

International Financial Support to **Nicaragua** and the Democratic and Human Rights Crisis



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and the Democratic and
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International Financial Support to Nicaragua and the Democratic and Human Rights Crisis

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Content

Presentation	4
Executive Summary	5
1. Introduction	9
2. Nicaraguan Context	11
2.1. Establishment of the Nicaraguan Dictatorship and Human Rights Violations for Political Reasons (2000-2018)	12
2.2. Consolidation of the Nicaraguan Dictatorship and Widespread and Systematic Human Rights Violations for Political Reasons (2018-2024)	19
3. International Financial Support to Nicaragua	27
3.1. World Bank Group	29
3.1.1. Introductory Notes	29
3.1.2. Internal Responsibility Analysis	30
3.1.3. External Responsibility Analysis	32
3.1.4. World Bank Group and Nicaragua	32
3.2. International Monetary Fund	34
3.2.1. Introductory Notes	34
3.2.2. Internal Responsibility Analysis	35
3.2.3. External Responsibility Analysis	35
3.2.4. International Monetary Fund and Nicaragua	36
3.3. Inter-American Development Bank	37
3.3.1. Introductory Notes	37
3.3.2. Internal Responsibility Analysis	39
3.3.3. External Responsibility Analysis	40
3.3.4. IDB Group and Nicaragua	40
3.4. Central American Bank for Economic Integration	42
3.4.1. Introductory Notes	42
3.4.2. Internal Responsibility Analysis	43
3.4.3. External Responsibility Analysis	44
3.4.4. CABEL and Nicaragua	44
4. International Financial Support and Responsibility for Violating the Obligations to Prohibit Crimes Against Humanity and Respect Human Rights	47
4.1. International Responsibility for Unlawful Acts	48
4.2. Obligation to Prohibit Crimes Against Humanity	53
4.3. Obligation to Respect Human Rights	57
5. Conclusions	63
6. Recommendations	66
7. International Financial Support to Nicaragua	69

Presentation

The Institute on Race, Equality, and Human Rights (Race and Equality) is an international civil society organization that advocates for human rights through documentation, training, advocacy, and strategic litigation at regional and international levels.

It works with local, regional, and international counterparts across the Americas to build a society where human rights are respected without discrimination based on race, ethnicity, gender, sexual orientation, religion, politics, or any other social condition.

Since 2018, Race and Equality has been collaborating with Nicaraguan organizations and human rights defenders to address the democratic and human rights crisis imposed by the dictatorship of Daniel Ortega and Rosario Murillo in the country. It also works towards justice and comprehensive reparations for victims of human rights violations before the international community of states, international organizations, and the Inter-American and international human rights systems.

“The International Financial Support to Nicaragua and the Democratic and Human Rights Crisis” aims to analyze the relationship between the authoritarian regime of Daniel Ortega and Rosario Murillo and the International Financial Institutions (IFIs), within the framework of their obligations related to the prohibition of crimes against humanity and the respect for human rights. This report is expected to contribute to reflection by the Nicaraguan State, International Financial Institutions, the international community, states, and international organizations to act in a coordinated manner to end the crisis facing Nicaragua.

Thus, from Race and Equality, we express our gratitude to all the people mentioned or not—due to their own safety and that of their families who continue living in Nicaraguan territory—who collaborated in the research and preparation of this report. Their efforts were and continue to be essential for the promotion and protection of human rights in Nicaragua. We hope that the Nicaraguan people will soon be like Nicaragua's national bird, the guardabarranco: free in its flight and diverse in its vibrant colors.

Carlos Quesada
Executive Director

Executive Summary

Since 2018, the authoritarian regime of Daniel Ortega and Rosario Murillo has been responsible for widespread and systematic human rights violations against the civilian population, which constitute crimes against humanity. However, the extensive documentation and awareness of the Nicaraguan democratic and human rights crisis have not been sufficient for International Financial Institutions (hereinafter IFIs) to alter their strategy regarding the country or enhance their human rights due diligence. As of February 2024, the World Bank Group, the International Monetary Fund, the Inter-American Development Bank, and the Central American Bank for Economic Integration were supporting 97 development projects in Nicaragua, with the approval of US\$5.08 billion according to the information available on their websites.

The report "International Financial Support to Nicaragua and the Democratic and Human Rights Crisis" aims to analyze the relationship between the authoritarian regime of Daniel Ortega and Rosario Murillo and the IFIs, within the framework of obligations related to the prohibition of crimes against humanity and the respect for human rights in Nicaragua. In this regard, IFIs are prohibited from engaging in political activities, and their decisions and actions must be guided impartially by economic aspects, without being influenced by political matters or intervening in the internal affairs of their member states. However, we consider that respect for democracy and human rights are economically relevant and should be considered by IFIs in contexts such as that of Nicaragua.

IFIs are bound by *jus cogens* rules, which obligate them to prohibit and prevent crimes against humanity, which includes not recognizing the crimes committed by the Ortega-Murillo regime as legal; not providing aid or financial assistance, resources that are used without respect for human rights and, in practice, perpetuate the regime's hold on power. IFIs are also required to cooperate with states and international organizations to end such situations.

IFIs, under international law, are bound to respect human rights. Therefore, they must formulate and implement policies to identify, prevent, address, and remedy potential and actual negative impacts on human rights associated with their value chain in Nicaraguan territory. IFIs do not possess absolute judicial immunity and, when violating their obligations, are exposed to actions before competent courts. Recognition of responsibility entails legal obligations for cessation, non-repetition, and comprehensive reparation for the harm caused.

At Race and Equality, we understand that IFIs and their work are crucial for sustainable development and reducing inequalities in Nicaragua. However, it is necessary for them to act within their mandates and according to their internal rules, based on international law, to end the democratic and human rights crisis in Nicaragua, fulfilling their

obligations to prohibit crimes against humanity and respect human rights. In this regard, we recommend the following:

for these violations and crimes, repair the resulting consequences, and offer guarantees of non-repetition.

To the State of Nicaragua

- 1) Guarantee public access to information according to international standards on development projects executed in its territory, refraining from prosecuting or criminalizing individuals who request information about these projects.
- 2) Ensure a prior and rigorous social and environmental risk analysis for development projects in its territory, in accordance with its obligations established by domestic and international human rights law and the prohibition of crimes against humanity.
- 3) Strengthen the monitoring of development project execution in its territory, in compliance with its human rights obligations and the prohibition of crimes against humanity as established by domestic and international law.
- 4) Guarantee the investigation, prosecution, trial, and sanctioning of all individuals responsible for human rights violations and crimes against humanity related to development projects in its territory. Provide comprehensive reparations for victims, refraining from prosecuting or criminalizing victims or their representatives, as established by domestic and international law.
- 5) In coordination with IFIs, conduct an immediate review of projects in its territory in light of documented human rights violations and crimes against humanity. Suspend and/or cancel such projects if necessary to investigate and identify those responsible

To International Financial Institutions

- 1) Immediately ensure public access to information regarding their projects in Nicaraguan territory in accordance with international human rights standards, adopting measures to protect individuals who request information about these projects.
- 2) Conduct an immediate and urgent review of their projects and, in the face of documented violations of human rights and crimes against humanity, proceed with conditional suspension and/or cancellation of these projects in Nicaraguan territory.
- 3) Ensure a prior and rigorous social and environmental impact analysis, guaranteeing the right to prior, free, and informed consultation where applicable, for development projects in Nicaraguan territory, in accordance with their obligations regarding human rights and the prohibition of crimes against humanity.
- 4) Ensure that the instruments and mechanisms for controlling the implementation of projects and the use of provided financing are clear and accessible to anyone wishing to report negative impacts or implementation failures.
- 5) Guarantee the monitoring, supervision, and oversight of the execution of their development projects in Nicaraguan territory, in line with their human rights obligations and the prohibition of crimes against humanity.

- 6) Prioritize and expedite the review of complaints submitted to their control mechanisms and those initiated on their own initiative related to human rights violations and crimes against humanity committed within the projects they support, taking into account the *corpus juris* of international human rights and adopting appropriate measures to ensure reparations and protection for victims and their representatives.
 - 7) Monitor and process information rigorously within the framework of their internal regulations regarding complaints, investigations, and decisions by international human rights bodies concerning human rights violations and crimes against humanity committed in Nicaraguan territory.
 - 8) Cooperate with the international community of states and international organizations to end the democratic and human rights crisis in Nicaragua.
- 3) Request the strengthening of state organs and financial institutions responsible for investigating, prosecuting, adjudicating, and analyzing, as well as sanctioning and determining comprehensive reparations for victims of human rights violations within development projects in Nicaraguan territory.
 - 4) Request the suspension and/or cancellation of projects in Nicaraguan territory when violations of obligations related to crimes against humanity and human rights are confirmed.
 - 5) Cooperate with IFIs and international organizations to end the democratic and human rights crisis in Nicaragua.

To the International Community of States

- 1) Request information from IFIs regarding development projects in Nicaraguan territory and verify compliance with the state's international human rights obligations, while ensuring this information is accessible to the general public.
- 2) Cooperate and call for the strengthening of state organs and financial institutions responsible for risk analysis and monitoring the implementation of development projects in Nicaraguan territory, in accordance with obligations regarding crimes against humanity and human rights.

To International Organizations

- 1) Request information on development projects in Nicaraguan territory and facilitate public access to this information.
- 2) Investigate *ex officio* and call for the strengthening of state organs and financial institutions responsible for risk analysis and monitoring the implementation of development projects in Nicaraguan territory, in accordance with obligations related to crimes against humanity and human rights.
- 3) Request the strengthening of state organs and financial institutions responsible for investigating, prosecuting, adjudicating, and analyzing, as well as sanctioning and determining comprehensive reparations for victims of human rights violations within development projects in Nicaraguan territory.

- 4) Request the suspension and/or cancellation of projects in Nicaraguan territory when confirmed violations of obligations related to crimes against humanity and human rights are found.
 - 5) Cooperate with the international community of states and IFIs to end the democratic and human rights crisis in Nicaragua.
-

1. Introduction

Nicaragua is experiencing an unprecedented democratic and human rights crisis. The authoritarian regime of Daniel Ortega and Rosario Murillo is responsible for widespread and systematic human rights violations against the civilian population, motivated by political reasons that amount to crimes against humanity.¹ Since 2000, the rule of law has been undermined by the concentration of powers in the executive branch and the subjugation of other branches. A deliberate confusion has also been created between the State, Government, and Party, making it impossible to distinguish governmental actions from political actions or state agents from party agents.² Since 2018, there has been no transparency or access to public information allowing citizen oversight of the Nicaraguan public administration. The civic space is entirely closed, with more than 4,000 civil society organizations being canceled and the harassment, arbitrary imprisonment, enforced disappearance, torture, exile, revocation of nationality, and confiscation of property from 316 opposition figures or perceived as such,³ and the forced displacement of more than 440,000 Nicaraguans who have sought asylum in other countries.⁴

This crisis has been monitored, documented, and denounced by local, regional, and international civil society organizations, together with International Organizations of the Inter-American and Universal Human Rights Systems. However, IFIs continue to support development projects in Nicaraguan territory in violation of their obligations to prohibit crimes against humanity and to respect human rights, failing to fully adhere to their internal rules and international law. Even assuming this was not their intention, in practice, these institutions contribute to the perpetuation of the regime of Daniel Ortega and Rosario Murillo to the detriment of Nicaraguan human rights, and they also expose themselves to reputational, financial, political, and/or legal risks.

The report "International Financial Support to Nicaragua and the Democratic and Human Rights Crisis" aims to analyze the relationship between the authoritarian regime of Daniel Ortega and Rosario Murillo and International Financial Institutions (IFIs), within the framework of their respective obligations concerning crimes against humanity and

1 GHREN. Detailed Conclusions of the Group of Human Rights Experts on Nicaragua, March 7, 2023. <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session52/A-HRC-52-CRP-5-ES.pdf>. p. 224, paragraph (para.) 931.

2 Inter-American Commission on Human Rights. Nicaragua: Concentration of Power and Weakening of the Rule of Law, October 25, 2021. https://www.oas.org/es/cidh/informes/pdfs/2021_Nicaragua-ES.pdf. p. 62, p. 12-13, para. 18.

3 Inter-American Commission on Human Rights. Closure of Civic Space in Nicaragua, September 23, 2023. https://www.oas.org/es/cidh/informes/pdfs/2023/Cierre_espacio_civico_Nicaragua_SPA.pdf. p. 24, para. 47.

4 UNHCR. Refugee Data Finder. <https://www.unhcr.org/refugee-statistics/download/?url=Z41RSg>.

respect for human rights. Information was sourced from the websites of IFIs, data about their projects, reports from International Organizations, and news from independent media up to February 29, 2024. Additionally, all the information was rigorously and impartially evaluated to establish its reliability. The report focuses on the support of IFIs for development projects underway in Nicaraguan territory, considering the potential impact to help end the crisis.

The report is divided into three parts. The first part analyzes the democratic and human rights context of the country,

divided into two significant periods: "2000-2018" and "2018-2024." The second part examines the World Bank Group (WB), the International Monetary Fund (IMF), the Inter-American Development Bank Group (IDB), the Central American Bank for Economic Integration (CABEI), and their support for development projects in Nicaragua. The third part analyzes the responsibilities of International Organizations concerning crimes against humanity and human rights. Finally, conclusions and recommendations are presented for the State of Nicaragua, IFIs, the International Community of States, and International Organizations.

2. Nicaraguan Context

The democratic and human rights crisis in Nicaragua can be analyzed in two major periods. Between 2000 and 2018, Daniel Ortega implemented constitutional, legal, and institutional reforms that allowed for the concentration of state powers in the Executive branch and weakened the checks and balances of the Legislative, Judicial, and Electoral branches. Beginning in 2007, the year Ortega returned to power, conditions were established to eliminate any form of opposition or competition to his candidacy, with the aim of consolidating an authoritarian regime that selectively violated the human rights of opponents or those perceived as such for political reasons, thereby consolidating one of the cruelest dictatorships in the hemisphere's history. Thus, from 2018 to the present, reforms were deepened to further concentrate state powers in the Executive branch and, specifically, in the presidency of Daniel Ortega and the vice-presidency of Rosario Murillo.

Multilateral organizations and international human rights protection mechanisms have monitored and documented the Nicaraguan crisis since its inception. The seriousness of the situation prompted the Organization of American States (OAS) and the Inter-American Commission on Human Rights (IACHR) to create the Interdisciplinary Group of Independent Experts for Nicaragua (GIEI-Nicaragua, by its Spanish acronym) in 2018⁵ and later the Special Monitoring Mechanism for Nicaragua (MESENI, by its Spanish acronym)⁶ to accompany the crisis and take measures within the framework of their competencies to promote and protect human rights. Similarly, the United Nations (UN) and its Human Rights Council (HRC) established the Group of Human Rights Experts on Nicaragua (GHREN) in 2022.⁷

This section analyzes the context of Nicaragua in the periods 2000-2018 and 2018-2024, to highlight the weakness of its institutions and the widespread and systematic human rights violations that make it difficult to execute any development project sustainably amid the democratic and human rights crisis.

5 IACHR. Interdisciplinary Group of Independent Experts for Nicaragua (GIEI-Nicaragua). <https://gieinicaragua.org/>.

6 IACHR. Special Monitoring Mechanism for Nicaragua (MESENI). <https://www.oas.org/es/cidh/js-Form/?File=/es/cidh/meseni/default.asp>.

7 HRC. Group of Human Rights Experts on Nicaragua (GHREN). <https://www.ohchr.org/en/hr-bodies/hrc/ghre-nicaragua/index>.

2.1 Establishment of the Nicaraguan Dictatorship and Human Rights Violations for Political Reasons (2000-2018)

In January 2000, the leader of the Constitutional Liberal Party (PLC, by its Spanish acronym) and then-President of Nicaragua, Arnoldo Alemán, and the leader of the Sandinista National Liberation Front (FSLN, by its Spanish acronym) and then-former President of Nicaragua, Daniel Ortega, signed a governance agreement known as the Alemán-Ortega Pact. The agreement aimed to implement constitutional, legal, and institutional reforms designed to expand the power of these parties, creating a bipartisan system.⁸ According to the IACHR, this agreement marked the beginning of the concentration of power by the Executive branch and, consequently, by Daniel Ortega and Rosario Murillo,⁹ which eroded the democratic system in Nicaragua.¹⁰

In this context, the first of a series of reforms was also approved, which modified the rules for presidential elections. The reform established that to win the presidency or vice-presidency in the first round, the necessary percentage was no

longer 45%, but rather 40% in general or 35% if having a 5% advantage over the next candidate. All these changes were adopted to benefit Daniel Ortega in future elections, according to the electoral polls conducted at that time.¹¹

The constitutional reform also served to strengthen the power and immunity of the Presidency and Vice-Presidency. It raised the quorum required to lift the President's immunity from an absolute majority of the members of the National Assembly to two-thirds of its members.¹² It also determined that the President and Vice-President would automatically serve as members of the National Assembly as titular and alternate members, respectively.¹³ Additionally, it established that candidates for the presidency and vice-presidency who finished in second place in the general elections would automatically become members of the National Assembly as titular and alternate members, respectively.¹⁴ According to the GHREN, this reform ensured immunity for the leaders of the Constitutional Liberal Party (PLC, by its Spanish acronym) and the Sandinista National Liberation Front (FSLN, by its Spanish acronym) in the next legislature.¹⁵

The constitutional and legal reform also served to weaken the independence of the Judicial Branch and subject it to the

⁸ Law 330 of 2000. Partial Reform Law to the Political Constitution of the Republic of Nicaragua, approved on January 18, 2000, published in *La Gaceta*, Official Journal No. 13 of January 19, 2000. Article 3.

⁹ *Supra*, n. 2, para. 2 and 34.

¹⁰ *Supra*, n. 3, para. 216; Race and Equality. Nicaragua: An Unresolved Human Rights Crisis. Analysis of Arbitrary Detentions, Unfair Judicial Processes, and Political Persecution. July 2021, https://raceandequality.org/wp-content/uploads/2021/07/Informe_personas_presas_pol%C3%ADticas_Nicaragua.pdf, p. 16.

¹¹ *Supra*, n. 8. Article 3; *Supra*, n. 2. para. 9.

¹² *Supra*, n. 8. Article 3.

¹³ *Supra*, n. 8. Article 4.

¹⁴ *Supra*, n. 8. Article 4.

¹⁵ *Supra*, n. 1, p. 22.

