



**Contribution to the 19<sup>th</sup> session of the Working Group  
of the Universal Periodic Review**

**Submission on freedom of expression and association in Nicaragua, drawn up by PEN Nicaragua**

**September 2013**

1. PEN Nicaragua welcomes the opportunity provided by the Office of the High Commissioner on Human Rights to comment on the climate for free expression in the country since the last Universal Periodic Review (UPR) of Nicaragua in 2010.

**I. EXECUTIVE SUMMARY**

2. In order for the Nicaraguan government to fully comply with the International Covenant on Civil and Political Rights (ICCPR), of which it is a signatory, in its report on freedom of expression in Nicaragua in August 2009 PEN Nicaragua called on the international community for support in asking the Nicaraguan government to respect its commitments to adhere to the ICCPR, and in particular to comply with articles 19 and 22.

3. With regard to the recommendations following the UPR on Nicaragua in 2010, the only ones that have been partially acted on are those relating to the promotion of racial discrimination. Those which have not been implemented are:

- The right to denounce irregularities and make constructive criticism;
- That civil society groups are able to operate without harassment or other forms of intimidation;
- Eliminate the crime of defamation from the criminal code in order that these facts are examined under the civil code;
- Ensure full compliance with the law on access to information;
- Ensure that civil society organizations may express their opinions freely on Government policy;
- Refrain from using administrative, judicial, or financial means to limit the exercise of free expression
- Establish an independent body to regulate radio broadcasting;
- Guarantee respect for freedom of expression and opinion;
- Take measures to protect journalists and investigate harassment, physical attacks and death threats against them;

- Ensure that members of the political opposition are able to express their views freely, and are protected against intimidation and violence during peaceful demonstrations.

4. Between the second half of 2009 and the first half of 2013, the Nicaraguan government has made no major advances in eliminating practices of intimidation directed against criticism of its conduct as a State. It has continued to exclude journalists, radio stations, newspapers and television channels it does not deem to be sympathetic to its policies. There have been reports of harassment, threats, legal accusations, and the use of government agencies to apply pressure and intimidate. There is a prevailing secrecy with information, privatising public information. Press coverage is banned for anything other than official state media in state and government institutions and requests for information are not answered or are downplayed with evasive responses. Programmes and communications media have been shut down.

5. The governing family has constructed a television empire by buying the majority of television stations. The party political use of publicity guidelines as a tool for rewards and punishments continues. Furthermore, the government uses paramilitary shock troops to attack citizens at public demonstrations. Despite formal complaints, impunity prevails.

## **II. MECHANISMS FOR THE REPRESSION OF RIGHTS AND FREEDOMS**

### **A. DEFAMATION**

6. Defamation campaigns against journalists, fiction writers and social leaders have reduced, but do continue, originating from official communications media. For example, in March 2012, a correspondent from *La Prensa (LP)* in Matagalpa, Luis Eduardo Martínez, was the victim of a publicity stunt and a television campaign that presented him as drunk and irresponsible.

7. Government officials frequently rebuke journalists from critical media or refuse to answer their questions. Most notably against journalists from LP and Canal 2, the presidential economic advisor Bayardo Arce and the director of Frente Nacional de Los Trabajadores (FNT), Gustavo Porras.

### **B. JUDICIAL SYSTEM**

8. The government's practice of bringing journalists and critical media before the judicial system has continued. In addition, the Supreme Court of Justice (SCJ) is keeping decisions in limbo regarding the Law Establishing the Nicaraguan Association of Journalists, which official sectors are seeking to reform to place conditions of responsibility and truth on information. The SCJ has still not issued any judgments on the writs of amparo filed by the journalists Pedro Reyes Vallejos, Guillermo Morales Fajardo and Hugo Antonio Zepeda; or the newspapers *LP*, *El Nuevo Diario (END)* and television channel Canal 2 against compulsory membership, because it infringes on freedom of association.

9. In 2011 the government promoted the use of criminal proceedings to limit freedom of expression. One emblematic case was that of Managua local councillors Luciano García Mejía and Leonel Téller, fined for slander and libel in June of this year, because they called for an investigation into alleged acts of corruption by the Managua city council. Téller used to work as a journalist and was then a spokesperson for his party for several years.

10. There have also been accusations from journalists linked to the government against colleagues critical of the regime: the journalist from the Frente Sandinista de Liberación Nacional (FSLN), Luis Fernando Pozo Maradiaga, accused *LP's* correspondent in Madriz, William Aragón Rodríguez, of libel in January 2012. The case was dismissed by the local court.

