manager who informed me that the BCN President was canceling my contract as manager of the Economic Research Division. She suggested I submit my resignation so I would not lose my severance pay. I took that last option and withdrew immediately from the BCN.

The death threats started in August. I began to receive them via email messages, cell phone messages and *Messenger*, calling me a traitor and an infiltrator. One of the threats said *"Damn traitor, you thought the Commander was going to leave, but you're wrong, the Commander will stay until 2021 and longer. You're a traitor and you're going to pay, we're going to eliminate you along with all the coup-mongers of the Right."* These threats have generated a lot of fear in my family. Our life has changed dramatically. I was afraid to walk in the streets or go anywhere with my daughters since someone may try to attack or kills us. My relatives have also received threats and some friends have been declared

terrorists. Fearful for our safety and our lives, my family and I came to the Washington Metropolitan area to visit until the situation in Nicaragua improves.

I am sharing my testimony with the Tom Lantos Human Rights Commission to create awareness of the Nicaraguan crisis, which has become not only a political crisis but a humanitarian crisis as well. I want to request support for my fellow Nicaraguans who are protesting the Ortega-Murillo regime and are being persecuted and killed. We all aspire to a democratic Nation that respect human rights. The support of the international community is key to achieving this goal.

Ligia Gomez

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Managua, Nicaragua

Manuel Orozco, Inter-American Dialogue, Statement Submitted for the Record

House Foreign Affairs Committee
Tom Lantos Human Rights Commission

Hearing
on
The Evolving Human Rights Crisis in Nicaragua

Thursday, September 27, 2018
9:30 – 11: a.m.
2200 Rayburn House Office Building

STATEMENT SUBMITTED FOR THE RECORD

Submitted by:

MANUEL OROZCO
DIRECTOR MIGRATION AND DEVELOPMENT
INTER-AMERICAN DIALOGUE

Introduction

Dear members of Congress, House Foreign Affairs Committee Tom Lantos Human Rights Commission. I hereby submit my written testimony pertaining to the political situation in Nicaragua. As a troubled nation for decades, its transition toward a democracy is an urgent necessity and international obligation.

An authoritarian regime

Nicaragua today is a dictatorship run by Daniel Ortega. Mr. Ortega belongs to a generation of revolutionaries turned dictators. Like Robert Mugabe, Daniel Ortega is a former guerrilla leader. He participated in the overthrow of Nicaraguan dictator Anastasio Somoza in 1979. Since then, he has been at the center of the country's political history. He ruled during the Sandinista Revolution confiscating property, jailing, torturing, fighting counter-revolutionaries and provoking an exodus of more than two hundred thousand Nicaraguans. After he was ousted in 1990 he promised to rule from below and continued the trade of political control and the obsession to stay in power, engineering alliances, intimidating and blackmailing people, manipulated the laws to turn the entire institutions of the state on his side.

In 2016, President Ortega won his second re-election without facing legitimate opposition and despite widespread calls of election fraud. Since then, the Frente Sandinista de Liberación Nacional (FSLN)-led government has held a monopoly in parliament (71 out of 92 legislators), the justice system (11 out of 16 magistrates), and the electoral system (7 out of 10 commission members), while also controlling the national army and police. He also sustains a mechanism of social control using street mobs, which he directs

through the organized membership of the Sandinista Youth. They are individuals [now militarily] trained to intimidate and crush civil disobedience using any means.

These mobs have been responsible, through tacit police support, for many of the deaths in the past three months, following clashes over the newly proposed pension reform.

The nationwide protests that started in April 2018 reflect the anger of the Nicaraguan people towards an environment of systematic corruption and abuse of authority that has spanned almost 30 years. As tensions between the government and protestors persist, the pro-Ortega justice system is enabling the use of repressive force causing the deaths of more than 500 people since April 19, 2018.