Executive. It expanded the composition of the Supreme Court of Justice (CSJ, by its Spanish acronym) from 12 to 32 members, consisting of 12 justices and 20 associate justices, and, in turn, reduced their term from seven to five years.¹⁶ Similarly, it expanded the composition of the Supreme Electoral Council from 5 principal magistrates and 5 alternates to 7 principal magistrates and 3 alternates, with a term of five years.¹⁷ Finally, it changed the position of the Comptroller General of the Republic to a collegiate body of 8 comptrollers, consisting of 5 principals and 3 alternates with a term of five years.¹⁸ As a result, the PLC and the FSLN divided the highest positions of the Judicial and Electoral Powers between them, holding the majority of the positions.¹⁹ As recorded by the GHREN, “in 2001, the CSE was composed of four people linked to the FSLN and three people close to the PLC; and the (CSJ) was composed of eight members aligned with the FSLN and eight from the PLC.”²⁰

The constant legislative reforms led to “appointment and tenure processes” influenced by factors such as nepotism,

favoritism, and manipulation by the ruling party,²¹ all aimed at increasing Daniel Ortega’s political power and control over the Legislative, Judicial, and Electoral branches. As a result, different government bodies, such as the Supreme Court of Justice (CSJ, by its Spanish acronym), the Supreme Electoral Council (CSE, by its Spanish acronym), and the Office of the Attorney General of the Republic, came to be composed of people appointed and aligned with the ruling party, contributing to the impairment of the exercise of political rights, association, assembly, and freedom of expression.²² According to the IACHR, this has resulted in the progressive loss of independence and autonomy of these bodies,²³ and it also contributed to the persecution of people opposed to the government.²⁴

Furthermore, in 2000, Electoral Law 331 was adopted, which promoted legislative reform in favor of government parties and aimed to restrict political participation and eliminate adversaries; and, in effect, it did so, excluding popular subscription associations and traditional

16 *Supra*, n. 8. Article 6.

17 *Supra*, n. 8. Article 7.

18 *Supra*, n. 8. Article 5.

19 Race and Equality, *Supra*, n. 10, p. 16.

20 *Supra*, n. 1, p. 23.

21 *Supra*, n. 2. 2021 paragraphs (paras.) 6-7.

22 IACHR. Annual Report 2018. Chapter IV.B-Nicaragua, 2018, <https://www.oas.org/es/cidh/docs/anual/2018/docs/IA2018cap.4B.NI-es.pdf>, para. 27; United Nations. Committee Against Torture. Examination of reports submitted by the States parties under article 19 of the Convention. Final observations of the Committee Against Torture. Nicaragua. CAT/C/NIC/CO/1. June 10, 2009, paras. 12 and 14; United Nations. Human Rights Council. Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul. Subregional consultation on the independence of the Judiciary in Central America. A/HCR/23/43/Add.4. April 2, 2013, <https://documents.un.org/doc/undoc/gen/g13/126/17/pdf/g1312617.pdf?token=obugzEzium4iPZQvFJ&fe=true>, paras. 66, 86e.

23 IACHR. *Supra* n. 22, paras. 87, 99.

24 IACHR. Referral Note to the Inter-American Court of Human Rights. Case No. 14.047. Jaime Antonio Chavarria Morales and family. Nicaragua. November 17, 2023. <https://www.oas.org/es/cidh/decisiones/corte/2023/14.047.Jaime%20Antonio%20Chavarria%20Morales%20y%20familia.%20Nota%20de%20Some-timiento.Nicaragua.pdf>.

indigenous and Afro-descendant organizations, reducing the electoral adversaries of the FSLN and the PLC.²⁵ According to the IACHR²⁶ and the Inter-American Court of Human Rights,²⁷ the reform restricted the exercise of political rights of different political forces in the country.

In this regard, the reform also established stricter requirements for the formation of new political parties, including presenting a number of signatures equal to or greater than 3% of the national electorate and establishing leadership committees with at least five members in all the municipalities of the country.²⁸ Similarly, the legal reform expanded the grounds for canceling parties, including not participating in all the elections that are called and not obtaining at least 4% of the valid votes in national elections.²⁹ Finally, the reform also determined that the President and Vice President of the Departmental and Regional Electoral Councils of the Voting Reception Boards would be appointed by the parties placed first and second in the most recent general elections.³⁰

In 2006, Daniel Ortega was elected President of Nicaragua in the first round with 38% of the valid votes in the general

elections, directly benefiting from the constitutional and legal reforms he helped implement.³¹ At the same time, the FSLN took a simple majority in the National Assembly, enough to guarantee presidential immunity.³²

During the 2007–2012 term, Daniel Ortega and the FSLN deepened the reforms to concentrate state powers in the Executive Branch, especially in the Presidency. In November 2007, Ortega decreed the creation of the Citizen Power Councils (CPC, by its Spanish acronym) and the Citizen Power Cabinets (GPC, by its Spanish acronym) "so that the Nicaraguan people, in the exercise of participatory and direct democracy of the different social sectors of the country, organize themselves and participate in the comprehensive development of the nation actively and directly and support the plans and policies of the President of the Republic."³³ But as recorded by the GHREN, these bodies usurped powers originally belonging to municipal governments and proliferated clientelist practices;³⁴ for example, the selection of beneficiaries for the delivery of food under the Zero Hunger program or zinc sheets under the Roof Plan was determined by these structures according to their loyalty to the Sandinista party.³⁵

25 Law 331 of 2000. Electoral Law, approved on January 19, 2000, published in *La Gaceta*, Official Journal No. 16 on January 24, 2000. Article 71; Race and Equality, *Supra*, n. 10, p. 16.

26 *Supra*, n. 2. para. 11.

27 Inter-American Court of Human Rights. Case *Yatama vs. Nicaragua*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of June 23, 2005. Series C No. 127, paras. 163-164.

28 Law 331 of 2000. Electoral Law, approved on January 19, 2000, published in *La Gaceta*, Official Journal No. 16 on January 24, 2000. Article 65; Race and Equality, *Supra*, n. 10, p. 16.

29 *Supra*, n. 28, Article 74.

30 *Supra*, n. 28, Article 16.

31 *Supra*, n. 1, p. 24; Race and Equality, *Supra*, n. 10, p. 16.

32 *Supra*, n. 1, p. 24.

33 Executive Decree No. 112-2007, Creation of the Citizen Power Councils and Cabinets, approved on November 29, 2007, published in *La Gaceta*, Official Journal No. 230 on November 29, 2007. Article 3.

34 *Supra*, n. 1, pp. 24 and 31.

35 *Supra*, n. 1, pp. 24 and 31.

The insidious relationship between the Executive and Judicial powers has served the interests of Daniel Ortega and the FSLN. In June 2008, the CSE canceled the legal status of the Sandinista Renewal Movement (MRS, by its Spanish acronym) and the Conservative Party, the main opposition groups to the government, in violation of the political rights of their members.³⁶ The magistrates appointed by Daniel Ortega to the CSE decided—based on the electoral legal reforms that Ortega helped implement—and prevented these parties from participating in the 2008 municipal elections. Subsequently, the CSE prohibited the accreditation of international observers and carrying out exit polls.³⁷

The opposition denounced irregularities in the elections in favor of the current government, especially concerning the mayors' offices of Managua and León, prompting public demonstrations that were violently repressed by security agents and pro-government armed groups; however, the allegations were never investigated by the competent authorities.³⁸

In October 2009, President Ortega—together with elected mayors and deputy mayors—submitted a request to the CSE not to apply the constitutional prohibition on re-election for the presidency, vice presidency, mayoralties (mayors' offices),

and deputy mayoralties for two consecutive terms. After the CSE rejected the request, the applicants filed an appeal with the CSJ, which was accepted, arguing that the constitutional articles preventing re-election were discriminatory since they only applied to individuals holding those positions and violated the full enjoyment of their political rights. This ruling was ratified by the full CSJ in 2010,³⁹ allowing Daniel Ortega to run again for his second consecutive re-election.

In January 2010, President Ortega revoked the constitutional powers of the National Assembly and decreed the extension of the mandates of the members of the CSE, CSJ, Comptroller General, Prosecutor's Office of the Republic, and Office of the Human Rights Ombudsman for more than three years.⁴⁰ In September of the same year, the members of the CSJ annulled the constitutional provision prohibiting consecutive presidential terms, allowing Daniel Ortega to run as a candidate in the November 2011 elections.⁴¹ In these elections, the CSE did not present disaggregated voting data as required by the Electoral Law and prevented the verification of the results. Once again, the opposition denounced election fraud, but these complaints were not investigated by the competent authorities.

³⁶ CSE. Resolution dated June 11, 2008, canceling the legal status of the MRS. The resolution refers to Articles 173.12 of the Political Constitution of Nicaragua, Articles 63.2, 72, 74.3, and 75 of the Electoral Law, and internal provisions of the MRS; *Supra*, n. 2, para. 12.

³⁷ *Supra*, n.1, p. 26.

³⁸ *Supra*, n.1 p. 26.

³⁹ CSJ. Judgment No. 504, October 19, 2009; IACHR. Nicaragua: *Supra*, n. 2, para. 10; IACHR. Annual Report 2018. Chapter IV.B - Nicaragua, 2018, para. 28.

⁴⁰ Executive Decree No. 3-2010, approved January 9, 2010, published in *La Gaceta*, Official Journal, No. 6, January 11, 2010.

⁴¹ CSJ. Judgment No. 6, September 30, 2010.

In November 2011, Daniel Ortega was re-elected for his third term despite the constitutional prohibition on re-election. Additionally, FSLN candidates were appointed to 63 of the 90 seats in the National Assembly. Thus, the party had the majority needed to reform the Constitution, adopt laws, and appoint high officials without the need for agreements with other political parties.⁴² According to the GHREN, "the 2011 elections were marked by the measures adopted within the framework of the Alemán-Ortega Pact and the actions of the CSE and the CSJ," giving "absolute control of the National Assembly to President Ortega."⁴³ Subsequently, "the absence of checks and balances in the Legislative Power has accelerated the erosion of the separation of powers and the politicization of the State, exacerbating the Government party's influence over the electoral and judicial systems."⁴⁴

In November 2012, municipal elections were held in Nicaragua. The OAS electoral observation mission noted significant progress in improving electoral processes in the country but highlighted that a more transparent and reliable electoral system depended on changing the mechanism by which high positions in the Vote Reception Boards and other electoral bodies were distributed between the two leading parties from the previous elections.⁴⁵ Amid new fraud allegations from the opposition, FSLN candidates

were elected to 134 of the 153 existing municipal mayoralties in the country.

In January 2014, the National Assembly implemented a constitutional reform according to the interests of President Ortega and the FSLN.⁴⁶ This reform removed the prohibition on re-election and established a model of indefinite re-election; abolished the President's accountability to the National Assembly by eliminating the requirement to present an annual report; expanded the President's powers to make unilateral decisions through executive decrees without prior approval from Congress or other legislative bodies; and determined that high officials appointed by the Presidency would be confirmed by a simple majority in the National Assembly. The President became the Supreme Chief of the National Police. The Army was assigned tasks related to citizen security. The second round of elections was abolished, and direct citizen participation, such as the CPC and GPC, was enshrined in the Constitution. The reform also established consequences for cases of party-switching where elected representatives change parties during their term, resulting in the loss of their mandates and their substitutes assuming the seat.⁴⁷

In 2016, the legislative and presidential elections were also marked by allegations of irregularities and did not include international observation.⁴⁸ In June

⁴² *Supra*, n.1, p. 27.

⁴³ *Supra*, n.1, p. 27; IACHR. *Supra*, n. 22, para. 28.

⁴⁴ *Supra*, n.1, p. 27; IACHR. *Supra*, n. 22, para. 28.

⁴⁵ OAS. Report of the Electoral Accompaniment Mission, Municipal Elections of November 4, 2012 in the Republic of Nicaragua. https://www.oas.org/es/sap/deco/moe_informe/info_final_moe_nicaragu%202012.pdf. p. 9.

⁴⁶ Law 854. Nicaragua.

⁴⁷ IACHR, *Supra* n.22, para. 31; *Supra*, n. 2, para. 51; Race and Equality, *Supra*, n.10, p. 17.

⁴⁸ IACHR. *Supra*, n.22, para. 29.

2016, the CSJ ordered the replacement of the leadership of the main opposition party, the Independent Liberal Party (PLI, by its Spanish acronym), and then, based on the 2014 constitutional reforms, the CSE expelled 28 elected representatives from the National Assembly for refusing to accept the authority of the imposed party leader.⁴⁹ As a result, candidates from the coalition led by the PLI and the main opposition parties were unable to participate in the presidential elections. In November 2016, Daniel Ortega was elected President for his third consecutive term, while his wife, Rosario Murillo, was elected Vice President. The FSLN candidates secured 72 of the 90 seats in the National Assembly.⁵⁰

According to the GHREN, “the dismantling of democratic institutions in Nicaragua blurred the line between the institutional and the parastatal (...) making it difficult to differentiate when a person acts as a public authority and when acting as a political leader or member of the [FSLN] party.”⁵¹

Alongside the institutional reforms that have enabled the establishment of the Ortega-Murillo dictatorship in Nicaragua, international organizations responsible for monitoring the human rights

situation in the country have identified, based on information provided by Nicaraguan and international civil society organizations, the intensification of human rights violations and abuses in the country.⁵² In this context, both the GHREN⁵³ and the IACHR⁵⁴ have recognized that the lack of effective judicial control over the actions of the Executive power, combined with the legal reforms that occurred between 2000 and 2018, have created a scenario of absolute impunity in Nicaragua, which has facilitated the violation of human rights during this period.

In particular, these bodies have documented the disproportionate use of force by state agents in contexts of deprivation of liberty and social protests. In this regard, the GHREN has acknowledged that during this period, several cases of deaths of individuals under State custody and extrajudicial executions in the country were documented.⁵⁵

Similarly, these bodies have identified a pattern of arbitrary detentions motivated by political reasons in Nicaragua, which did not include presenting the detainee before a judge, depriving detainees of external contact, the absence and lack of records of detainees, lack of medical assistance, and lack of

49 *Supra*, n.1, p. 30.

50 *Supra*, n.1, p. 30.

51 *Supra*, n.1, p. 30.

52 *Supra*, n.1, p. 57.

53 *Supra*, n.1, p. 58.

54 IACHR. *Supra*, n.22, 2018.

55 *Supra*, n.1, p. 57-58.

information to detained individuals about the charges against them.⁵⁶ There has also been evidence of torture or cruel, inhuman, or degrading treatment and/or punishment against individuals detained for political reasons, as well as inadequate detention conditions⁵⁷. From April 2018 to February 9, 2023, at least 245 people remained detained due to political reasons in Nicaragua, including 205 men and 30 women.⁵⁸

On the other hand, the GHREN has identified a "pattern of mass arbitrary detentions in the context of social protests."⁵⁹ In this regard, there has been an observed increase in the excessive use of force and violent attacks in demonstrations, which have led to abusive arrests and violent repression of the demonstrators.⁶⁰ The increase in violence by state agents and the

number of detentions was related to protests against sensitive issues of interest to the Nicaraguan government.⁶¹ Consequently, the groups most impacted were political opponents of the government and representatives of civil society.⁶² Specifically, the IACHR indicated that social protests against the 2016 elections were repressed through state violence.⁶³

International bodies have paid special attention to the situation of human rights defenders in Nicaragua during this period and have documented the deterioration of their situation.⁶⁴ Since 2008, United Nations bodies have recorded the existence of "systematic harassment and death threats" against human rights defenders⁶⁵ and, since 2014, an intensification of attacks against them.⁶⁶

⁵⁶ *Supra*, n.1, pp. 57-58, para. 252; United Nations. Working Group on Arbitrary Detention. Opinion No. 73/2022 concerning Juan Sebastián Chamorro García and Félix Alejandro Maradiaga Blandón (Nicaragua). A/HRC/WGAD/2022/73. <https://www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session95/A-HRC-WGAD-2022-73-Nicaragua-AEV.pdf>; United Nations. Working Group on Arbitrary Detention. Opinion No. 39/2020 concerning Kevin Roberto Solís (Nicaragua). A/HRC/WGAD/2020/39. <https://documents.un.org/doc/undoc/gen/g20/257/95/pdf/g2025795.pdf?token=hgyrUOt1TEqc64g-ZhE&fe=true>; United Nations. Committee Against Torture, *Supra*, n. 22, para. 20.

⁵⁷ *Supra*, n.1, p. 59, paras. 262-272; United Nations. Committee Against Torture, *Supra*, n. 22, para. 21.

⁵⁸ Race and Equality. Violations of human rights of people arbitrarily deprived of liberty for political reasons. <https://raceandequality.org/wp-content/uploads/2023/08/DIGITAL-VIOLACIONES-A-LOS-DERECHOS-HUMANOS.pdf>. p. 17

⁵⁹ *Supra*, n.1, p. 59, para. 261.

⁶⁰ *Supra*, n.1, p. 59, para. 261.

⁶¹ *Supra*, n.1, pp. 59 and 62, para. 276.

⁶² *Supra*, n.1, p. 62, paras. 261, 273-277.

⁶³ IACHR. *Supra*, n. 22, para. 28.

⁶⁴ *Supra*, n.1, p. 62, para. 278; Inter-American Court of Human Rights. Case of Acosta and Others vs. Nicaragua. Preliminary Objections, Merits, Reparations, and Costs. Judgment of March 25, 2017. Series C No. 334; IACHR. Resolution 16/2017. Precautionary Measure No. 505-15. Lottie Cunningham regarding Nicaragua (Expansion). June 11, 2017, para. 15; IACHR. Resolution 17/2016. Precautionary Measure No. 121-16. Matter of Carlos Humberto Bonilla Alfaro and others regarding Nicaragua. March 24, 2016, paras. 3 and 6.

⁶⁵ *Supra*, n.1, p. 62, para. 278; United Nations. Committee Against Torture, *Supra*, n. 22, paras. 18-19.

⁶⁶ *Supra*, n.1, p. 62, para. 261.

2.2 Consolidation of the Nicaraguan Dictatorship and Widespread and Systematic Human Rights Violations for Political Reasons (2018-2024)

In April 2018, the Nicaraguan population organized a series of mass social protests throughout the country. A series of events, such as the fire in the Indio-Maíz Nature Reserve and the approval of a decree reforming the National Social Security Institute (INSS, by its Spanish acronym) to increase worker contributions and reduce pensions, have been considered by international organizations as causes of the outbreak of a series of protests throughout 2018, which were violently repressed by the State.⁶⁷ The protesters represented different ranks and social groups, including the elderly, students, environmentalists, human rights defenders, indigenous and peasant leaders, journalists, and political opponents.⁶⁸

Between April 18 and 22, 2018, the protests spread across the country and were violently repressed by the State. According to the GHREN, the state repression that erupted in Nicaragua in 2018 is set in a prior context of political violence perpetrated by the State and absolute impunity for these acts.⁶⁹

International organizations have stated that there are no official figures on state violence due to a lack of transparency and access to information and the persecution of people trying to access public information. However, the combined efforts of national and international civil society and international organizations have facilitated the documentation and quantification of the Ortega-Murillo regime's attacks on the population.⁷⁰

To repress the protests, the National Police used force in a disproportionate, excessive, arbitrary, systematic, and widespread manner, resulting in 212 people killed, 1,337 injured, 507 arbitrarily detained,⁷¹ acts of torture, and mistreatment by state agents, increasing social discontent.⁷² The systematic and widespread attack against a specific sector of the civilian population, which began in 2018, persists and continues today. Initially, the victims of the Ortega-Murillo regime were the protesters, but now they are people of different ages and social strata, whose common characteristic is being identified or considered as opponents.⁷³

In response to the social protest against state repression of the initial demonstrations, on April 22, the government revoked the social security reform and agreed to initiate a dialogue process. Thus, it approved the creation of a Truth Commission on April 29, 2018. However, state violence against the demonstrators continued, and furthermore, this

67 *Supra*, n.1, p. 62, paras. 285-286; IACHR. Grave Violations of Human Rights in the Context of Social Protests in Nicaragua, June 21, 2018. <https://www.oas.org/es/cidh/informes/pdfs/Nicaragua2018-es.pdf>, paras. 33-34.