## C. ADMINISTRATIVE REPRESSION BY THE GOVERNMENT

### *Secrecy with information*

11. The government handles public information as though it were private. On the Law governing Access to Public Information (Law 621), monitoring by the Fundación Violeta Barrios de Chamorro in March 2012 revealed that public institutions responded to 72 per cent of information requests, but in an insufficient way. Worse still, in some cases, the person requesting the information was interrogated with intimidating questions. Almost all public institutions have outdated websites and offices for information access do not open. Furthermore, the President, Daniel Ortega, has not given a single press conference in his two terms as head of state, or any interviews to any local journalists or media.

### *Exclusion of unofficial media*

12. It is routine for unofficial media and journalists not to be invited to press activities by public institutions. For example, on 10 March 2010, journalists from *END*, *LP* and Canal 2 were prevented from covering a press conference at the Supreme Electoral Council (SEC), where the regional election results for Caribe were to be revealed. In the National Assembly on 17 March 2010, social communicators from various media were denied coverage of a public hearing with SEC magistrates. Also this month journalists from *END*, radio station Corporación and TV channels Canal 2 and Canal 11 were prevented from covering a swearing-in ceremony at the SEC to incorporate the representative Alfredo Gomez into the National Assembly.

13. At the end of October 2010, the SEC prevented journalists from attending the convocation of the 2011 elections. On 28 October 2010, authorities from the Ministry of Foreign Affairs limited national and international media coverage of the meeting of chancellor Samuel Santos López with the United States Assistant Secretary of State for Western Hemisphere Affairs, Arturo Valenzuela.

14. In April 2013 a team from *LP* was not allowed to cover an activity where the Head of the Army handed over the 2012 Yearbook for this institution to the President of the CSEA. At the start of 2013, journalist David Rivera, of Canal 12, was not permitted to attend a meeting between the head of the Ministry of Development, Industry and Trade and authorities from the Universidad Nacional Autónoma de Nicaragua.

### *Reprisals for investigative journalism*

15. Key institutions like the Department of Revenue, the Department of Customs (DGA) and the Ministry of Employment (MITRAB), were used against *END* and *LP*. For example, in February 2011 the DGA blocked *END*'s imports of newsprint. *END* had published a series of reports on acts of corruption in the Treasury Department and CSE which irritated the government.

### *Closing down media*

16. On 17 January 2011, television channel Canal 15 was closed down, in Condega, Estelí, allegedly in retaliation for its critical stance. This channel was broadcast on the signal of a subscription television company in two municipalities in the north of Nicaragua. In 2012, Canal 13 in Madriz was the victim of threats to close it down, due to a complaint from the political Secretary of the FSLN to the regulatory body for communications, TELCOR. Shortly afterwards, Canal 13 went off the air and seven workers were dismissed.

17. In October 2012, a journalist from Somotillo, Walter Enrique Rodas Galo, saw his programme 'Straight Talk', which had been broadcast on Radio Stereo Juventud for eight years, shut down due

to threats and an express request from the municipality's Mayor and the Regional Politics Secretary of the FSLN, according to what he was told by the radio station's director.

#### *Advertising as prize or punishment*

18. State advertising is solely allocated to media linked to the governing party, without any accordance with technical criteria. There is still a ban by the Secretary of the Council on Communication and Citizenry, the First Lady, Rosario Murillo, that only this office can contract advertising, in accordance with a circular issued in February 2007.

#### *The official television media empire*

19. At the end of 2009, construction of the Ortega-Murillo family's television media empire began with the acquisition of Canal 8. The Programmes *Tonight* and *This Week*, presented by journalist Carlos Fernando Chamorro, had to leave the station. In 2011 channels 13 and 6 were taken over by this government monopoly, which also obtained, without tendering, Channel 16. In 2012 television channel Canal 8 had a debt on delayed tax payments dismissed, worth around 11.8 million córdobas (approximately US\$472,473). As of 2013, the government controls the following TV channels: 4, 6, 8, 13, 16 and 91.

#### *Compulsory television links*

20. In 2011, television stations were frequently forced to link to government broadcasts of the activities of President Daniel Ortega. In September 2013, TELCOR issued administrative agreement 009-2010 in support of the measure actually adopted by the President.

#### *Journalist prevented from presenting a book*

21. On 2 October 2009, journalist Juan Ramón Huerta, of *END*, was prevented from presenting her book at the offices of the Nicaraguan Union of Journalists (UPN), on the orders of UPN president Roberto Larios, who argued that Huerta was being critical of the organisation and also cited political reasons.

### **D. HARASSMENT**

22. In September 2009, the FSLN started organising what were called Sandinista Journalists Forums, to discuss actions against non-government journalists. They called for a war on "the right-wing media dictatorship". The same month, the Human Rights Prosecutor Omar Cabezas and historian Aldo Diaz demanded restrictions on non-official media.

23. In March 2010, an FSLN representative, Mario Valle, rector and owner of the University of Managua, took action to harass and threaten *END* and its journalists in relation to a protest letter from a student who publicly accused him of homophobia.