From Political Turmoil to State-Sponsored Repression

After courts passed a law on terrorism in July, they left unprotected the constitutional right to freedom of expression for all Nicaraguans. In fact, pro-government judges have been put in charge of prosecuting demonstrators, while doctors, nurses and educators have been fired from their positions for tending to wounded demonstrators.

Nicaraguans are now facing a new type of regime, a criminal and repressive state. It is no longer “merely” anti-democratic and corrupt, but has actually become a government whose political capital comes from state terrorism.

It operates through the systematic use of state and non-state paramilitary forces and the law to conduct targeted assassinations, arbitrary killings, detentions, torture and arrests. It also conducts attacks on religious and press freedom, and has criminalized constitutionally-protected rights to protest.

People have also fled Nicaragua in the thousands. Migration of Nicaraguans to Costa Rica has increased dramatically. Official figures from the Costa Rican government show that between April and August more than 27,000 have moved to the country, and at least 200 people are entering every day since July 2018. Meanwhile, the government has received more than 25,000 applications for refugee status.

The Ortega Regime’s Survival Plan

The rationale behind Ortega’s state sponsored terrorism is informed by at least two factors, first, he does not see an exit strategy, where his clientelist and ideological rhetoric is still supported by some groups who depend on his loyalty to them. Second, his calculation of economic weakening is supported by his assumption that by twisting the arm of the private sector a prolonged recession may not turn into a larger economic crisis.

Daniel Ortega’s calculation is that he is better off protected by his circle of influence than giving up power. On one hand, the loss of the circle of power that Ortega amassed over the past 15 years, since crafting his strategy to return to power, represents his disappearance from the political and even physical map. Ortega does not see himself

alive in any sense outside of that clientelist network he built through the circumvention of the political system since the late 90s and the loyalties he designed to retain his grip on power.

At the same time, the clientelist network is afraid of losing the political and economic favors they have become used to, and as such, they continue to remain loyal to Ortega and approve the use of pressure and repression. This network is composed of a small circle of power that has built a mafia-state with its own government-enforced, preferential rules and has secured its own permanence through the bureaucracy and security force on their side.

In this sense, they represent a parallel elite who do not belong to the large business conglomerates or even the core of the FSLN, with a social capital based on their own mechanisms of vote-buying and sustained by the state bureaucracy, to which many in the network belong to. This network includes mid-level officers working in government and responding to their political bosses (ministers, directors, legislators, magistrates, administrators, security forces, youth for hire), who maintain a direct connection to a minimum critical mass of citizens under their control, and whose material and economic existence depends on Ortega staying in power.

Finding or attacking the network of favors that sustain the members of the mafia-state will weaken their loyalty to the regime. This latter point is central before they turn into transnational organized criminal activities, from money laundering, drug trafficking and arms trafficking.

Finally, the regime's calculation is that they can maintain political control over the economy. The Nicaraguan economy is facing a dire crisis. First, there is a loss of more than 100,000 jobs, declining consumption, taxes and investment. Second, investment in the economy has slowed down or declined in many fronts, both for domestic and external activities. Economic reserves from the Central Bank are also declining as the crisis hovers over the entire country. However, the government believes they can make it through 2021.

Their calculation of the breaking point (the moment when inflation, scarcity, deficit and debt become too high to control) is not 2019 and therefore are counting on a recessionary stage to guarantee their survival. They believe that by intimidating and regulating the private sector they can delay that breaking point as long as they can. Ortega has threatened the private sector to force them to open their businesses if they go on national strike.

However, the economic situation so far is not entirely to the benefit of Ortega, despite their calculations: the Nicaraguan government lacks economic autonomy because it does not have many sources of wealth generation, except taxation, external debt, and few services, Bancorp among others. The deterioration of the economy continues to be Ortega's worst enemy.

Building a way forward: resistance, pressure and negotiating alternatives

The priority for Nicaragua is to create a positive environment to achieve a negotiated outcome in order to ensure at least three goals, a democratic transition, justice, and reconciliation in a troubled nation.