68 *Supra*, n.1, p. 62, paras. 285-286.

69 *Supra*, n.1, p. 62, para. 330.

70 *Supra*, n.1, p. 62, para. 331.

71 IACHR. *Supra*, n. 67, p. 22, para. 57.

72 *Supra*, n.1, p. 62, paras. 335, 338, 345; IACHR. *Supra*, n. 67, paras. 37-40.

73 *Supra*, n.1, p. 62, paras. 289, 943-947.

commission did not include opposition representatives, so these initiatives were insufficient to quell the protests.⁷⁴ On the contrary, the number of demonstrators increased.

Specifically, on May 30, 2018, the mothers of the victims of state repression during the protests called for a peaceful march in Managua, demanding justice for their sons and daughters. Thousands of people mobilized across the country, which led to an increase in repression. The National Police and pro-government armed groups used disproportionate force,⁷⁵ deliberately and indiscriminately firing at unarmed demonstrators, resulting in at least fifteen deaths.⁷⁶ Subsequently, new acts of violence perpetrated by the state occurred during the social protests. Although a Dialogue Table was established in June 2018 to cease all forms of violence, the police and pro-government armed groups attacked demonstrators in Carazo, Chinandega, Granada, Managua, and Masaya, escalating violence levels and leaving many dead and wounded.⁷⁷ In July, they attacked the demonstrations again.⁷⁸ According to the GHREN, the actions of these two armed groups—the National Police and the pro-government armed groups—disregarded any effort at dialogue between the parties.⁷⁹

According to the IACHR, between April and June 2018, at least 212 people were victims of extrajudicial executions in Nicaragua, while 1,337 people were injured in the context of state repression against the protests, with the likelihood that the figures are higher and underreported by the state.⁸⁰ Among the victims were children and adolescents.⁸¹ Furthermore, from April 20 to June 5, 2018, 507 people were arbitrarily deprived of their liberty for political reasons.⁸²

As the protests continued, from August 2018 onwards, the government increased the persecution of social leaders and demonstrators.⁸³ In this context, beyond systematic and widespread violence, the state adopted strategies such as labor persecution, mass layoffs, and threats against workers.⁸⁴

The period between June and August 2018 has been known as “Operation Cleanup,” during which arbitrary detentions intensified—of opponents or those perceived as such—in public spaces, offices, residences, and safe houses where people were sheltered. Family members were also assaulted: elderly people, children, and adolescents.⁸⁵ Thousands of Nicaraguans had to flee their homes for safety and even leave the country seeking protection.⁸⁶

74 *Supra*, n.1. p. 62, para. 289; IACHR. *Supra*, n. 67, paras. 71, 73. <https://www.oas.org/es/cidh/informes/pdfs/Nicaragua2018-es.pdf>

75 *Supra*, n.1. p. 62, paras. 390-392.

76 *Supra*, n.1. p. 62, paras. 289, 391.

77 *Supra*, n.1. p. 62, paras. 292-294.

78 *Supra*, n.1. p. 62, para. 295.

79 *Supra*, n.1. p. 62, para. 295.

80 IACHR. *Supra*, n. 67, paras. 86 and 93.

81 IACHR. *Supra*, n. 67, paras. 119-120.

82 *Supra*, n.1. p. 62, paras. 408-424; IACHR. *Supra*, n. 67, para. 173.

83 *Supra*, n.1. p. 62, para. 296.

84 *Supra*, n.1. p. 62, paras. 408-424; IACHR. *Supra*, n. 67, para. 166.

85 *Supra*, n.1. p. 62, paras. 500-505; *Supra*, n. 2. para. 40; *Supra*, n.3, paras. 147-149.

86 IACHR. *Supra*, n. 67, paras. 220-221.

In the context of systematic and widespread actions by the Nicaraguan government acting with its acquiescence—whether by state or private agents—many people were captured, victims of enforced disappearance, tortured, and sexually assaulted.⁸⁷ Moreover, in July 2018, to give the appearance of legality to the persecution and criminalization of opponents or those perceived as such, the National Assembly adopted the law against Money Laundering, Terrorism Financing, and the Proliferation of Weapons of Mass Destruction, which reformed the classification of offenses associated with terrorism and allows for the criminalization of demonstrators.⁸⁸

By September of the same year, the National Police issued a statement to prohibit any protest against the government, but these continued in October and December, for which many demonstrators suffered—at alarming levels—harassment, attacks, detentions, and expulsions.⁸⁹ In addition, journalists and social leaders were deprived of their liberty, and media outlets and civil society organizations were closed.⁹⁰

These reforms created a context of systematic and widespread violations against opponents or those perceived as such by the government, leading to the suppression of all criticism or opposition.⁹¹ According to the GHREN, since 2018, the Nicaraguan government adopted a strategy of political discrimination

against demonstrators by constructing the “enemy” narrative, through which opponents or those perceived as such were blamed for the violence, being publicly labeled by authorities such as Daniel Ortega and Rosario Murillo and high-ranking government officials as: “criminals,” “terrorists,” and people attempting to “carry out a coup d’état.” As noted by the GHREN, this was premeditatedly used to justify a systematic and widespread attack against this sector of the civilian population.⁹²

The State and its agents persisted in systematic and widespread attacks. In February 2019, despite the agreement between the opposition and the government delegation—signed at the negotiating table of the second National Dialogue—a unilateral release of detainees took place. On June 11, 2019, the National Assembly approved an Amnesty Law, through which new releases were carried out. However, this legislation has been widely criticized for promoting impunity towards victims and being applied in a partial manner.⁹³ Furthermore, the Amnesty Law did not reduce arbitrary detentions for political reasons; instead, new illegal detentions occurred from July onwards, as well as the reincarceration of individuals who had previously been imprisoned.⁹⁴

Additionally, on December 31, 2019, 91 people were released from prison;⁹⁵ however, their convictions were

87 *Supra*, n.1. p. 62, paras. 296; 600–688.

88 *Supra*, n.1. p. 62, paras. 296, 534–539.

89 *Supra*, n.1. p. 62, para. 297; *Supra*, n.3, paras. 61–62.

90 *Supra*, n.1. p. 62, paras. 298–299; IACHR. *Supra*, n. 67, paras. 199–219.

91 *Supra*, n.1. p. 62, para. 440.

92 *Supra*, n.1. p. 62, paras. 440, 948, 951.

93 *Supra*, n. 58, p. 10.

94 *Supra*, n.1. p. 62, paras. 300–301; *Supra*, n.58, pp. 19–20.

95 *Supra*, n. 1, p. 62, para. 302.

not overturned, leaving them at risk of re-incarceration.

Throughout 2019, incidents of violence persisted. In particular, those who were deprived of liberty for exercising their right to protest were subjected to death threats, as were their families. Moreover, they faced poor detention conditions and were tortured, leading international organizations to demand urgent measures for the government to cease these actions.⁹⁶ However, the State did not adopt the required measures, using the arrival of the COVID-19 pandemic as an excuse.⁹⁷

Despite the global health situation, in 2020, Nicaragua kept its borders open, did not suspend in-person basic education classes, and stopped publishing information about COVID-19. Additionally, it organized several mass rallies in its favor,⁹⁸ contradicting the recommendations of various international organizations.

In this context, the IACHR and its Rapporteurship on Economic, Social, Cultural, and Environmental Rights expressed concern that although the World Bank approved (on December 8, 2020) a loan to Nicaragua of US\$20 million and an additional US\$116 million (in June 2022) to ensure access to vaccines and return the health system to its pre-COVID-19

status—covering essential services, medications, vaccines, and medical supplies and equipment—there are consistent reports that these funds may not have been used for the loan's intended purposes. In relation to this, the IACHR reported that the figures provided by the State were unclear regarding the restructuring of the Nicaraguan health system.⁹⁹

The pandemic served as a pretext for the National Assembly to adopt—in 2020—legislative instruments that added to those adopted between 2018 and 2019, aimed at restricting civic and democratic space¹⁰⁰ and thus achieving absolute control over the population.¹⁰¹

In October 2020, the National Assembly approved the Law on the Regulation of Foreign Agents, which limited access to foreign funding for civil society organizations engaged in activities defending human rights. Additionally, it adopted the Special Cybercrime Law, which imposes penalties on those who publish news that causes “alarm, fear, or unease,” thus censoring opponents or those perceived as such.¹⁰² According to the GHREN, the objective of the Cybercrime Law was “to unlawfully restrict freedom of expression” and “to criminally prosecute the expression of public opinions.”¹⁰³

⁹⁶ Inter-American Court of Human Rights. Resolution of the President of the Inter-American Court of Human Rights of May 21, 2019. Adoption of Urgent Measures. Case of Seventeen Persons Deprived of Liberty regarding Nicaragua, paras. 8 and 17-24.

⁹⁷ *Supra*, n. 1, p. 62, para. 303.

⁹⁸ *Supra*, n. 1, p. 62, para. 303.

⁹⁹ IACHR. Annual Report 2022. Chapter IV.B-Nicaragua, 2022, https://www.oas.org/es/cidh/docs/anual/2022/capitulos/8-IA2022_Cap_4B_NI_ES.pdf, para. 99.

¹⁰⁰ *Supra*, n. 1, p. 62, para. 302.

¹⁰¹ *Supra*, n. 58, p. 10.

¹⁰² *Supra*, n.1, p. 62, paras. 540-544; IACHR. Annual Report 2020. Chapter IV.B - Nicaragua, 2020, <https://www.oas.org/es/cidh/docs/anual/2020/capitulos/IA2020cap.4b.NI-es.pdf>, paras. 32 and 34.

¹⁰³ *Supra*, n.1, p. 62, para. 544.

In December 2020, the National Assembly approved the Law for the Defense of the Rights of the People to Independence, Sovereignty, and Self-Determination for Peace, which declares individuals responsible for actions that "harm the supreme interests of the nation" as "traitors of the homeland." For the GHREN, this law infringes on freedoms of expression and opinion and the right to participate in public life, as it sanctions political discourse and limits the right to political participation.¹⁰⁴

Furthermore, in January 2021, the National Assembly approved a constitutional reform to allow life imprisonment for "serious crimes, when circumstances of hatred, cruelty, degradation, humiliation, and inhumanity are present, which, due to their impact, cause shock, rejection, indignation, and revulsion in the national community." In February 2021, the National Assembly reformed the Penal Code to "legalize" prolonged detentions without bringing the accused before a competent authority.

In addition to the constitutional and legal reforms carried out up to 2018, these new normative instruments have allowed the persecution and criminalization of opponents or those perceived as such for political reasons. They have been used to dismantle opposition forces to the current government ahead of the presidential and legislative elections in November 2021. Regarding this, the GHREN

recognized that this phase created a "legal architecture for criminalization."¹⁰⁵ Similarly, the IACHR acknowledges that in 2020 there was an increase in acts of violence, surveillance, harassment, and selective representation by state agents and pro-government armed groups.¹⁰⁶

Starting in May 2021, before the presidential and legislative elections, the criminalization of civil society organizations and opponents or those perceived as such intensified. Opposition presidential candidates were arbitrarily deprived of their liberty for political reasons or placed under house arrest. Individuals identified as members of opposition political parties, members of social movements, and the private sector were imprisoned; the CSE¹⁰⁷ arbitrarily canceled the legal status of three political parties. According to the IACHR, the government adopted these repressive measures to end all opposition even before the general elections.¹⁰⁸

According to the GHREN, starting in 2021, the government massively revoked the legal status of various civil society organizations in order to "reconfigure the civic space and ensure the State's monopoly on community, development, and social assistance activities."¹⁰⁹ The GHREN also identified that the cancellation of civil society organizations has a negative impact on environmental protection, as well as on the protection of the rights of children, women, LGBTI individuals, indigenous

104 *Supra*, n.1, p. 62, para. 546.

105 *Supra*, n.1, p. 62, para. 528.

106 IACHR. *Supra*, n. 102, paras. 47-48, 50.

107 *Supra*, n.1, p. 62, paras. 305-309.

108 IACHR. Annual Report 2021. Chapter IV.B - Nicaragua, 2021, <https://www.oas.org/es/cidh/docs/anual/2021/capitulos/IA2021cap4B.Nicaragua-es.pdf>, paras. 4, 45-55.

109 *Supra*, n.1. p. 62, paras. 832-833.

and Afro-descendant peoples, and rural communities.¹¹⁰

The 2021 elections took place in a context of impunity and extreme violence by the government,¹¹¹ and as a result, Daniel Ortega and Rosario Murillo won, reaching their fourth term, and the FSLN obtained 75 of the 90 deputies.¹¹² The international community¹¹³ rejected these results, prompting the government (on November 18) to denounce the Charter of the Organization of American States, initiating its formal withdrawal.

At the beginning of 2022, Daniel Ortega was inaugurated for his fourth consecutive term and consolidated power, adding to the 15 years¹¹⁴ he has been in power. According to the GHREN and the IACHR, in 2022, the total closure of civic space in Nicaragua was promoted as a result of the concentration of power in the Executive, further deepening the crisis in Nicaragua;¹¹⁵ this exacerbated the systematic context of persecution, criminalization, harassment, intimidation, stigmatization, and repression of individuals considered opponents of the government.¹¹⁶

The dictatorship proceeded with the mass closure of nonprofit organizations, including universities and civil society organizations, as well as the cancellation of their legal status. In the first

half of the year, various figures related to the Catholic Church were forced to leave the country and were later prohibited from holding religious celebrations, and their temples were destroyed.¹¹⁷ Furthermore, the cancellation of new organizations was recorded, especially those dedicated to sustainable development, environmental issues, and human rights protection.¹¹⁸

On April 24, 2022, the OAS was expelled from the country, and Nicaragua withdrew its diplomatic representative from that organization in Washington, D.C. In August of the same year, five municipalities in the country—whose mayors still represented the opposition, members of the Citizens for Liberty party (CxL, by its Spanish acronym)—were taken over, and the mayors were removed from office.¹¹⁹

With the municipal elections on November 6, 2022, the FSLN gained control of all the municipalities in the country,¹²⁰ and between August 2022 and November 2023, new arrests of political leaders were made—including members of the Catholic Church—and their relatives.¹²¹

On February 9, 2023, the National Assembly of Nicaragua approved, in an urgent procedure, in the first of two readings, a constitutional reform¹²² and a Special Law regulating the Loss of Nicaraguan

110 *Supra*, n.1. p. 62, para. 835.

111 *Supra*, n. 108, paras. 6, 29, 56.

112 *Supra*, n.1. p. 62, paras. 308-309; *Supra*, n. 108, para. 58.

113 *Supra*, n.1. p. 62, paras. 308-309.

114 IACHR. *Supra*, n. 99, paras. 4, 28.

115 *Supra*, n.99, paras. 4-5, 27; *Supra*, n.1, paras. 310-315.

116 *Supra*, n.99, paras. 9-10.

117 *Supra*, n.1. p. 62, paras. 310-315; *Supra*, n.99, paras. 128-134.

118 *Supra*, n.99, paras. 110-112, 135-143.

119 *Supra*, n.1, p. 62, 310-315.

120 *Supra*, n.1, p. 62, 316.

121 *Supra*, n.1, p. 62, 317.

122 Law Reforming Article 21 of the Constitution. Published in *La Gaceta No. 25* on February 10, 2023.

Nationality,¹²³ which allows Nicaraguans convicted of the crime of “treason against the homeland” to lose their nationality. On the same day, the Managua Court of Appeals declared 222 people deprived of liberty for political reasons as traitors to the homeland, released them, and immediately deported them to the United States.¹²⁴ Six days later, on February 15, the court declared 94 other people, who were opponents or perceived as such, as traitors to the homeland.¹²⁵ All of them were stripped of their nationality, had their political rights suspended, and their assets and properties confiscated. This group comprises the country’s main social, political, and religious leaders, former government officials and diplomats, human rights defenders, journalists, and workers of the main media outlets.¹²⁶

According to the GHREN, evidence suggests a widespread and systematic effort by the Government of Nicaragua to violently suppress protests.¹²⁷ According to the same source, this modus operandi included six main elements. The first was the arbitrary, systematic, and widespread use of deliberate force by state agents intending to “kill demonstrators, or at least to inflict serious bodily harm” and prevent or suppress acts of social protest.¹²⁸ The second element was the use of weapons with high lethal potential, used to

attack demonstrators with violence and demonstrate the “intent to cause death” of these individuals.¹²⁹ The third element involved coordination between the National Police and pro-government armed groups to suppress social protests. This coordination led to the omission, facilitation, and direct involvement of the police in supporting the violent acts carried out by these pro-government groups.¹³⁰ The fourth element was the escalation of violence and the consolidation of repression tactics.¹³¹ The fifth was the refusal to grant entry and provide medical assistance to demonstrators, resulting in deaths due to lack of medical attention, discriminatory acts, and stigmatization of protesters, surveillance by pro-government armed groups in health centers, as well as reprisals against health professionals and medical students.¹³²

In particular, the GHREN stated that the Ministry of Health actively cooperated in the operations to repress protests by providing ambulances and health system personnel to the repression forces. These resources were used to transport weapons during repression operations.¹³³ The IACHR also noted that the government ordered restrictions on humanitarian aid personnel, such as Red Cross staff, who were attempting to assist the wounded. Subsequently, the office of this

123 Law No. 1145. Special Law Regulating the Loss of Nicaraguan Nationality. Published in La Gaceta No. 25 on February 10, 2023.

124 *Supra*, n.1, p. 62, 318.

125 *Supra*, n.1, p. 62, 317.

126 *Supra*, n.3, 216.

127 *Supra*, n.1, 931.

128 *Supra*, n.1, 344-352.

129 *Supra*, n.1, 362-378.

130 *Supra*, n.1, 379-389.

131 *Supra*, n.1, 390-407.

132 *Supra*, n.1, 408-424; IACHR. *Supra*, n. 67, 67.