24. In September 2010, the government promoted a several-day siege at the offices of the newspaper *LP*, in which bombs were thrown and a window broken. These events occurred after *LP* terminated the contract of some of the newspaper's employees. MITRAB ordered *LP* to reinstate 23 former distributors, despite the fact that these were freelance workers. Some of them, accompanied by members of the FNT, prevented the newspaper's circulation. The paper's management asked the police to act, but according to reports, they did not provide any protection.

25. In February 2011, the journalist Luis Galeano, author of a series of reports on the mismanagement of funds by CSE president Roberto Rivas, published in *END*, received death threats by telephone.

26. In April 2012, the Secretary of the Municipal Council of Tipitapa, Leopoldo Bello, abused a team of *LP* journalists, when they were investigating a complaint about a conflict of interest for municipal officials.

27. On 11 May 2013, Héctor Retamal, a Chilean photographer working for Agence France Presse, was expelled from the country because he wanted to cover a meeting between President Daniel Ortega and the Palestinian Foreign Affairs Minister. This month, *LP* photojournalist, Manuel Esquivel, was assaulted by guards from the security service of the courts of Managua.

#### **E. USE OF GOVERNMENT PARAMILITARY SHOCK TROOPS**

28. On 29 August 2009, journalist Rommel Sánchez and cameraman Santos Padilla were assaulted by a government paramilitary shock troop, resulting in injuries and damage to a vehicle. At the end of August 2010, four unidentified people assaulted the journalist Sergio Cruz when he was trying to photograph street art rejecting the re-election of President Daniel Ortega. They smashed the right headlight of his van and stained his rear windscreen with paint.

29. On 9 November 2010, the premises of *END*, *LP* and *Hoy* were attacked with mortars and stones by a mob of government sympathisers. They broke windows and doors. That afternoon a van belonging to Canal 15 (One Hundred Per Cent News), was damaged when a team of journalists was covering an outbreak of violence in Managua.

30. 22 June 2013 saw the most flagrant violations of freedom of expression and demonstration, which sent a negative message to the whole of society, when followers of President Ortega, wearing hoods and carrying weapons, attacked a group of elderly people requesting a reduced old age pension and dozens of young people supporting them. The paramilitary forces, armed with iron bars, sticks and firearms, were transported at dawn in three dump trucks belonging to the Managua local council. The attack in front of dozens of complicit police officers, was organised at a meeting attended by a minister (for youth) Bosco Castillo; a deputy minister (for education), José Treminio; the General Secretary of the Managua local council, Fidel Moreno (a confidante of the first lady Rosario Murillo); and a National Assembly representative, Jenny Martínez. The police said nothing.

#### **III. CONCLUSIONS**

31. In Nicaragua there is freedom of expression in the sense that writers and journalists can write what they want. However, freedom of information is restricted and threatened. There is pressure, intimidation and fear, which promote self-censorship and fear of self-expression. The government monopolises and keeps hold of public information. An authoritarian model has become entrenched which controls state and government institutions. Critical opinions are dismissed as the work of shady conspiracies. The regime maintains an information policy which is distorted in its favour. Unofficial media and journalists are silenced. put down.

#### **IV. RECOMMENDATIONS**

1. PEN Nicaragua asks the international community to call on the government of Nicaragua with regard to its commitments to adhere to the ICCPR, and in particular Articles 19 and 22, with which it is still failing to comply, and urges the Nicaraguan authorities to undertake the following:

- Immediately cease defamation, harassment, judicial and other forms of harassment through other state and government institutions, against anyone who is peacefully exercising their right to free expression and opinion;
- Eliminate paramilitary shock troops which have been systematically used to reprimand public demonstrations critical of the government;
- Abolish open or underhand reprisals and the denial of rights against anyone who disagrees with government positions;
- Facilitate access to public information for all social communications media with no distinction whatsoever and eliminate from the government's official communications policy the unilateral view that non-official media contaminate information;
- Comply with the Law on Access to Information by dealing with information requests from all citizens and journalists, and respond to all of their requests;
- Eliminate the use of state and government advertising guidelines as a policy for reward or punishment, and bring it into line with the audience and influence level of each media, as well as its specialist nature and ability to reach segments or niches of society. Also take into account the guidelines for motivating journalists and other social communicators who run programmes on radio or television, and small owners of printed magazines and diverse digital publications;
- Guarantee access, for all communications media and all journalists, to press, communication and public relations activities held by various public institutions;
- Listen to and respect the opinion of different sectors of society not related to government policy;
- Establish unequivocal official policies and plans which inspire democracy, equality and the development of Nicaraguan society;
- Promote tolerance, dialogue and respect for the law and democratic institutional structure;
- Enforce the law against abuses of power, violence and political polarisation in society.