Given the lack of political will on Ortega to return to the table, a negotiated outcome will only depend on the way the costs of staying in power are higher than negotiating.

A stronger opposition, international pressure in various fronts, and presenting options for negotiation to the regime are critical elements.

International Pressure: Going Beyond Dialogue

Since April 18th, the international community has clearly been supporting a dialogue toward political change. However, with the expulsion of the UN Human Rights commission, the denial of the Nicaraguan government of any recognition of human rights violations, and the deepening of state repression, international players have stepped up their pressure.

At this point, international actors must exert pressure beyond a national dialogue.

This change of approach is critically important because one consequence of international pressure is not to only isolate and delegitimize the regime's abuses, but to push Ortega to negotiate some form of transition.

Because Daniel Ortega is not an ideologue but a transactional leader, he exchanges power for other forms of power and status quo, and currently he does not see anything valuable to exchange. With the support of the security forces, the paramilitary, and his media operation, Ortega feels he is in control.

In turn, he underestimates the resistance and nationwide opposition. When the national demonstrations overwhelmed the regime, Ortega was reluctant to act, and even privately considered forwarding elections. However, once the Army provided its indirect support in exchange for not getting directly involved, Ortega changed his posture, arguing he wouldn't step down.

The international community need to move beyond denunciations, to demand **a stop to the repression, justice for crimes against humanity and a speedy political transition.**

Strategically, it is important to exert pressure on three mechanisms that are currently the only options Ortega has for transaction:

- economic and legal sanctions to his family and close network,
- justice for crimes against humanity and

- pressure on the military.

In the first case, international sanctions are pivotal because Ortega illicitly enriched and shielded his children, providing them with economic and social favors that made them part of a new economic circle that includes managers, lawyers, businesses, that have taken advantage of the favors. The government has purposely and unaccountably shuffled government funds and revenues into activities that the average citizen is unaware of and has no access to public information. Regarded by Transparency International as among the most corrupt countries in the Americas, the government has used state institutions, such as the Airport Administration Agency to handle third party funds to anonymous businesses.

Ortega appointed his son, Laureano Ortega, to head the ProNicaragua an investment promotoin agency and manage the construction of a Canal that will not be built. As a tenor he has brought state funding to finance lavish cultural events. His other son Rafael, handles with his wife oil distribution through gas stations (Distribuidora Nicaragüense de Petróleos) that comes from the Venezuelan government. Ortega's family is now among the economic elite. Their wealth has grown in the past 15 years through government financial and contracting favors.

Sanctioning their family members will increase Ortega's costs of staying in power because his ability to protect them outside continued state repression will be limited. His family is already feeling the pressure to reconsider their loyalty to power.

Second, it is now politically and morally indefensible to not search for a fair determination of the various crimes committed in Nicaragua by security forces. For one, the demonstrations were legitimate exercise of civil disobedience, with a major particularity that for the most part were led in a non-violent way. Still as of the curse of events, the political resistance is employing non-violent methods to confront the regime. However, the knowledge of the methods of intimidation, assassination, jailing, torturing by the government are supported by accounts from witnesses, victims and even tacit recognition by police forces that their use of force against students and youth is valid.

International players must demand an independent human rights body that investigates the recent abuses perpetrated by the government including political and economic terrorism (as illustrated in the creation of a Financial Unit aimed at controlling individual's private assets and by threats of Mr. Ortega to force entrepreneurs to operate their business were they to support a national strike) and the use of repression and violence. Findings of those who have participated in the deaths of protestors since the beginning of 2018 should be prosecuted without the possibility of amnesty. The political value of amnesties for Nicaragua is substantively limited when this instrument has been used and abused in the past to satisfy impunity.

Third, international actors, particularly those who have worked in regional security efforts must reach the leadership of the Nicaraguan National Army in an effort to call on

affirming their independence and their institutional responsibility to prevent any members of any rank to participate in paramilitary activities. The Army has been silent and perhaps complicit in so far as it has witnessed the rights violations and made no clear position as to the extent to which paramilitary violence represents a threat to national security.