133 *Supra*, n.1, paras. 418-420.

organization was closed.¹³⁴ The sixth and final element identified by the GHREN was impunity and obstruction of fact-finding and access to justice.¹³⁵

On the other hand, the GHREN also noted the existence of a widespread and systematic pattern of action by the Nicaraguan government to suppress any opposition or criticism of the authoritarian regime. According to the same source, this *modus operandi* includes several elements: one, violent detentions—conducted without court orders, incommunicado, and without guarantees—of opponents or those perceived as such, resulting in forced disappearances and the ineffectiveness of legal remedies like habeas corpus;¹³⁶ and another, the use of criminal law to prosecute opponents or those perceived as such.¹³⁷ Other elements include: 1. the use of torture and other cruel, inhuman, and degrading treatment or punishment, including sexual and gender-based violence against opponents

and those perceived as such;¹³⁸ 2. the violation of the rights to freedom of association and peaceful assembly;¹³⁹ and 3. attacks on the rights to education and academic freedom through reprisals against students, teachers, and university entities, and the control of university spaces to dismantle initiatives for discussion.¹⁴⁰

For its part, the IACHR quantified the violations committed by the Nicaraguan government between 2018 and 2023 as follows: the state revoked the legal status of 3,390 organizations, representing about 50% of all organizations in Nicaragua.¹⁴¹ Among these, 1,125 were dedicated to development issues, 147 focused on cultural aspects, and 76 were academic institutions.¹⁴² Given this situation, the GHREN¹⁴³ has acknowledged that, in the case of Nicaragua, there is a situation of crimes against humanity in accordance with the relevant norms and customs of international law.¹⁴⁴

134 *Supra*, n.1, para. 408-424; IACHR. *Supra*, n. 67, para. 154.

135 *Supra*, n.1, paras. 425-437.

136 *Supra*, n.1, paras. 499-518.

137 *Supra*, n.1, para. 519-532; *Supra*, n.3, para. 98.

138 *Supra*, n.1, paras. 593-688.

139 *Supra*, n.1, paras. 818-836.

140 *Supra*, n.1, paras. 853-873.

141 *Supra*, n.3, para. 72.

142 *Supra*, n.3, paras. 74-94.

143 *Supra*, n.1, p. 62, paras. 955-956.

144 International Criminal Court. *Katanga Case. The Prosecutor v. Germain Katanga*. ICC-01/04-01/07/3436-tENG. March 7, 2014. Trial Chamber II. Decision. Judgment pursuant to article 74 of the Statute, para. 47; Residual Special Court for Sierra Leone. *Prosecutor v. Charles Chankay Taylor*. Case No. SCSL-2003-01-T. Judgement. May 18, 2012, paras. 37-42; Extraordinary Chambers in the Courts of Cambodia. *The Prosecutor v. Kaing Guek Eav alias Duch*. Case No. 001/18-07-2007-ECCC/SC. Judgement. February 3, 2012.

3. International Financial Support for Nicaragua

IFIs are international organizations created by member states to promote development at the regional and global levels. They have similar governance models, meaning that member states appoint representatives to the boards of governors and executive boards responsible for deliberating and deciding on their policies, projects, and activities, while the presidency and specialized departments—through their officials—are responsible for implementing those decisions.

States—through their representatives—deliberate and decide according to their participation in the institutional capital. IFIs and their agents should not guide their decisions and activities based on political aspects that should be considered impartially, without being influenced by political issues or interfering in the internal affairs of their member states.

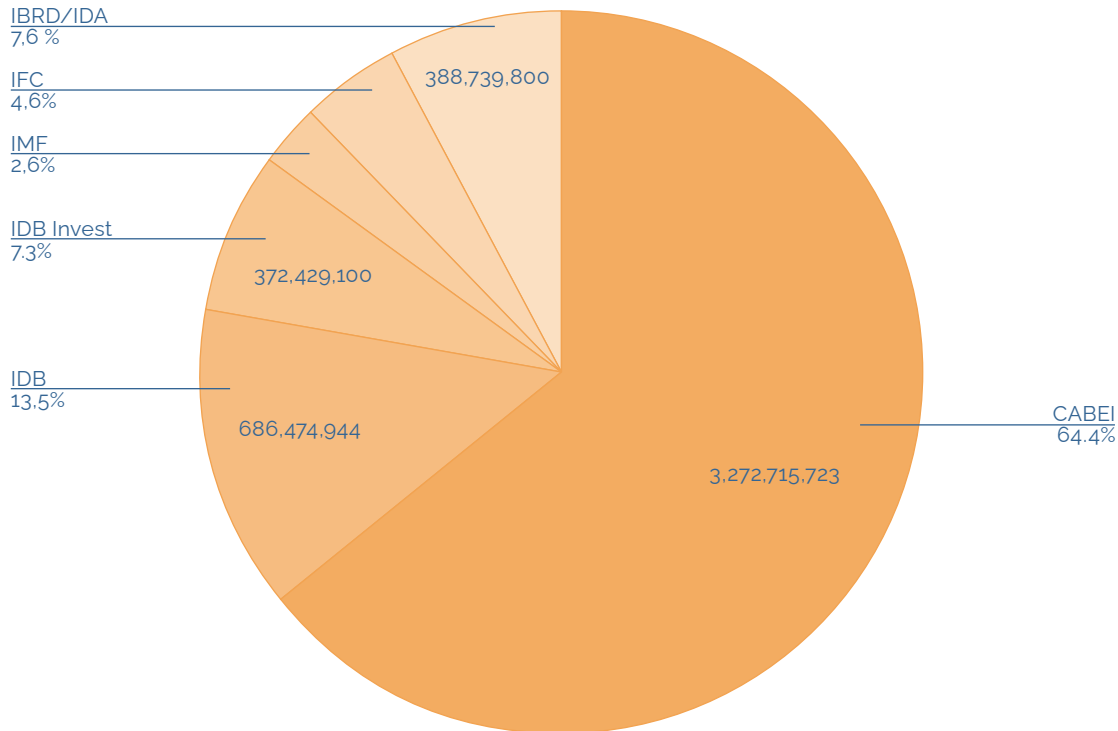
The mission of IFIs is to promote sustainable development by providing loans, grants, and technical cooperation to governments, private companies, and organizations in developing countries. They can positively impact human rights when they promote development in a socially and environmentally sustainable manner, as seen in support for projects that increase the efficiency of a country's justice system, thereby contributing to the enjoyment of civil and political rights; as well as projects to strengthen the health system, which contributes to the enjoyment of economic, social, cultural, and environmental rights.

Furthermore, IFIs can also cause negative impacts when they promote development without due diligence in all their activities and business relationships to identify, prevent, mitigate, and address potential and actual harm to human rights. For example, supporting a project where there is violence against human rights defenders can violate civil and political human rights; similarly, supporting a project that impacts the ancestral territory of an Indigenous community without their free, prior, and informed consent can violate economic, social, cultural, and environmental rights.

This section analyzes four IFIs: the World Bank Group (WB), the International Monetary Fund (IMF), the Inter-American Development Bank Group (IDB), and the Central American Bank for Economic Integration (CABEI). It begins with introductory notes on the objectives, composition, and organization of each entity, followed by an analysis of their accountability rules, particularly the obligations related to democracy and human rights, and the mechanisms responsible for evaluating potential violations. Finally, the analysis covers the relationship between the four IFIs and Nicaragua from 2018 to the present.

Approved amounts for ongoing projects in Nicaragua (February 2024)

Total US\$ 5,082.43 billion



The democratic and human rights crisis in Nicaragua is extensively documented and recognized. However, this awareness has not led the IFIs to adjust their strategy towards this Central American country, strengthen their measures for preserving human rights, or suspend and/or cancel their projects in Nicaragua.

As of February 2024, the World Bank Group, the International Monetary Fund, the Inter-American Development Bank Group, and the Central American Bank for Economic Integration supported 97 projects in execution in Nicaraguan territory, with the approval of US\$5.08 billion according to the information available on their websites. Among these, 57

projects totaling US\$2.78 billion were approved after the onset of the crisis in 2018. This section analyzes the four institutions mentioned above, their accountability rules, and their projects in Nicaraguan territory with the aim of establishing the concrete relationship between the Sandinista regime of Daniel Ortega and Rosario Murillo and these institutions amid the worst democratic and human rights crisis Nicaragua has faced in its recent history. In this sense, the GHREN recommended that multilateral organizations should include human rights guarantees in the negotiation of development cooperation and investment projects in Nicaragua and prioritize actions aimed at improving the situation in the country.¹⁴⁵

¹⁴⁵ Supra, n.1, p. 290, para. 1237.

3.1 World Bank Group

3.1.1 Introductory Notes

The World Bank Group was established in 1944 and is headquartered in Washington D.C.¹⁴⁶ Its mission is to end extreme poverty and promote prosperity on a livable planet. The group is composed of five institutions that operate independently and complementarily: the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA) which financially and technically supports governments of developing countries with middle and low incomes respectively; the International Finance Corporation (IFC), the Multilateral Investment Guarantee Agency (MIGA), and the International Centre for Settlement of Investment Disputes (ICSID) which provide financial and technical support to the private sector of developing countries.

The World Bank Group consists of 189 member countries and shareholders worldwide, although there are differences in membership among its five institutions.¹⁴⁷ To join the World Bank Group, a country must first be a member of the International Monetary Fund. Likewise, to participate in IDA, IFC, or

MIGA, membership in the IBRD is required, along with a capital contribution to each institution. Member countries have the authority to make final decisions on any matter—whether institutional, financial, or political—in accordance with their shareholding.¹⁴⁸ The twenty countries with the largest shares in IBRD quotas are the United States (15.51%), Japan (7.09%), China (5.92%), Germany (4.22%), the United Kingdom (3.86%), France (3.86%), India (3.04%), Russia (2.82%), Saudi Arabia (2.75%), Italy (2.59%), Canada (2.52%), the Netherlands (1.94%), Brazil (1.92%), Spain (1.9%), South Korea (1.63%), Switzerland (1.47%), Belgium (1.47%), Mexico (1.45%), Australia (1.41%), and Iran (1.26%).¹⁴⁹ IDA,¹⁵⁰ IFC,¹⁵¹ and MIGA¹⁵² have similar shares.

The organization of the World Bank Group is composed of the Board of Governors, the Executive Directors, the Presidency, and the body of officials who serve its institutions. The Board of Governors is the highest decision-making body of the World Bank and is made up of representatives from each of the 189 member countries, who meet annually to set the general policies for the group.¹⁵³ The Executive Directors are composed of 25 Executive Directors and 25 Alternate Directors from member countries or groups of countries, who meet weekly or as needed to decide on the group's projects

146 World Bank. Who we are. <https://www.worldbank.org/en/who-we-are>.

147 World Bank. Member countries. <https://www.worldbank.org/en/about/leadership/members>.

148 World Bank. Voting powers. <https://www.worldbank.org/en/about/leadership/votingpowers>.

149 World Bank. IBRD Subscriptions and Voting Power of Member Countries. <https://finances.worldbank.org/Shareholder-Equity/IBRD-Subscriptions-and-Voting-Power-of-Member-Coun/rcx4-r7xj/data>.

150 World Bank. IDA Voting Power of Member Countries. <https://finances.worldbank.org/Shareholder-Equity/IDA-Voting-Power-of-Member-Countries/v84d-dq44/data>.

151 World Bank. IFC Voting Power of Member Countries. <https://finances.worldbank.org/Shareholder-Equity/IFC-Number-of-votes-by-Country/usep-cxhz>.

152 World Bank. MIGA Subscriptions and Voting Power of Member Countries. <https://finances.worldbank.org/Shareholder-Equity/MIGA-Subscriptions-and-Voting-Power-of-Member-Coun/8rpb-qxnj/data>.

153 World Bank. Board of Governors. <https://www.worldbank.org/en/about/leadership/governors>.

and activities.¹⁵⁴ Finally, the Presidency is responsible for leading the staff and daily management, as well as implementing the group's policies, projects, and activities.¹⁵⁵

The World Bank Group cannot engage in political activities. According to the IBRD's Articles of Agreement, the bank and its officials are prohibited from intervening in the political affairs of any member and from making decisions influenced by the political nature of the member or members involved.¹⁵⁶ In this sense, only economic aspects should be considered in decision-making and activities. The Articles of Agreement of IDA,¹⁵⁷ IFC,¹⁵⁸ and MIGA¹⁵⁹ have identical provisions.

3.1.2 Internal Responsibility Analysis

The internal responsibility analysis of the World Bank Group is conducted by independent accountability mechanisms, in accordance with the organization's internal regulations and the specific social and environmental standards governing both its public and private sectors. The IBRD and IDA adhere to the environmental

and social framework in effect since October 1, 2018.¹⁶⁰ This framework aims to establish the institutions' commitment to sustainable development through social and environmental standards designed to help their clients identify and address risks and impacts in development projects.¹⁶¹ Unfortunately, the document does not mention democracy as one of the relevant economic aspects for sustainable development or its deterioration as a social and environmental risk; however, the document emphasizes that the activities of the World Bank Group contribute to the realization of the rights expressed in the Universal Declaration of Human Rights and the commitment to avoiding and mitigating adverse impacts from the projects it supports, consistent with the prohibition of political activities established by its Articles of Agreement.¹⁶²

The IFC and MIGA, in turn, adhere to their own performance standards on environmental and social sustainability, which have been in effect since January 1, 2012,¹⁶³ and October 1, 2013, respectively.¹⁶⁴ These documents express the commitment and responsibilities of the institutions regarding social and

154 World Bank. Board of Directors. <https://www.worldbank.org/en/about/leadership/governors>.

155 World Bank. President. <https://president.worldbankgroup.org/en/president>.

156 IBRD. Articles of Agreement. <https://www.worldbank.org/en/about/articles-of-agreement/ibrd-articles-of-agreement/article-IV>. Article 4, Section 10.

157 IDA. Articles of Agreement. <https://thedocs.worldbank.org/en/doc/2a209939e876fd-cd0d957036daebff6e-0410011960/original/IDA-Articles-of-Agreement-English.pdf>. Article 5, Section 6.

158 IFC. Articles of Agreement. <https://www.ifc.org/content/dam/ifc/doc/2023/ifc-articles-of-agreement-en.pdf>. Article 3, Section 9.

159 MIGA. Convention. https://www.miga.org/sites/default/files/archive/Documents/miga_convention_november_2010.pdf. Chapter 5, Article 34.

160 World Bank. The World Bank Environmental and Social Framework. <https://thedocs.worldbank.org/en/doc/837721522762050108-0290022018/original/ESFFramework.pdf>.

161 *Supra*, n. 160, p. IX.

162 *Supra*, n. 160, pp. 1-2.

163 IFC. Performance Standards on Environmental and Social Sustainability. <https://documents1.worldbank.org/curated/en/870401490940463476/pdf/113766-WP-ENGLISH-Performance-Standards-2012-Full-Documents-PUBLIC.pdf>.

164 MIGA. Performance Standards on Environmental and Social Sustainability. https://www.miga.org/sites/default/files/archive/Documents/MIGA_Performance_Standards_October_2013.pdf.

environmental sustainability. They are also intended for clients, offering guidance to identify, prevent, mitigate, and manage adverse risks and impacts as a way to conduct business sustainably.¹⁶⁵

It is important to reiterate that the documents do not mention democracy as a significant economic factor for sustainable development, nor do they consider its deterioration as a social and environmental risk. Nevertheless, they clearly assert that business activities must respect human rights, which entails “avoiding the infringement of others’ rights and addressing any adverse impacts on human rights that such activities may cause or contribute to,”¹⁶⁶ and, in this sense, they highlight the need for clients to undertake due diligence processes to analyze risks and impacts on human rights in high-risk cases.

The World Bank Group has established independent accountability mechanisms tailored to both its public and private sectors. In 2020, it formalized its Accountability Mechanism to include the Inspection Panel, which has been operational since 1993, and the Dispute Resolution Service, active since 2022, to handle claims from individuals and communities adversely affected by IBRD and IDA projects.¹⁶⁷ The three bodies operate in coordination, with claims being assessed through successive stages of admissibility, eligibility, investigation, and verification, all guided by the Environmental and

Social Framework and other relevant policies.

After analyzing the admissibility of claims, when parties do not reach an amicable resolution with the Dispute Resolution Service,¹⁶⁸ the Inspection Panel investigates and presents its findings and recommendations to the Board for it to decide on the project’s outcome and potential remedial measures. Finally, the Panel verifies the implementation of the measures agreed upon by the parties or approved by the Board, as carried out by the IBRD and IDA officials.¹⁶⁹ Over more than 30 years, the Panel has reviewed 167 public cases.¹⁷⁰

In 1999, the World Bank Group established the Compliance Advisor Ombudsman (CAO), which receives complaints from individuals adversely affected by the IFC and MIGA projects. Complaints are analyzed according to the Performance Standards on Environmental and Social Sustainability in successive stages of eligibility, conflict resolution, and compliance. After determining the eligibility of the cases, if the parties fail to reach an amicable solution, the CAO conducts an investigation and submits its findings and recommendations to the Boards for decisions on the project’s future and any necessary remedial measures. Finally, the CAO verifies the implementation of the measures agreed upon by the parties or approved by the Boards, as executed by the IFC and MIGA officials.¹⁷¹ The CAO also serves an advisory role, offering the IFC and MIGA

165 *Supra*, n. 163, p. i; *Supra*, n. 164, p. i.

166 *Supra*, n. 163, p. 2; MIGA. *Supra*, n. 164, p. 2.

167 World Bank. About the Inspection Panel. <https://www.inspectionpanel.org/about-us/about-inspection-panel>.

168 World Bank. Dispute Resolution Service. <https://accountability.worldbank.org/en/dispute-resolution>.

169 *Ibid*.

170 World Bank. Panel Cases. <https://www.inspectionpanel.org/panel-cases>.

171 World Bank. How We Work. <https://www.cao-ombudsman.org/how-we-work>.

information designed to systematically enhance their sustainability practices and mitigate the risk of harm in their projects.¹⁷² Over its 25-year history, the CAO has reviewed more than 220 public cases.¹⁷³

3.1.3 External Accountability Analysis

The external accountability analysis of the World Bank Group is conducted by both international and national competent bodies in accordance with their internal rules and international law. This process is hindered both by the usual lack of jurisdictional authority of international organizations and by a series of immunities established by the Group's constitutive agreements, which limit actions before national jurisdictions or executive or legislative actions. The IBRD's constitutive agreement states that to fulfill its objective and carry out the functions conferred upon it, the bank enjoys legal status, immunities, exemptions, and privileges in the territory of each member country.¹⁷⁴ The constitutive agreements of IDA,¹⁷⁵ IFC,¹⁷⁶ and MIGA¹⁷⁷ have similar provisions.

In this regard, the constitutive agreement specifies that legal action against the bank can only be brought before a court with competent jurisdiction where the bank has an office, is specifically authorized for judicial purposes, or where it has

issued or guaranteed securities. However, the agreement also states that no action may be initiated by members or individuals representing them, or by those with claims against members. The bank's assets and property, regardless of their location or current possession, are immune from any form of confiscation, seizure, or execution, except in the case of a final judgment rendered against them; similarly, they are immune from registration, requisition, confiscation, expropriation, or any other form of seizure through executive or legislative action. The agreement provides that bank agents shall enjoy immunity from legal action for acts performed within their official duties, except when the bank waives this immunity.¹⁷⁸

3.1.4 World Bank Group and Nicaragua

Nicaragua has been a member of the World Bank Group since March 14, 1946, when it joined the IBRD,¹⁷⁹ holding 0.06% of the shares in its capital.¹⁸⁰ It joined the IFC on July 20, 1956; IDA on December 30, 1960; MIGA on June 12, 1992; and the ICSID on April 19, 1995,¹⁸¹ with similar participation in its capital. According to the latest systematic assessment of the World Bank Group on Nicaragua, it is one of the poorest countries in its region with a small and open economy that benefits from foreign direct investment

172 Ibid.

173 World Bank. Case Center. <https://www.cao-ombudsman.org/cases>.

174 Supra, n. 156, Article 7, Section 1.

175 Supra, n. 157, Article 8.

176 Supra, n. 158, Article 6.

177 Supra, n. 159, Chapter 8.

178 Supra, n. 156, Article 7, Sections 2-8.

179 Supra, n. 147.

180 Supra, n. 149.

181 Supra, n. 147.

and remittances from its nationals living abroad.¹⁸² It acknowledges that its long-term economic growth and per capita income are limited by a weak institutional and business environment, infrastructure deficits, low levels of human capital, and vulnerability to crises and natural hazards. The analysis does not include democracy or human rights as factors influencing sustainable development; these terms are not mentioned in the document at all.

The World Bank Group's strategy for Nicaragua for the period 2018-2022 has the overarching goal of reducing poverty and promoting shared prosperity for the benefit of a broader population.¹⁸³ The strategy is based on three specific objectives: investing in human capital, particularly for disadvantaged groups; facilitating private investment to create jobs; and strengthening public institutions to improve the management of risks and disasters from external economic crises. The World Bank Group's work program for Nicaragua during this period includes financial and technical support from IDA for the public sector, and from the IFC and MIGA for the private sector. Notably, the strategy document does not mention democracy or human rights as factors

influencing sustainable development, and these terms are absent from the text.

According to information from their websites, the World Bank Group is supporting fourteen projects currently underway in Nicaragua, with a total of US\$620.81 million approved by its administration. The IBRD and IDA support eight projects totaling US\$388.73 million, which are being implemented by state agencies. The project areas include reducing external debt, strengthening property records, enhancing the health system, responding to COVID-19, addressing emergencies caused by hurricanes Eta and Iota, and improving agricultural productivity and climate resilience.¹⁸⁴ Meanwhile, the IFC supports six projects totaling US\$232.08 million, implemented by private companies in the agricultural, financial, and health sectors.¹⁸⁵ MIGA is not supporting any ongoing projects.¹⁸⁶

Among these projects, ten amount to US\$848.46 million, which were approved by the group after 2018, when the democratic and human rights crisis in Nicaragua intensified. However, the Inspection Panel has never received public complaints associated with projects supported by the World Bank Group in Nicaragua.¹⁸⁷ The CAO received three

182 World Bank. Nicaragua: Overview, <https://www.worldbank.org/en/country/nicaragua/overview>; World Bank. Nicaragua: Paving the Way to Faster Growth and Inclusion, June 18, 2017. Systematic Country Diagnostic. <https://documents1.worldbank.org/curated/en/365991498843795990/pdf/Nicaragua-SCD-Copyedit-final-jun-20-06272017.pdf>

183 World Bank, *supra* 182; World Bank. Country Partnership Framework for the Republic of Nicaragua for the Period FY18-FY22. <https://documents1.worldbank.org/curated/en/419731521338434751/pdf/NI-CPF-final-February-14-2018-02212018.pdf>

184 World Bank. Projects. https://projects.worldbank.org/en/projects-operations/projects-list?countrycode_exact=NI&os=0&status_exact=Active.

185 IFC. IFC Project Information and Data Portal. <https://disclosures.ifc.org/enterprise-search-results-home>.

186 MIGA. Projects. <https://www.miga.org/projects>.

187 World Bank. Panel Cases. <https://www.inspectionpanel.org/panel-cases>.

public complaints related to projects supported by the IFC and MIGA: two filed in 2008¹⁸⁸ and 2015¹⁸⁹ were closed following amicable resolutions, and one filed in 2018 was closed after no evidence of violation of social and environmental standards was found.¹⁹⁰ There is no information that these complaints are related to the democratic and human rights crisis faced by Nicaragua today. Likewise, there are no public complaints from national and international civil society or International Organizations concerning violations directly associated with projects supported by the World Bank Group in Nicaragua and the Nicaraguan crisis.

3.2 International Monetary Fund

3.2.1 Introductory Notes

The International Monetary Fund (IMF) was established in 1944 and is headquartered in Washington, D.C., United States.¹⁹¹ It has three fundamental missions: to promote international monetary cooperation; to encourage the expansion of international trade and economic growth; and to discourage policies that are detrimental to prosperity. To fulfill these missions, member countries cooperate with each other and with other

international organizations to improve people's lives.¹⁹² The IMF fulfills its three missions by monitoring economic and financial developments in countries and providing corresponding advice; offering financial assistance; and providing technical support and training to help governments implement sound economic policies.¹⁹³

The IMF is composed of 190 member countries and shareholders from around the world.¹⁹⁴ To be part of the IMF, it is necessary to contribute to its capital. Member countries have the power to make definitive decisions on any matter—whether institutional, financial, or political—based on their quota shares. The twenty countries with the largest capital shares in the IMF are the United States (16.5%), Japan (6.14%), China (6.08%), Germany (5.31%), France (4.03%), the United Kingdom (4.03%), Italy (3.02%), India (2.63%), Russia (2.59%), Brazil (2.22%), Canada (2.22%), Saudi Arabia (2.01%), Spain (1.92%), Mexico (1.80%), the Netherlands (1.76%), the Republic of Korea (1.73%), Australia (1.33%), Belgium (1.30%), Switzerland (1.17%), and Turkey (0.95%).¹⁹⁵

Its organization is comprised of the Board of Governors, the Executive Board, the Managing Director, and the staff.¹⁹⁶ The Board of Governors consists of one governor and one alternate governor from each of the 190 member countries, who

188 CAO. Nicaragua: Nicaragua Sugar Estate Limited-01/León and Chinandega. <https://www.cao-ombudsman.org/cases/nicaragua-nicaragua-sugar-estate-limited-01leon-and-chinandega>.

189 CAO. Nicaragua: Ingenio Montelimar-01/Montelimar Environs. <https://www.cao-ombudsman.org/cases/nicaragua-ingenio-montelimar-01montelimar-environs>.

190 CAO. Nicaragua: Condor Gold PLC-01/Santa Cruz de la India. <https://www.cao-ombudsman.org/cases/nicaragua-condor-gold-plc-01santa-cruz-de-la-india>.

191 IMF. About. <https://www.imf.org/en/About>.

192 IMF. What is the IMF. <https://www.imf.org/es/About/Factsheets/IMF-at-a-Glance>.

193 Ibid.

194 IMF. Members. <https://www.imf.org/en/About/executive-board/members-quotas>

195 Ibid.

196 IMF. Who runs the IMF. <https://www.imf.org/en/About/executive-board/members-quotas>

meet once a year to establish general policies for the institution. The Executive Board is made up of 24 directors, meets weekly or as needed, and is responsible for daily decision-making and overseeing the IMF's operations. Finally, the Managing Director is responsible for leading the staff and for the daily management and implementation of the institution's policies, projects, and activities.

3.2.2 Internal Accountability Analysis

The internal accountability analysis of the IMF is conducted according to its internal regulations by the Internal Audit and Inspection Office, an External Audit Firm, and an External Audit Committee, all of which operate independently of management.¹⁹⁷ The first conducts the IMF's annual external audit and issues its opinion on the institution's financial status. The second conducts reviews of the institution's internal control processes, risk analysis, and governance. The third is responsible for overseeing the functions of external audit, internal audit, accounting and financial reporting, risk management, and internal control of the IMF. Unlike other IFIs, the IMF does not have standards on social and environmental standards, an explicit commitment to human rights, or an independent accountability mechanism to receive complaints from individuals and communities adversely affected by its activities.

3.2.3 External Accountability Analysis

The external accountability analysis of the IMF is carried out by competent international and national bodies in accordance with their internal rules and international law. However, this analysis is hindered both by the usual lack of jurisdictional competence of international organizations and by a series of immunities established by the IMF's Articles of Agreement, which limit actions before national jurisdictions or executive or legislative actions. The IMF's Articles of Agreement state that, in order to fulfill its objectives and carry out its functions, the IMF enjoys legal status, immunities, exemptions, and privileges within the territory of each member country.¹⁹⁸

The agreement stipulates that the IMF, its property, and its assets, wherever located and by whomever held, shall be immune from all forms of judicial process, except to the extent that the institution expressly waives such immunity for the purposes of any proceedings or under the terms of any contract,¹⁹⁹ and furthermore, they shall be immune from search, requisition, confiscation, expropriation, or any other form of seizure by executive or legislative acts.²⁰⁰ The agreement states that the agents of the bank shall enjoy immunity from legal process for acts performed in their official capacity, except when the bank waives this immunity.²⁰¹

197 IMF. Accountability. <https://www.imf.org/en/About/Factsheets/Sheets/2022/IMF-accountability>

198 IMF. Articles of Agreement. <https://www.imf.org/external/pubs/ft/aa/pdf/aa.pdf>. Article 9, Section 3.

199 Supra, n. 197. Article 9, Section 3.

200 Supra, n. 197. Article 9, Section 4.

201 Supra, n. 197. Article 9, Section 8.

3.2.4 International Monetary Fund and Nicaragua

Nicaragua has been a member of the IMF since March 14, 1946²⁰² and holds 0.08% of its capital stock.²⁰³ According to information from the IMF website, Nicaragua has a debt of 130 million Special Drawing Rights (SDR), equivalent to approximately US\$172.53 million with the IMF. For the purposes of this report, this debt will be considered a project.

Between November 6 and 17, 2023, an IMF team visited Nicaraguan territory and met with the Minister of Finance, the President of the Central Bank, other senior officials, and representatives of banks, free trade zones, and the international community in preparation for its latest report on the country.²⁰⁴ According to the IMF, the Nicaraguan economy has remained resilient in the face of multiple shocks, supported by sound economic policies, substantial buffers, and multilateral support. It reports that the economy experienced a very strong rebound in 2021 but then settled into a steady growth rate in 2022, with projections indicating that this growth will continue into 2023 and 2024.²⁰⁵

However, the IMF estimates that political issues may negatively influence the economic scenario and notes that state authorities “closed key business organizations, private universities, and

a large part of non-profit organizations and revoked citizenship for around 300 people, transferring property rights to the state and, in some cases, also some functions covered by civil society organizations (on health and education).”²⁰⁶ Additionally, the report discusses the response sanctions imposed by the United States on 1,000 Nicaraguan officials and mining companies, which could have a negative impact on the national economy. However, the analysis does not mention democracy or human rights as factors that could influence sustainable development. These terms are not even found in the document.

Among other recommendations, the IMF advised state authorities to: strengthen fiscal sustainability, increase buffers and fiscal space for social and capital spending; implement new measures amounting to 1.25-1.75 percent of GDP through a combination of higher revenues and reduced current expenditures; continue investing in human capital and infrastructure; adopt policies to increase labor force participation and improve the business environment by reinforcing institutions and government frameworks; and enhance the rule of law by ensuring adequate, effective, and fair administrative and judicial recourse, particularly in legal procedures affecting property rights.²⁰⁷

The IMF report received harsh criticism from the Nicaraguan independent

202 IMF. Nicaragua. <https://www.imf.org/en/Countries/NIC>.

203 IMF. IMF Members' Quotas and Voting Power, and IMF Board of Governors. <https://www.imf.org/en/About/executive-board/members-quotas#3>.

204 IMF. Mission Concluding Statement. <https://www.imf.org/en/News/Articles/2023/11/22/cs-112223-nicaragua-staff-concluding-statement-of-the-2023-article-iv-mission>.

205 IMF. Nicaragua: 2023 Article IV Consultation-Press Release. <https://www.imf.org/en/Publications/CR/Issues/2024/01/19/Nicaragua-2023-Article-IV-Consultation-Press-Release-and-Staff-Report-543914>. p. 5.

206 Ibid. pp. 5-6.

207 Ibid. pp. 1-2.

press. In Confidential, researcher Manuel Orozco criticized the IMF for supporting the authorities' plans to maintain transparency and public information access policies. According to Orozco, transparency no longer exists in Nicaragua, as the regime and its institutions no longer provide public information, have shut down over 60 media outlets, and have arbitrarily imprisoned more than 20 journalists.²⁰⁸

Similarly, La Prensa asserted that the IMF chose to ignore the complete dismantling of the private sector in Nicaragua. The publication reminded that in March 2023, the Daniel Ortega regime ordered the closure of the 18 business chambers, the Superior Council of Private Enterprise (COSEP, by its Spanish acronym), and the Nicaraguan Council of Micro, Small, and Medium Enterprises (CONIMIPYME, by its Spanish acronym). La Prensa also stated that the report acknowledges the existence and impact of the massive emigration of Nicaraguan people between 2019-2022 but criticized that the IMF refers to the phenomenon as something relatively recent for which there are still no explanations, "ignoring that the migratory explosion originated from the intensification of state repression against the population after 2018."²⁰⁹

3.3 Inter-American Development Bank

3.3.1 Introductory Notes

The Inter-American Development Bank Group (IDB Group) was established in 1959 and is headquartered in Washington D.C., United States.²¹⁰ Its objective is to work with member countries to achieve sustainable development and improve the quality of life for people in the Latin American and Caribbean region. It is composed of the Inter-American Development Bank (IDB), responsible for financing projects and technical cooperation with the public sector in the region; the Inter-American Investment Corporation (IDB Invest), responsible for financing projects and technical cooperation with the private sector in the region; and IDB LAB, a trust administered by the IDB that operates as a laboratory focused on experimenting with innovative ways to promote sustainable development alongside both the public and private sectors.

The IDB Group has 48 member countries, divided into regional and non-regional, borrowers and non-borrowers;²¹¹ regional members must first be part of the Organization of American States before joining the group, and currently, there are 28 members. Non-regional members must be part of the International Monetary Fund, and there are now 20. The 26 borrowing members can benefit

²⁰⁸ Manuel Orozco. The IMF Report Ignores that There is a 'State Capture' in Nicaragua, December 11, 2023. <https://confidencial.digital/opinion/el-informe-del-IMF-ignora-que-en-nicaragua-hay-una-captura-del-estado>.

²⁰⁹ La Prensa. IMF Board Decides to Ignore the Complete Dismantling of the Private Sector in Nicaragua and Claims to be Unaware of the Causes of Emigration, January 23, 2024. 24. <https://www.laprensani.com/2024/01/23/economia/3268718-directorio-del-IMF-decide-ignorar-el-completo-desmantelamiento-del-sector-privado-en-nicaragua-y-dice-desconocer-causa-de-migracion>.

²¹⁰ IDB. About IDB. <https://www.iadb.org/es/quienes-somos/acerca-del-bid>.

²¹¹ IDB. How We Are Organized. <https://www.iadb.org/en/who-we-are/how-we-are-organized>.

from the group's financing projects and hold 50.02% of the IDB's capital share: Argentina (11.354%), Brazil (11.354%), Mexico (7.299%), Chile (3.119%), Colombia (3.119%), Venezuela (3.403%), Peru (1.521%), Uruguay (1.219%), Bolivia (0.913%), Dominican Republic (0.61%), Ecuador (0.608%), Jamaica (0.57%), Guatemala (0.578%), Costa Rica (0.457%), El Salvador (0.456%), Honduras (0.457%), Nicaragua (0.456%), Panama (0.456%), Paraguay (0.456%), Haiti (0.456%), Trinidad and Tobago (0.433%), Bahamas (0.209%), Guyana (0.162%), Barbados (0.137%), Belize (0.117%), and Suriname (0.089%).²¹²

In turn, the 22 non-borrowing members do not benefit from the group's projects but can participate in its procurement processes, as only member countries are eligible to supply goods and services for these projects. These countries hold 49.8% of the IDB's capital share: United States (30.006%), Japan (5.000%), Canada (4.001%), Germany (1.896%), France (1.896%), Italy (1.966%), Spain (1.964%), United Kingdom (0.964%), Switzerland (0.471%), Belgium (0.329%), Sweden (0.327%), Netherlands (0.200%), Austria (0.161%), Denmark (0.171%), Norway (0.171%), Finland (0.161%), Israel (0.158%), Portugal (0.055%), Croatia (0.050%), People's Republic of China (0.004%), Republic of Korea (0.004%), and Slovenia (0.031%).²¹³ Similarly,

IDB Invest has the same members, each with a similar share in the capital.²¹⁴

The IDB Group is organized into the Board of Governors, the Executive Board, the Presidency, and the staff who serve its various institutions. The Board of Governors is the highest decision-making body of the group. It is composed of representatives from each of the 48 member countries, who meet annually to set the group's general policies. The voting power of each member is directly proportional to the capital subscribed by their country.²¹⁵ The Executive Board consists of 14 directors who meet weekly or as needed and make decisions on the group's projects and activities.²¹⁶ Finally, the Presidency is responsible for leading the staff, as well as the daily management and implementation of the policies, projects, and activities of the group.²¹⁷ This structure serves both the IDB and IDB Invest, as well as IDB LAB.

The IDB Group is prohibited from engaging in political activities. According to the IDB's Articles of Agreement, the Bank and its officials must not interfere in the political affairs of any member, nor should they be influenced in their decisions by the political nature of the member or members concerned.²¹⁸ In this regard, only economic aspects should be considered to guide its

²¹² IDB. Capital Stock and Voting Power. <https://www.iadb.org/en/who-we-are/how-we-are-organized/board-governors/capital-stock-and-voting-power>.

²¹³ Ibid.

²¹⁴ IDB Invest. Voting Power of Governors and Alternate Governors. <https://sapfnidbinvestrm.blob.core.windows.net/atidocs/English/EZSHARE-1853795810-33636/09302023%20-%20IDB%20Invest%20Shareholder%20Structure.pdf>.

²¹⁵ IDB. Board of Governors. <https://www.iadb.org/en/who-we-are/how-we-are-organized/board-governors>.

²¹⁶ IDB. Board of Executive Directors. <https://www.iadb.org/en/who-we-are/how-we-are-organized/board-executive-directors>.

²¹⁷ IDB. Presidency. <https://www.iadb.org/en/who-we-are/how-we-are-organized/presidency-idb>.