A way forward to a negotiated solution

Nicaraguan political reforms, as well as the de-escalation of the current political conflict are now two sides of the same problem. The deterioration of the economy, but also the growing angst and resentment among the majority of Nicaraguans that their lives are now shaped by terror is an unhealthy and indefensible fact. The Nicaraguan government must hear, tend and be part of a negotiated solution for an end of the crisis. Along those lines is important that different venues for mediation be open, as well as incentives to negotiated by presented to all.

International mediation can be a way to mitigate the government's mistrust of the Civic Alliance's political resistance or calculated risk of its weakness. It can build confidence among all parties that establishing a venue of communication will also open spaces for joint solutions.

The Organization of American States has issued three resolutions, one which calls for the creation of a Working Group on Nicaragua aimed at assessing the situation and offering its good offices to help solve the crisis. The Working Group can serve as a vehicle to accompany and observe jointly with other countries like Spain, Canada or Germany, and organizations like the U.N., to testify for a national engagement for political reforms. The Group can also be a direct mediator between the Nicaraguan government and a now enlarged Civic Alliance. It can work with external observers as a means to ensure there is congruence in the discussion as well as compliance to an agenda.

Both the Nicaraguan opposition and the international players need to have incentives to the government in order to arrive at a negotiated solution. The most basic incentive is not issue international sanctions in exchange to commit to deescalate any form of violence, and that includes dismantling or suspending the anti-terrorism law. The Civic Alliance has refrained from setting barricades to block the streets, and the government should ban paramilitary forces at this point.

Moreover, offering a minimum agenda for mediation is an incentive to advance toward political reforms. The mediation efforts of the international community are critical and urgently needed because the violence and terror is unbearable among Nicaraguans, and it exacerbates resentment and polarization.

Ending or halting violence, will only contribute to consider options for political reform. The country needs to focus on a minimum agenda for discussion including ensuring

fairness in the election process and independence of political institutions. Along those lines, it is to the benefit of the Ortega circle of power to spot the benefits of a negotiated solution through political reforms, specifically, ensuring that they can be part of political changes as well as of any competitive electoral process moving forward.

Do not Forget Justice for Nicaragua

Nicaragua deserves a political transition, one that must include the re-establishment of democratic rule through free and fair elections, accompanied by a comprehensive effort to ensure the independence of political institutions. In order to achieve this, it is crucial to create transparent and democratic procedures in all branches of government with the help of an independent international committee. This could be supplemented by establishing an oversight committee to supervise all administrative and political decisions.

Once this occurs, a transitional justice mechanism should be established to create an accurate historical record of events dating back to the 1980s. As a result of the civil war, more than 500,000 Nicaraguans were internally and externally displaced and more than 45,000 people lost their lives. When a peace settlement was negotiated, the two main goals were establishing free and fair elections and disarming the Contras while reducing the size of the Sandinista army. Although those steps were imperative, there were no investigations of abuses perpetrated by both sides and no mechanisms put in place to address redress for victims. This was most evident during the transition period under the administration of President Violeta Chamorro (1990-1995), when a number of investigations into political assassinations led by Sandinista courts did not yield any verdicts, despite evidence of Sandinista security forces involvement.

The neglect to attend to past and continued abuses has created resentment among Nicaraguans across generations and fueled political mobilization against the Sandinistas and Ortega to this day. The civil war was fought with a deep sense of division and hatred and many returned to their homes after the war sharing their day-to-day lives with adversaries without the opportunity to heal wounds, achieve justice, and bridge the divide.

Addressing this resentment by establishing the truth and acknowledging the pain of victims and their families, although difficult, would be a key step in achieving justice and reconciliation, something many Nicaraguans have been denied for decades.

Thank you.

**Inter-American Commission on Human Rights, Gross Human
Rights Violations in the Context of Social Protests in Nicaragua,
OEA/Ser.L/V/II**

June 21, 2018

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