²¹⁸ IDB. Agreement Establishing the Inter-American Development Bank. <https://www.iadb.org/document.cfm?id=EZSHARE-1893006000-106>. Article 4, Section 10.

decisions and activities.²¹⁹ The constitutive agreement of IDB Invest contains an identical provision.²²⁰

3.3.2 Internal Accountability Analysis

The internal accountability analysis of the IDB Group is conducted by an internal accountability mechanism according to its internal rules and social and environmental standards. The IDB, IDB Invest, and IDB Lab adhere to the Environmental and Social Policy Framework that came into effect on October 31, 2021.²²¹ The Framework aims to achieve sustainable development in the Latin American and Caribbean region and enhance the sustainability of investment projects financed by the group through the application of robust environmental and social risk management standards.²²² It includes ten environmental and social performance standards on various topics such as the assessment and management of environmental and social risks and impacts, labor and working conditions, indigenous peoples, gender equality, stakeholder engagement, and information disclosure.

The Framework undertakes significant commitments regarding human rights. The group is committed to respecting

internationally recognized human rights standards, understood as those set forth "in the International Declaration of Human Rights, the basic human rights treaties, the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work, and other universal and regional instruments related to human rights."²²³ In this regard, its Standard 1 mandates that clients respect human rights, avoid infringing upon them, and address any adverse impacts on human rights in the projects supported by the group. To this end, they must conduct environmental and social due diligence processes and, when necessary, a specific human rights due diligence process in line with the United Nations Guiding Principles on Business and Human Rights.²²⁴ However, the Framework does not mention democracy as one of the economic aspects relevant to sustainable development or its deterioration as a social and environmental risk.

In 2010, the IDB Group established the Independent Consultation and Investigation Mechanism (MICI, by its Spanish acronym) which operates with specific policies for the IDB²²⁵ and IDB Invest²²⁶ projects. MICI serves as a last-resort mechanism for addressing complaints from individuals or communities adversely

219 Ibid. Article 8, Section 6 (f).

220 . IDB Invest. Articles Establishing the Inter-American Investment Corporation. <https://sapfnidb-investrm.blob.core.windows.net/atidocs/English/EZSHARE-153505889-11/AGREEMENT%20ESTABLISHING%20THE%20IIC%20-%20English%20.PDF>, Article III, Section 8.

221 . IDB. Environmental and Social Policy Framework. <https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-110529158-160>.

222 Ibid.

223 Ibid. pp. 3-4.

224 Ibid. pp. 36-38.

225 IDB. Policy of the Independent Consultation and Investigation Mechanism of the IDB, MI-47-8. <https://mici.iadb.org/es/como-podemos-ayudar#:~:por%20las%20Pol%C3%ADticas-,MICI%20%2D%20BID,-y%C2%A0MICI>.

226 IDB Invest. Policy of the Independent Consultation and Investigation Mechanism of the IDB Invest, CII/MI1-4. <https://mici.iadb.org/es/como-podemos-ayudar#=MICI%20%2D%20BID%20y-,MICI%2D-BID%20Invest,-%2C%20que%20definen%20nuestro>.

affected by projects supported by the group that are in breach of its own policies.²²⁷ The complaint analysis process includes four successive stages: registration, in which a decision is made on whether to open the case; eligibility, in which a decision is made on admissibility; the consultation phase, in which attempts are made to resolve the issues raised by the complainants through a satisfactory agreement among the complainants, the project team, and those responsible for its implementation; and finally, if an agreement cannot be reached, the process moves to the verification phase, in which the allegations of impacts and potential violations of institutional policies are investigated impartially and objectively. The results of the investigation are presented to the Board for a decision on the future of the project in question.²²⁸ Over its 14 years, MICI has analyzed 226 cases.²²⁹

3.3.3 External Accountability Analysis

The external accountability analysis of the IDB Group is conducted by competent international and national bodies according to their internal rules and international law. However, this analysis is hindered both by the usual lack of jurisdictional competence of international organizations and by a series of immunities established by the group's founding agreements, which limit actions before national jurisdictions or executive or legislative actions. The IDB's founding

agreement states that to fulfill its objectives and carry out its functions, the bank enjoys legal status, immunities, exemptions, and privileges in the territory of each member country.²³⁰

In this sense, the founding agreement states that legal action against the bank can only be brought before a court of competent jurisdiction where the bank has an office, where an agent is authorized for specific judicial purposes, or where it has issued or guaranteed securities.²³¹ However, the agreement also establishes that no action can be pursued by members or individuals representing or having claims against members. The bank's assets, regardless of their location or possession, are immune from any form of seizure, attachment, or execution, provided that no final judgment has been rendered against the bank. Additionally, these assets are protected from registration, requisition, confiscation, expropriation, or any other form of embargo by executive or legislative action.²³² The agreement stipulates that the bank's agents shall be immune from legal actions related to acts performed in their official duties, except when the bank waives this immunity.²³³

3.3.4 IDB Group and Nicaragua

Nicaragua is one of the founding members of the IDB Group (1959), with a 0.456% share in its social capital,²³⁴ and of IDB Invest (1985), with a 0.46% share.²³⁵

227 IDB. The stages of a complaint. <https://mici.iadb.org/en/stages-complaint>.

228 Ibid.

229 IDB. Cases. <https://mici.iadb.org/en/cases>.

230 Supra, n. 218, Article VII, Section 3.

231 Ibid.

232 Ibid.

233 Ibid. Article VII, Section 8.

234 Supra, n. 212.

235 Supra, n. 214.

The IDB Group's strategy for Nicaragua is outdated, covering the period from 2012 to 2017.²³⁶ In its country analysis, the group noted continuous economic growth between 2007 and 2011, along with a reduction in poverty, which remained significant for populations living in rural areas (63%).²³⁷ The investment priorities for the group were energy, transportation, health, and early childhood care, while the identified risks included vulnerability to macroeconomic shocks, insufficient institutional capacity for project execution, reduction in bilateral sources of financing, and natural disasters.²³⁸

Currently, the group acknowledges the outdated nature of its strategy; however, it claims that there is a permanent technical dialogue with Nicaragua through the implementation of ongoing projects.²³⁹ Its representation in Nicaragua focuses on initiatives to improve sectors such as energy, transportation, early childhood development, and health, with particular attention to rural areas where poverty is concentrated and where there is potential to develop production chains.²⁴⁰ However, the group's strategy for 2012-2017 does not mention democracy or human rights as relevant economic aspects for sustainable development or their deterioration as a social and environmental risk that the institution should address.

According to information on its website, the IDB Group is supporting 65 projects currently in the implementation

phase in Nicaragua, with a total of US\$1.05 billion approved by its administration. The IDB supports 45 projects in financing and technical cooperation amounting to US\$687.04 million, implemented by state agencies. The projects address a range of issues, including external debt, strengthening energy plants, and enhancing health and education systems, among others. In turn, IDB Invest supports 20 financing and technical cooperation projects totaling US\$327.01 million, implemented in collaboration with companies in the agricultural, financial, and health sectors.

Among these projects, 38 total US\$166.01 million approved by the group after 2018, when the democratic and human rights crisis deepened in Nicaragua. Throughout its activities, the MICI received only one complaint related to a project funded by the IDB in Nicaragua. However, this complaint was not registered, as it pertained solely to fines associated to the bidding process for the Project for the Improvement and Sustainable Management of Urban and Peri-urban Water Supply and Sanitation Services, which fell outside the mechanism's mandate.²⁴¹ Therefore, this complaint was not related to the current democratic and human rights crisis in Nicaragua, nor did the MICI receive any complaints in this regard.²⁴² There are no public complaints from national or international civil society, nor from International Organizations, concerning violations directly related to the projects supported by the IDB Group in Nicaragua or to the Nicaraguan crisis.

236 . IDB. Nicaragua: IDB Country Strategy (2012-2017). <https://www.iadb.org/document.cfm?id=37303954>.

237 Ibid.

238 Ibid.

239 IDB. Nicaragua. <https://www.iadb.org/es/quienes-somos/representaciones-por-pais/nicaragua/>.

240 Ibid.

241 IDB. Cases. MICI-BID-NI-2022-0195. <https://mici.iadb.org/es/cases/MICI-BID-NI-2022-0195>.

242 IDB. Cases. <https://mici.iadb.org/en/cases>.

3.4 Central American Bank for Economic Integration

3.4.1 Introductory Notes

The Central American Bank for Economic Integration (CABEI) was established in 1960 and has its administrative headquarters in Tegucigalpa, Honduras.²⁴³ Its mission is to promote economic integration and balanced economic and social development in the Central American region.²⁴⁴ CABEI's programs and projects are centered around 11 key areas: infrastructure; regional industries; agro-industrial and agricultural sectors; rehabilitation, expansion, and modernization of business operations; institutions, entities, or companies providing services; economic integration between countries; social development; conservation and protection of natural resources; studies; operations that generate economic and social development; and other programs and projects that can contribute to the development of Central American countries.²⁴⁵

CABEI is composed of 15 member countries, divided into founding members, non-founding regional members, and extra-regional members.²⁴⁶ The founding countries hold 51% of the social capital: Guatemala (10.20%), El Salvador (10.20%), Honduras (10.20%), Nicaragua (10.20%), Costa Rica (10.20%). Meanwhile,

the non-founding members, both regional and non-regional, hold 49% of the social capital: Dominican Republic (5.41%), Panama (5.41%), Belize (0.36%), Taiwan (11.09%), South Korea (9%), Mexico (4.38%), Argentina (4.94%), Spain (4%), Colombia (2.9%), and Cuba (0.71%).²⁴⁷ Each subscribed share grants one vote to its holder once it has been fully paid, or when the amount corresponding to one of the four installments, or the amount determined by the Assembly of Governors, has been paid.²⁴⁸

The organization of the CABEI Group is composed of the Assembly of Governors, the Board of Directors, the Executive President, the Executive Vice President, and other officials.²⁴⁹ The Assembly of Governors serves as the highest authority within CABEI, with each member represented by a principal governor and an alternate. Decisions are made by a majority of the subscribed capital held by the members present at the meeting, unless the agreement, regulations, or provisions require a different type of majority. The Board of Directors defines operational and administrative policies, approves the budget, as well as short, medium, and long-term plans, and controls administrative management. Finally, the Presidency is responsible for leading the staff, overseeing daily management, and implementing CABEI's policies, projects, and activities.

243 CABEI. Institutional Information. <https://www.bcie.org/acerca-del-bcie/informacion-institucional>.

244 Ibid.

245 CABEI. Founding Agreement. https://bcie2014.sharepoint.com/sites/DocPub/Doc_Pub/Forms/Tipo%20documental.aspx?id=%2Fsites%2FDocPub%2FDoc%5FPub%2F610%2FConvenio%20Constitutivo%20Modif%2E%20AG%2D6%2E2020%20vigente%20desde%205%2E02%2E2021%2Epdf&parent=%2Fsites%2FDocPub%2FDoc%5FPub%2F610&p=true&ga=1. Article 2.

246 Ibid. Article 4.A.

247 CABEI. Capital Structure. <https://www.bcie.org/en/investor-relations/capital-structure>.

248 Supra, n. 245, Articles 10-14.

249 Supra, n. 245, Article 9.

3.4.2. Internal Responsibility Analysis

CABEL's internal responsibility analysis is conducted by its Office of Social and Environmental Monitoring, in line with its Environmental and Social Policy,²⁵⁰ which encompasses several key components: the Environmental and Social Strategy,²⁵¹ the Environmental and Social Risk Identification, Evaluation, and Mitigation System,²⁵² and the Corporate Environmental and Social Responsibility System.²⁵³ This Policy aims to ensure that its activities or supported projects are environmentally and socially sustainable. In this regard, CABEL commits, within the framework of its policy, to adopting international environmental and social standards and best practices; promoting and financing projects aligned with the United Nations Sustainable Development Goals; and fostering transparency, disclosure, and effective communication.²⁵⁴

The environmental and social strategy has a cross-cutting focus on environmental and social sustainability, through the approval of programs and projects that promote social ownership and address

the need to preserve the environment. In this sense, it is fundamental that "the management of risks associated with CABEL projects includes the assessment and mitigation of environmental, social, climate, and human rights impacts, as well as those affecting vulnerable populations."²⁵⁵ In this context, the Environmental and Social Risk Identification, Evaluation, and Mitigation System²⁵⁶ establishes standards applicable to the bank's clients concerning their projects and activities. This system incorporates the IFC's Environmental and Social Performance Standards,²⁵⁷ the Equator Principles,²⁵⁸ the Environmental, Health, and Safety Guidelines,²⁵⁹ and relevant national legislation to determine best practices in environmental and social matters. At the same time, the Corporate Environmental and Social Responsibility System²⁶⁰ establishes standards for CABEL in its own activities.

The Office of Social and Environmental Monitoring is responsible for leading the development of the bank's Environmental and Social Policy and overseeing the implementation of applicable measures. It ensures adherence to the highest international standards for environmental, social, climate change, and other sustain-

250 CABEL. Environmental and Social Policy of CABEL. https://www.bcie.org/fileadmin/bcie/espanol/archivos/novedades/publicaciones/normativas/Politica_Ambiental_y_Social_del_BCIE_-_21.10.2016.pdf/.

251 CABEL. Environmental and Social Strategy (2020-2024). https://www.bcie.org/fileadmin/user_upload/Estrategia_Ambiental_y_Social_2020_2024_espanol.pdf.

252 CABEL. Environmental and Social Risk Identification, Evaluation, and Mitigation System. <https://www.bcie.org/acerca-del-bcie/oficina-de-monitorieo-social-y-ambiental/sistema-de-identificacion-evaluacion-y-mitigacion-de-los-riesgos-ambientales-y-sociales-siemas>.

253 CABEL. Corporate Environmental and Social Responsibility System. <https://www.bcie.org/acerca-del-bcie/responsabilidad-social>.

254 *Supra*, n. 250, Article 2.

255 *Supra*, n. 251, p. 10.

256 *Supra*, n. 252.

257 *Supra*, n. 163.

258 Equator Principles. The Equator Principles. https://equator-principles.com/app/uploads/EP4_Spanish.pdf.

259 World Bank. General Guidelines on Environment, Health, and Safety. <https://documents1.worldbank.org/curated/en/862351490601664460/pdf/112110-SPANISH-General-Guidelines.pdf>.

260 *Supra*, n. 253.

nability issues.²⁶¹ The office implements the Environmental and Social Complaints Mechanism, which provides assistance to individuals or groups adversely affected by a CABEL operation.²⁶² Complaints or claims are analyzed through successive stages, including receipt, admissibility assessment, investigation and case classification, case response proposal, follow-up and supervision, and closure. However, CABEL emphasizes that the Mechanism does not replace or substitute any legal processes established by countries.

3.4.3. External Responsibility Analysis

CABEL's external responsibility analysis is carried out by competent international and national bodies according to their internal rules and international law. However, this analysis is hindered both by the usual lack of jurisdictional competence of international organizations and by a series of immunities established by CABEL's founding agreements, which limit actions before national jurisdictions or executive or legislative actions. CABEL's founding agreement states that, in the exercise of its functions and in pursuit of its objectives, it is entitled to immunities, exemptions, and privileges in the territory of each member state.²⁶³

In this regard, the constitutive agreement specifies that legal action against

the bank can only be initiated in a court with competent jurisdiction where the bank has an office, where an agent is appointed for specific judicial purposes, or where the bank has issued or guaranteed securities.²⁶⁴ The bank's property and assets, regardless of their location or possession, are immune from confiscation, seizure, retention, sale, adjudication, or any other form of compulsory acquisition or forced sale, until a final judgment is rendered against the bank. They are also protected from investigation, requisition, confiscation, expropriation, or any other form of compulsory acquisition or forced sale by executive or legislative actions.²⁶⁵ Additionally, the agreement provides that the bank's agents are immune from judicial, administrative, and legislative processes related to acts performed within their official duties, unless the bank waives this immunity.²⁶⁶

3.4.4 CABEL and Nicaragua

Nicaragua is one of the founding members of CABEL (1960), with a 10.2% share in its social capital.²⁶⁷ Although CABEL lacks a specific public strategy for Nicaragua, it asserts that one of its goals is to contribute to poverty reduction and improve the quality of life for over six million Nicaraguans through initiatives that have social, economic, and environmental impacts in the country.²⁶⁸

²⁶¹ CABEL. Office of Social and Environmental Monitoring. <https://www.bcie.org/acerca-del-bcie/oficina-de-monitorio-social-y-ambiental>.

²⁶² CABEL. Environmental and Social Complaints Mechanism. <https://www.bcie.org/acerca-del-bcie/maqras>.

²⁶³ *Supra*, n. 245, Article 27.

²⁶⁴ *Ibid.* Article 28.

²⁶⁵ *Ibid.* Article 29.

²⁶⁶ *Ibid.* Article 32.

²⁶⁷ *Supra*, n. 247.

²⁶⁸ CABEL. This is Nicaragua with CABEL. <https://www.bcie.org/paises-socios/fundadores/nicaragua/asi-es-nicaragua-con-el-bcie>.

According to information on its website, CABEL supports 20 ongoing projects in Nicaragua, totaling US\$3.27 billion approved by its administration.²⁶⁹ All projects are implemented by state agencies and focus on areas such as infrastructure development, health system strengthening, housing construction, COVID-19 response, support for Indigenous peoples, and climate resilience.

Among these projects, 11, amounting to US\$2.02 billion, were approved after 2018, when the democratic and human rights crisis in Nicaragua became more pronounced. On March 18, 2023, the bank received an anonymous complaint alleging non-compliance with environmental and social regulations and the environmental and social management program of the Sustainable Electrification and Renewable Energy National Program, Segment B, specifically concerning projects LPI-011-2018 and LPI-001-2019. According to the Environmental and Social Complaints Mechanism, the complaint has been accepted and is currently under investigation.²⁷⁰ However, there is no information indicating that this complaint is related to the current democratic and human rights crisis faced by Nicaragua.

On the other hand, CABEL has faced significant criticism from civil society organizations. Confidential reports that CABEL provided increasing disbursements

to authoritarian Central American governments, earning its President, Dante Mossi, the moniker “banker of dictators”.²⁷¹ Between 2008 and 2013, CABEL disbursed US\$983 million to Nicaragua. From 2013 to 2018, it disbursed US\$1.20 billion. However, during the five years of Dante Mossi’s administration, the disbursements amounted to US\$2.06 billion. According to former CABEL official Eduardo Trejos, Daniel Ortega and Rosario Murillo made the bank their primary financial institution once they realized that Mossi was prepared to do whatever was necessary to ensure their re-election.

When interviewed by various media outlets, CABEL President Dante Mossi defended his administration: “CABEL is not a political institution, we work with member countries... We do not have the mandate to determine the form of government of any member country”.²⁷² When specifically asked about support for Nicaragua during its democratic and human rights crisis, Mossi replied, “It does not matter what the policy is as long as the poor are receiving services”.²⁷³ However, Confidential highlights that CABEL’s Directors accused the administration of the bank of withholding information, which prevented them from making informed decisions about operations.²⁷⁴

On November 17, 2023, Gisela Sánchez Maroto was elected as the President

269 CABEL. Operations Information. <https://www.bcie.org/operaciones-y-adquisiciones/fichas-de-operaciones-activas/ficha-de-operaciones-del-sector-publico>.

270 Confidential. The Banker and the Dictator: How Dante Mossi Doubled CABEL Loans to Daniel Ortega. <https://confidencial.digital/economia/el-banquero-y-el-dictador-como-dante-mossi-duplico-los-prestamos-del-bcie-a-daniel-ortega/>.

271 Ibid.

272 Confidential. The Bank of Dictators: How the Main Development Bank of Central America Allowed Corruption and Authoritarianism. <https://confidencial.digital/economia/el-banco-de-los-dictadores-como-el-principal-banco-de-desarrollo-de-centroamerica-permitio-la-corrupcion-y-el-autoritarismo/>.

273 Ibid.

274 Ibid.

of CABEL and has promised changes regarding the administration particularly concerning Nicaragua.²⁷⁵ La Prensa asked the President whether she intends to move away from her predecessor's practice of approving credits based on political criteria. She responded affirmatively, stating that CABEL resources will be used with technical rigor. La Prensa also asked the President about projects that have been questioned for their adverse environmental and social impacts. She replied that she aims to strengthen governance and project oversight, and that they will be suspended if errors are confirmed.²⁷⁶

The main human rights violation complaint related to development projects supported by CABEL in Nicaraguan territory concerns the Bio-CLIMA Project: Integrated Climate Action to Reduce Deforestation and Strengthen Resilience in the Bosawás and Río San Juan Biosphere Reserves.²⁷⁷ The project aims to restore degraded forest landscapes in

the most biodiverse region of Nicaragua and channel investments into sustainable land use and forest management. It is financed by the United Nations' Green Climate Fund (GCF), with CABEL as the co-financing institution and accredited agency, and the Government of Nicaragua as the executing agency. In this regard, Indigenous and Afro-descendant communities—adversely affected by the project and represented by civil society organizations—filed a complaint with the Independent Redress Mechanism (IRM). They allege that the project failed to conduct free, prior, and informed consultation with the communities about the project and that the accredited and executing agencies are unable to meet environmental and social standards.²⁷⁸ The Mechanism presented its findings to the GCF Board, which suspended the disbursement and execution of the project while corrections were made by CABEL and the Government of Nicaragua.²⁷⁹ Currently, there is no final decision on the future of the project.

275 La Prensa. Gisela Sánchez, New President of CABEL: "My Main Commitment is to Ethics and Transparency," December 5, 2023. <https://laprensani.com/2023/12/05/economia/3248050-gisela-sanchez-nueva-presidente-del-bcie-mi-principal-compromiso-es-con-la-etica-y-la-transparencia>.

276 Ibid.

277 Green Climate Fund. FP146. Bio-CLIMA: Integrated Climate Action to Reduce Deforestation and Strengthen Resilience in BOSAWÁS and Río San Juan Biospheres. <https://www.greenclimate.fund/project/fp146>.

278 Green Climate Fund. C0006 Nicaragua. FP146: Bio-CLIMA: Integrated Climate Action to Reduce Deforestation and Strengthen Resilience in BOSAWÁS and Río San Juan Biospheres. <https://irm.greenclimate.fund/case/c0006#project-details>.

279 Green Climate Fund. B.36/17: Consideration of the Compliance Report of the Independent Redress Mechanism on Case C-0006. <https://irm.greenclimate.fund/sites/default/files/case/es-b36-decision-irm.pdf>.

4. International Financial Support and Responsibility for Violating the Obligations to Prohibit Crimes Against Humanity and Respect Human Rights

The State of Nicaragua is responsible for respecting, protecting, and guaranteeing human rights within its territory. In this sense, it must take the necessary and appropriate measures to end the democratic and human rights crisis in accordance with international law. In turn, IFIs are responsible for cooperating to end violations of jus cogens norms, such as crimes against humanity, and for respecting human rights within their mandates and in accordance with their internal rules, based on international law. Failure to do so may be considered an internationally wrongful act and could lead to the obligation to provide full reparations to the victims.

The responsibility of International Organizations has been extensively debated by the United Nations International Law Commission (ILC), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises (WGBHR), and the Rapporteurship on Economic, Social, Cultural, and Environmental Rights of the Inter-American Commission on Human Rights (REDESCA, by the Spanish acronym). This section analyzes the international responsibility of International Organizations, the obligation to prohibit crimes against humanity, and the obligation to respect human rights, with the aim of establishing a legal framework for the responsibilities of IFIs and their support for development projects in Nicaragua within the context of a deep democratic and human rights crisis.

4.1 International Responsibility for Unlawful Acts

It is a basic principle of international law that States and International Organizations—including IFIs—are responsible for international illicit acts. This issue has been extensively developed by international tribunals²⁸⁰ and codified by the United Nations International Law Commission (ILC) in the Draft Articles on the International Responsibility of States²⁸¹ (DARS) and in the Draft Articles on the Responsibility of International Organizations²⁸² (DARIO). This subsection presents considerations on the international responsibility of States and International Organizations, including IFIs, their characteristics, and their consequences.

Between 1959 and 2001, the ILC worked on the codification and progressive development of international law by

formulating basic norms on the international responsibility of States for internationally wrongful acts.²⁸³ In 2001, the result of this work was published in the form of DARS. As primary sources of international law, treaties, customs, general principles, and international jus cogens norms determine the content of international obligations. In turn, as a secondary source of international law, DARS aids in the understanding and application of these international obligations and establishes the general conditions under which a State may be held responsible for an international wrongful act and its associated consequences.

In general, DARS establishes that States are internationally responsible for their wrongful acts.²⁸⁴ In this context, according to international jurisprudence on the matter, an “internationally wrongful act” is conduct, whether by commission or omission, attributable to a State that constitutes a violation of its obligations

²⁸⁰ Permanent Court of Justice. *Factory at Chorzów Case (Germany v. Poland)*. Jurisdiction. Series A. No. 8. Judgment July 26, 1927, p. 21; Permanent Court of Justice. *Factory at Chorzów Case (Germany v. Poland)*. Merits. Judgment No. 13, 1928, Series A, No. 17, p. 29; International Court of Justice. *The Corfu Channel Case*. Merits. Judgment of April 9, 1949, pp. 4-23; International Court of Justice. *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*. Merits. Judgment of June 27, 1986, paras. 283 and 292; International Court of Justice. *Case Concerning the Gabčíkovo-Nagymaros Project (Hungary / Slovakia)*. Judgment of September 25, 1997, para. 47; International Court of Justice. *Reparation for Injuries Suffered in the Service of the United Nations*. Advisory Opinion on April 11, 1949, pp. 174-184; Inter-American Court of Human Rights. *Velásquez Rodríguez Case v. Honduras*. Merits. Judgment of July 29, 1988. Series C No. 4, para. 25; Inter-American Court of Human Rights. *Case of Human Rights Defender et al. v. Guatemala*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 28, 2014. Series C No. 283, para. 243; Inter-American Court of Human Rights. *Duque Case v. Colombia*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of February 26, 2016. Series C No. 310, para. 194.

²⁸¹ ILC. *Draft Articles on Responsibility of States for Internationally Wrongful Acts with commentaries*, 2001. https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf.

²⁸² ILC. *Draft Articles on Responsibility of International Organizations with commentaries*, 2011. https://legal.un.org/ilc/texts/instruments/english/commentaries/9_11_2011.pdf.

²⁸³ *Supra*, n. 281, p. 31, para. 1.

²⁸⁴ *Supra*, n. 281, Articles 1-3.

under international law.²⁸⁵ Similarly, and considering Article 27 of the 1969 Vienna Convention on the Law of Treaties, a State cannot avoid the characterization of an act as wrongful under international law by arguing that the act complies with its domestic law.²⁸⁶ DARS also establishes that a State's wrongful acts may be connected to another state, thereby implicating its own independent responsibility. This connection may involve aid, assistance, direction, control, or coercion from one State to another, provided that the second State is aware of the circumstances of the wrongful act and that the act would be considered wrongful if committed by the first State.²⁸⁷ Furthermore, DARS establishes that the international responsibility of a State entails legal consequences, including the obligation to cease and desist, to avoid repetition, and

to provide full reparation for the harm caused through measures of restitution, compensation, and satisfaction, either to the State or directly to any entity or individual.²⁸⁸ This is consistent with the position of international tribunals on the matter.²⁸⁹

Considering Articles 53 and 64 of the Vienna Convention on the Law of Treaties, DARS establishes specific rules of state international responsibility concerning serious violations of international law.²⁹⁰ In this context, violations of obligations established by peremptory norms of general international law, or *jus cogens*, are considered serious. These norms are accepted by the international community as a whole as principles from which no derogation is permitted and which can only be modified by a subsequent norm of general international law with the same cha-

²⁸⁵ International Court of Justice. Case concerning United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran). Judgment of May 24, 1980, paras. 56, 63, 67 and 90; International Court of Justice. Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America). Merits. Judgment of June 27, 1986, para. 226; International Court of Justice. Case Concerning the Gabcikovo-Nagymaros Project (Hungary / Slovakia). Judgment of September 25, 1997, para. 78; International Court of Justice. The Corfu Channel Case. Merits, Judgment of April 9, 1949, pp. 22-23; Inter-American Court of Human Rights. Velásquez Rodríguez Case v. Honduras. Merits. Judgment of July 29, 1988. Series C No. 4, paras. 401-425.

²⁸⁶ *Supra*, n. 281, p. 36, para. 1; International Court of Justice. Nottebohm Case (Liechtenstein v. Guatemala). Preliminary Objection. Judgment of November 18, 1953, pp. 111-123; International Court of Justice. Case Concerning the Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. Sweden). Judgment of November 28, 1958, pp. 55-67; International Court of Justice. Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of June 26, 1947. Advisory Opinion, of April 26, 1988, paras. 12, 34-35, 57.

²⁸⁷ *Supra*, n. 281. Articles 16-18.

²⁸⁸ *Ibid.* Articles 28-37.

²⁸⁹ Permanent Court of Justice. Factory at Chorzów Case (Germany v. Poland). Jurisdiction. Series A, No. 8. Judgment July 26, 1927, p. 47; International Court of Justice. LaGrand Case (Germany v. United States of America). Judgment of June 27, 2001, para. 48.

²⁹⁰ *Supra*, n. 281. Articles 40 and 41.

racter.²⁹¹ States cannot argue exclusions of unlawfulness such as consent, self-defense, countermeasures, force majeure, distress, or necessity, to try to justify acts contrary to jus cogens norms.²⁹²

Furthermore, DARS establishes specific consequences for violations of jus cogens obligations, which include a gross or systematic failure by the responsible State to fulfill these obligations.²⁹³ In the event of violations of jus cogens norms, all States must cooperate to bring an end to such violations. Likewise, no State should recognize as legal a situation created by serious violations, nor offer assistance or aid that would help maintain such a situation. Such aid or assistance goes beyond mere support to the State responsible for the wrongful act itself and includes support and assistance to the State in question after the act, which allows for the continued maintenance of the situation violating international law. In its comments on DARS, the ILC even mentions the dispensability of including "knowledge of the circumstances of the international wrongful act" as a requirement for responsibility, as it is hardly conceivable that a State would be unaware of a violation of jus cogens norms by another State.²⁹⁴

DARS also establishes norms for invoking international responsibility.²⁹⁵ In this context, a State may invoke the international responsibility of another State if it has been individually harmed, or jointly with other States, or as part of the international community as a whole, due to the violation of an obligation. The primary focus of DARS is the international responsibility of States in relation to one another: state-centric. However, the draft does not overlook the responsibility of the international community, including International Organizations and individuals.²⁹⁶ In its comments on DARS, the ILC recognizes treaties, customs, and jurisprudence on human rights and violations against individuals as sources informing the formulation of the draft. The Commission also specifically refers to "the responsibility of a State for the violation of an obligation under a human rights treaty, which may exist in relation to the other parties to the treaty, but the concerned individuals must be recognized as the ultimate beneficiaries of the reparative measures as holders of the relevant rights."²⁹⁷

Subsequently, between 2002 and 2011, the ILC worked on the codification and progressive development of international law, formulating rules on the

²⁹¹ 1969 Vienna Convention. Articles 53 and 64; International Court of Justice. *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*. Merits. Judgment of June 27, 1986, paras. 76-77, 190; International Court of Justice. *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*. Advisory Opinion of July 22, 2010, para. 81; International Court of Justice. *Questions Relating to the Obligation to Prosecute or Extradite (Belgium vs. Senegal)*. Judgment of July 20, 2012, para. 99; United Nations. *International Criminal Tribunal for the former Yugoslavia. Prosecutor v. Anto Furundžija*. Case No. IT-95-17/I-T, Judgment of December 10, 1998. Trial Chamber, paras. 153-156; Inter-American Court of Human Rights. *Case Espinoza Gonzales vs. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2014. Series C No. 289, para. 141; Inter-American Court of Human Rights. *Case La Cantuta vs. Peru*. Merits, Reparations and Costs. Judgment of November 29, 2006. Series C No. 162, para. 160.

²⁹² *Supra*, n. 281. Articles 20-26.

²⁹³ *Ibid.* Article 41.

²⁹⁴ *Ibid.* p. 115, para. 12.

²⁹⁵ *Ibid.* Article 42.

²⁹⁶ *Ibid.* p. 32, para. 5.

²⁹⁷ *Ibid.* p. 95, para. 3.

responsibility of International Organizations for international wrongful acts.²⁹⁸ This initiative originated from the growth in the number of International Organizations and the broadening of their functions.²⁹⁹

In this regard, in 2011, the result of this work was published in the form of DARIO, reflecting how, in many ways, DARS inspired DARIO, while still recognizing the fundamental differences between States and International Organizations and the necessary adjustments. Like DARS, DARIO is a secondary source of international law, serving to aid in the understanding and application of international obligations determined by primary sources. It establishes the general conditions under

international law under which an International Organization can be held responsible for an internationally wrongful act, and particularly focusing on the international responsibility for wrongful acts committed in connection between States and International Organizations. Despite its recent publication, DARIO is also the most relevant document on the subject and is cited by national³⁰⁰ and international³⁰¹ courts.

In general, DARIO establishes that International Organizations are responsible for their internationally wrongful acts.³⁰² In line with the 1969 and 1986 Vienna Conventions, DARIO recognizes that an International Organization is established by a treaty or another

²⁹⁸ *Supra*, n. 282.

²⁹⁹ *Ibid.*

³⁰⁰ European Union. Council of the European Union. General Court. Case T-512/12. Judgment of December 10, 2015, para. 212; European Court of Human Rights, *Berić and Others v. Bosnia and Herzegovina*, Applications Nos. 36357/04, 36360/04, 38346/04, 41705/04, 45190/04, 45578/04, 45579/04, 45580/04, 91/05, 97/05, 100/05, 101/05, 1121/05, 1123/05, 1125/05, 1129/05, 1132/05, 1133/05, 1169/05, 1172/05, 1175/05, 1177/05, 1180/05, 1185/05, 20793/05, and 25496/05, decision (admissibility) of October 16, 2007, paras. 8, 22, 28, and 30; European Court of Human Rights. Grand Chamber. *Jaloud v. The Netherlands*, Application No. 47708/08. Judgment of November 20, 2014, paras. 70-74; European Court of Human Rights. Grand Chamber. *Case of Behrami and Behrami v. France and Saramati v. France, Germany, and Norway*. Application No. 71412/01 by Agim BEHRAMI and Bekir BEHRAMI against France and Application No. 78166/01 by Ruzhdi SARAMATI against France, Germany, and Norway. Admissibility of February 5, 2007, paras. 29, 32, 121, 128, 140-144, 152; European Court of Human Rights. Fourth Section. *Case of Berić and Others v. Bosnia and Herzegovina*. Applications Nos. 36357/04, 36360/04, 38346/04, 41705/04, 45190/04, 45578/04, 45579/04, 45580/04, 91/05, 97/05, 100/05, 101/05, 1121/05, 1123/05, 1125/05, 1129/05, 1132/05, 1133/05, 1169/05, 1172/05, 1175/05, 1177/05, 1180/05, 1185/05, 20793/05, and 25496/05. Admissibility decision of October 16, 2007, paras. 27-38; European Court of Human Rights. Grand Chamber. *Case of Al-Jedda v. United Kingdom*. Application No. 27021/08. Judgment of July 7, 2011, paras. 56, 80-86; European Court of Human Rights. Third Section. *Case of Stichting Mothers of Srebrenica v. The Netherlands*. Application No. 65542/12. Judgment of June 11, 2013, para. 130; Caribbean Court of Justice. *Trinidad Cement Limited v. The Caribbean Community*. Case No. [2009] CCJ 2 (OJ). Judgment of February 5, 2009, para. 41; African Commission on Human Rights and Peoples' Rights. *Luke Munyandu Tembani and Benjamin John Freeth v. Angola*. Communication No. 409/12. Merits Report of April 30, 2014, paras. 126, 132.

³⁰¹ England and Wales. High Court of Justice. Queen's Bench Division. *Kontic and Others v. Ministry of Defence*. Case No. HQ14X02291. Judgment of August 4, 2016, paras. 116-117; United Kingdom. Ministry of Defence v. *Iraqi Civilians*. Case ID UKSC 20016/2003. Judgment of May 12, 2016. Case No. [2007] UKHL 58. Judgment of December 12, 2007, paras. 5, 23; United Kingdom. Royal Court of Justice. *Rahmatullah v. Ministry of Defence and another*. Cases No. [2014] EWHC 3846 (QB) and [2015] EWCA Civ 843. Judgment of January 17, 2017; United Kingdom. The Supreme Court. *Mohammed (Serdar) v. Ministry of Defence*. Cases ID UKSC 2015/0218. Judgment of January 17, 2017; Kingdom of the Netherlands. *Nuhanović v. State of the Netherlands*. Case No. 265615/HA ZA 06-1671. Judgment of September 10, 2008, paras. 3.7, 3.9.4, 4.8, 5.9, 5.20; Kingdom of the Netherlands. Court of Appeal of The Hague. *Mothers of Srebrenica et al v. State of the Netherlands and the United Nations*. Case No. 200.022.151/01. Judgment in the First Civil Law Section, March 30, 2010, paras. 3.2, 11.2.

³⁰² *Supra*, n. 282. Articles 3-5.

instrument governed by international law, possesses its own legal personality, and can commit international wrongful acts for which it can be held responsible.³⁰³ According to DARIO, the responsibility of an organization for a wrongful act does not preclude another subject of international law, such as a State, from also being held responsible for its actions under the same circumstances.³⁰⁴

An "international wrongful act" is the conduct, whether by commission or omission, attributable to an International Organization that constitutes a violation of its obligations under international law. Specifically, DARIO also establishes that an International Organization or a State may commit a wrongful act in connection with another State or International Organization, thereby implicating their independent responsibility.³⁰⁵ This connection may involve aid, assistance, direction, control, or coercion directed at a State or another International Organization, provided that the latter is aware of the circumstances of the wrongful act and that the act would be considered wrongful if committed by that International Organization. Additionally, an International Organization may be held responsible if it evades its

international obligations by compelling or authorizing a State or another International Organization to commit an act that would be deemed wrongful if carried out by the organization itself.³⁰⁶

Likewise, DARIO establishes that an International Organization's responsibility carries the legal consequences of the obligation to cease and not repeat the wrongful act, as well as the obligation for full reparation of the damage caused, through measures of restitution, compensation, and satisfaction, either to the State or directly to any entity or individual.³⁰⁷ Furthermore, DARIO stipulates that the rules governing International Organizations cannot be used to justify the violation of their obligations or to avoid repairing the damage, without prejudice to the applicability of other norms concerning the International Organization and its members.³⁰⁸ In its comments on DARIO, the ILC clarifies that internal norms cannot affect the international responsibility of International Organizations with respect to non-members or in relation to the violation of jus cogens norms.³⁰⁹

DARIO determines specific norms concerning serious violations of interna-

³⁰³ *Supra*, n. 282. Articles 3.

³⁰⁴ *Supra*, n. 282. Articles 3-5; International Court of Justice. *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*. Advisory Opinion of April 29, 1999, para. 66.

³⁰⁵ *Supra*, n. 282. Articles 14-19 and 58-63; European Commission of Human Rights. *Case of M. & Co. v. Federal Republic of Germany*. Application No. 13258/87. Decision of February 9, 1990, p. 138.; European Court of Human Rights. *Senator Lines GmbH v. Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom*. Grand Chamber. Application No. 56672/00, Decision of March 10, 2004; European Court of Human Rights. *Bosphorus Hava Yollari Turizm ve Ticaret Anonim Şirketi v. Ireland*. Grand Chamber. Application No. 45036/98. Judgment of June 30, 2005, European Court of Human Rights, Reports of Judgments and Decisions 2005-VI, paras. 107-127.

³⁰⁶ *Supra*, n. 282. Article 17; European Court of Human Rights. *Bosphorus Hava Yollari Turizm ve Ticaret Anonim Şirketi v. Ireland*. Application No. 45036/98. Judgment of June 30, 2005, para. 157.

³⁰⁷ *Ibid.* Articles 28-40.

³⁰⁸ *Ibid.* Articles 28-40.

³⁰⁹ *Ibid.* p. 78, para. 5.

tional law, such as those set by jus cogens norms.³¹⁰ International Organizations cannot commit acts against these norms by invoking justifications like consent, self-defense, countermeasures, force majeure, or distress.³¹¹ Additionally, DARIO establishes specific consequences for violations of jus cogens obligations, which include flagrant or systematic breaches of these obligations by the International Organization responsible for fulfilling them. In the face of a violation of jus cogens norms, all States and International Organizations must cooperate to put an end to such violations. Furthermore, no State should recognize as legal a situation created by serious violations nor offer aid or assistance that would allow such a situation to be maintained. In its comments on DARIO, the ILC acknowledges that International Organizations must always act within their mandates and in accordance with their internal regulations, but it notes that some organizations have sufficient authority for such cooperation.³¹²

Finally, DARIO establishes norms for invoking international responsibility.³¹³ In this context, a State or International Organization can invoke the international responsibility of an International Organization if it has been harmed either individually or collectively with other States and/or International Organizations, or as part of the international community as a whole, by the violation of an obligation.

The focus of DARIO is on the responsibility of International Organizations

and States towards each other, but the draft articles also mention the international responsibility of the international community, including individuals and other entities.³¹⁴ Again, the ILC in its comments on DARIO mentions treaties, customs, and case law on human rights and violations against individuals as sources informing the drafting of the articles. The Commission states that it is possible for "an International Organization to commit an aggression or violate an obligation under a peremptory norm of international law concerning the protection of human rights," which would have the same consequences as in the case of a State.³¹⁵

4.2 Obligation to Prohibit Crimes Against Humanity

IFIs bear international responsibility for upholding the prohibition of crimes against humanity, which is regarded as a jus cogens norm with erga omnes effect. Between 2013 and 2019, the ILC worked on the codification and progressive development of international law, formulating considerations on crimes against humanity. The outcome of this endeavor was published in the form of the "Draft Articles on the Prevention and Punishment of Crimes Against Humanity"³¹⁶ (DACA). The articles provide guidance on the international legal obligations established by treaties, customs, general principles, and international jus cogens norms.

310 Ibid. Articles 32.

311 Ibid. Articles 26.

312 Ibid. p. 83, para. 4.

313 Ibid. Articles 43-50.

314 Ibid. Article 50.

315 Ibid. p. 82, para. 1.

316 ILC. Draft Articles on the Prevention and Punishment of Crimes Against Humanity, with commentaries, 2019. https://legal.un.org/ilc/texts/instruments/english/commentaries/7_7_2019.pdf.

In general terms, DCAH encompasses the developments in international law regarding crimes against humanity that were adopted up to that point.³¹⁷ It further refines the definition of "crimes against humanity," to include the acts committed on a widespread or systematic basis against a civilian population with knowledge of the attack:³¹⁸ murder; extermination; enslavement; deportation or forced transfer of a population; imprisonment or other severe deprivation of physical liberty in violation of fundamental international law; torture; rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization, or other forms of sexual violence of comparable gravity; enforced disappearance of persons; crime of apartheid; other inhumane acts or similar acts causing intentional severe suffering or serious harm to physical,

mental, or psychological health; and persecution of any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other discriminatory grounds not permitted by international law, in connection with the aforementioned acts.³¹⁹

In line with international standards on the matter,³²⁰ the ILC stipulates that no exceptional circumstances such as armed conflicts, internal political instability, or other public emergencies can be used to justify crimes against humanity.³²¹

DCAH also establishes general obligations, which require States not only to refrain from committing acts that constitute crimes against humanity but also to adopt measures for their prevention and punishment.³²² The obligation

317 United Nations. United Kingdom of Great Britain and Northern Ireland, United States of America, France, Union of Soviet Socialist Republics. Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, and Charter of the International Military Tribunal. March 15, 1951, Article 6 (c); United Nations. Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (International Tribunal for the Former Yugoslavia). Adopted by Security Council resolution 827 (1993) of May 25, 1993 amended by Security Council resolutions 1166 (1998) of May 13, 1998, 1329 (2000) of November 30, 2000, 1411 (2002) of May 17, 2002 and 1431 (2002) of August 14, 2002, Article 5; United Nations. Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, between January 1, 1994 and December 31, 1994. Adopted by Security Council resolution 955 (1994) of November 8, 1994, amended by Security Council resolutions 1165 (1998) of April 30, 1998, 1329 (2000) of November 30, 2000, 1411 (2002) of May 17, 2002 and 1431 (2002) of August 14, 2002, Article 3; Residual Special Court for Sierra Leone. Agreement Between the United Nations and The Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone. Freetown, January 16, 2002, Article 2; United Nations. Law on the Establishment of the Extraordinary Chambers, with inclusion of amendments as promulgated on October 27, 2004 (NS/RKM/1004/006). Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period Of Democratic Kampuchea, October 27, 2004, Article 5; International Criminal Court. Elements of Crimes, adopted at the Assembly of States Parties to the Rome Statute of the International Criminal Court First session, New York, September 3–10, 2002, pp. 5–12.

318 *Supra*, n. 316. Article 2.

319 *Supra*, n. 316. Article 3.3.

320 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 2.2; International Convention for the Protection of All Persons from Enforced Disappearance, Article 1.2; Inter-American Convention to Prevent and Punish Torture, Article 5.

321 *Supra*, n. 316. Article 3.3.

322 *Supra*, n. 316. Article 3–8; International Court of Justice. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v. Serbia and Montenegro*). Judgment of February 26, 2007, 42, 221.

of prevention encompasses the implementation of effective legislative, administrative, and judicial measures in any territory under their jurisdiction, as well as cooperation with other States, relevant International Organizations, and other entities, when appropriate. Similarly, the obligation of punishment entails ensuring that acts such as committing, attempting, ordering, soliciting, inducing, aiding, assisting, or contributing to crimes against humanity are classified as criminal offenses under national law and that those responsible are investigated, prosecuted, and punished in any territory under their jurisdiction.

It is essential to emphasize that, although DACAH does not explicitly address the obligations of International Organizations regarding the prohibition of crimes against humanity, such obligations are implied through a comprehensive and systematic analysis of DACAH and other sources of international law. Specifically, the ILC published in 2022 its "Draft Conclusions on the Identification and Consequences of Peremptory Norms of General International Law (*jus cogens*)"³²³ (DCJC). This document recognizes that

peremptory norms of general international law (*jus cogens*) embody and protect fundamental values of the international community, are universally applicable with a superior hierarchical status over other norms of international law.³²⁴ This reinforces a well-established position in international law on the matter.³²⁵

However, the ILC innovates in its comments on DCJC by asserting that *jus cogens* norms are binding on all subjects of international law, which applies not only to States but also to International Organizations.³²⁶ It also states that *jus cogens* norms have a hierarchically superior status over other international law norms and that their identification as such can invalidate conflicting international law norms derived from treaties or customary international law.³²⁷

DCJC establishes that *jus cogens* norms are accepted by the international community as a whole and that they cannot be derogated, and they can only be modified by a subsequent norm of general international law with the same character.³²⁸ Additionally, the invocation

323 ILC. Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (*Jus Cogens*) with commentaries, 2022. https://legal.un.org/ilc/texts/instruments/english/commentaries/1_14_2022.pdf.

324 *Supra*, n. 323. Conclusion 2.

325 United Nations. International Criminal Tribunal for the former Yugoslavia. Prosecutor v. Anto Furundžija. Case No. IT-95-17/I-T, Judgment of December 10, 1998. Trial Chamber, para. 156; United Nations. International Criminal Tribunal for the former Yugoslavia. Prosecutor v. Goran Jelisi. Case No. IT-95-10-T, Judgment of December 14, 1999. Trial Chamber, para. 60. 37; Inter-American Court of Human Rights. Legal Status and Rights of Undocumented Migrants. Advisory Opinion OC-18/03 of September 17, 2003. Series A No. 18, paras. 4-5; International Court of Justice. Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide. Advisory Opinion. May 28, 1951, pp. 15 and 23; International Court of Justice. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro). Judgment of February 26, 2007, pp. 43, 110-111; International Court of Justice. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia). Judgment of February 3, 2015, pp. 3, 46.

326 *Supra*, n. 323. pp. 22-23, para. 10.

327 *Ibid.* pp. 22-23, para. 10.

328 *Ibid.* Article 3.

of circumstances excluding the unlawfulness of the act is prohibited.³²⁹

DCJC determines the legal consequences of jus cogens norms: Rules derived from treaties, customs or unilateral acts, resolutions, decisions, or other international acts that conflict with these norms do not produce legal effects.³³⁰ Furthermore, DCJC establishes that jus cogens norms impose obligations on the international community as a whole or erga omnes, allowing the State responsible for the unlawful act to be sued by the injured State or any other State.³³¹ However, the ILC, in its comments on DCJC, clarifies that International Organizations may also sue a State or other organizations for their unlawful acts in violation of jus cogens norms.³³²

Additionally, DCJC establishes that States must cooperate to end flagrant or systematic violations of jus cogens norms and must neither recognize as legal the situation created by such violations nor provide aid or assistance that would sustain it.³³³ Again, the ILC, in its comments on DCJC, clarifies that the duties of cooperation, non-recognition of legality, and non-support or assistance also apply to International Organizations.³³⁴ According to the ILC, in the face of a serious violation of a jus cogens norm, "International Organizations must act, within their mandates and when permitted by international law, to bring an end to the violations."³³⁵ In this

sense, "when there is discretion to act, the duty to cooperate imposes an obligation on members of International Organizations to act in a manner that allows the organization to exercise its discretion to end the serious violation of peremptory norms of general international law (jus cogens)."³³⁶

DCJC provides a non-exhaustive list of jus cogens norms, without prejudice to the existence or emergence of new norms of this nature, based on its previous writings.³³⁷ The norms identified, which are considered without hierarchy among them, include the prohibition of aggression, genocide, crimes against humanity, basic rules of international humanitarian law, the prohibition of racial discrimination and apartheid, slavery, torture, and self-determination.

In this way, DCJC, when evaluated together with DARIO, allows us to affirm that International Organizations are responsible for violating obligations established by jus cogens norms. DARIO and DCJC establish that, in the event of a flagrant or systematic violation of jus cogens norms, organizations must act within their mandates and according to their internal rules and cooperate with States and other International Organizations to end such violations.

In the same sense, it can be concluded that the obligations established

329 *Ibid.* Articles 3 and 18.

330 *Ibid.* Articles 10-16.

331 *Ibid.* Article 17.

332 *Ibid.* p. 69, para. 9.

333 *Ibid.* Article 19.

334 *Ibid.* p. 79, para. 19.

335 *Ibid.* pp. 75-76, para. 11.

336 *Ibid.* pp. 75-76, para. 11.

337 *Ibid.* Article 23 and Annex.

by DACAH also apply to International Organizations, which must act within their mandates and according to their internal rules regarding the prohibition of crimes against humanity. They cannot commit crimes against humanity autonomously, in conjunction with other organizations, or in collaboration with States, whether through assistance, direction, control, or coercion. Furthermore, they cannot recognize as legal the situation created by such crimes or provide support or assistance to maintain it; on the contrary, they must act to end that situation. To prevent such crimes, normative, administrative, and judicial measures should be adopted concerning their personnel, projects, and activities, as well as in cooperation with States and other International Organizations. Measures should be implemented to investigate, prosecute, and punish members of their personnel responsible for crimes against humanity, whether directly or by association.

4.3 Obligation to Respect Human Rights

IFIs are internationally responsible for the obligation to respect human rights. This issue has been addressed in the United Nations Guiding Principles on Business and Human Rights (hereinafter referred to as the Guiding Principles) and more recently by the Office of the United Nations High Commissioner for Human

Rights (OHCHR),³³⁸ the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises (WGBHR),³³⁹ and the Rapporteurship on Economic, Social, Cultural, and Environmental Rights of the Inter-American Commission on Human Rights (REDESCA, by the Spanish acronym).³⁴⁰ The OHCHR, WGBHR, and IACHR have stated that the Guiding Principles apply to both States and IFIs. While States remain the primary guarantors of human rights with the obligation to protect them, IFIs have the obligation to respect human rights and implement due diligence measures in all their activities and business relationships to identify, prevent, mitigate, and address potential and actual human rights harm.³⁴¹

Between 2005 and 2011, John Ruggie worked as the Special Representative of the United Nations Secretary-General on the issue of Human Rights and Transnational Corporations and Other Business Enterprises. The result of his work was published as "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect, and Remedy' Framework," presented and unanimously endorsed by the United Nations Human Rights Council. The Guiding Principles are a secondary source of international law and aid in the understanding and application of international legal obligations established by treaties,

338 OHCHR. Benchmarking Study of Development Finance Institutions' Safeguard Policies. https://www.ohchr.org/sites/default/files/documents/issues/development/dfi/OHCHR_Benchmarking_Study_HRDD.pdf

339 Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises. Development Finance Institutions and Human Rights, June 22, 2023. <https://www.ohchr.org/en/documents/thematic-reports/ahrc5324add4-development-finance-institutions-and-human-rights>.

340 Inter-American Commission on Human Rights. Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights. Report on Business and Human Rights: Inter-American Standards. November 1, 2019, para. 297. <https://www.oas.org/es/cidh/informes/pdfs/EmpresasDDHH.pdf>.

341 *Supra*, n. 339, pp. 7-8, para. 25.

customs, general principles, or international jus cogens norms.³⁴²

In general, the Guiding Principles apply to all States and all companies regardless of their size, sector, location, ownership, or structure.³⁴³ They are organized into three pillars: the responsibility of States to protect, the responsibility of businesses to respect, and the shared responsibility of both to provide and cooperate in remedying adverse human rights impacts within their activities and relationships.

The Guiding Principles establish that all States are responsible for protecting against human rights violations within their territory and/or jurisdiction committed by third parties, including businesses. States must adopt appropriate measures to prevent, investigate, punish, and remedy violations.³⁴⁴ Their authority has been recognized by the Inter-American Court of Human Rights in several of its judgments.³⁴⁵ States must pay special attention to businesses that are state-owned, under their control, or that receive substantial support or services from their agencies.³⁴⁶ Special Representative Ruggie, in his comments on the Guiding Principles, notes that States are the primary

bearers of international human rights obligations and that when they own or control businesses, they have greater means to ensure that human rights policies, laws, and regulations are applied.³⁴⁷ Complementarily, the WGBHR argues that States should leverage their position as owners or members of financial institutions to ensure that, at a minimum, human rights are respected and that protection against human rights violations is advanced, including the incorporation of human rights due diligence into the policies of those institutions.³⁴⁸

The Guiding Principles also stipulate that States, when acting as members of multilateral institutions with business activities, such as IFIs, must ensure that these institutions do not restrict the ability of member States to fulfill their obligation to protect human rights or the ability of businesses to uphold their obligation to respect human rights.

States should also encourage these institutions within their respective mandates and capacities to cooperate in ensuring State protection and business respect for human rights. This includes activities such as technical assistance, capacity building, and awareness raising.

³⁴² *Supra*, n. 338, p. 7.

³⁴³ John Ruggie. Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises. https://www.ohchr.org/sites/default/files/Documents/Issues/Business/A-HRC-17-31_AEV.pdf

³⁴⁴ *Ibid.* Principle 1.

³⁴⁵ Inter-American Court of Human Rights. Case of Olivera Fuentes v. Peru. Preliminary Exceptions, Merits, Reparations, and Costs. Judgment of February 4, 2023. Series C No. 484, para. 97; Inter-American Court of Human Rights. Case of Rodriguez Pacheco and Others v. Venezuela. Preliminary Exceptions, Merits, Reparations, and Costs. Judgment of September 1, 2023. Series C No. 504, para. 117; Inter-American Court of Human Rights. Case of the Miskito Divers (Lemoth Morris and Others) v. Honduras. Judgment of August 31, 2021. Series C No. 432, para. 48; Inter-American Court of Human Rights. Case of the Kaliña and Lokono Peoples v. Suriname. Merits, Reparations, and Costs. Judgment of November 25, 2015. Series C No. 309, para. 224.

³⁴⁶ *Supra*, n. 343. Principle 4.

³⁴⁷ *Ibid.* p. 9.

³⁴⁸ *Supra*, n. 339, p. 7, para. 24.

Additionally, States should use the Guiding Principles to foster international understanding and cooperation on the challenges related to business and human rights.³⁴⁹

It is essential to highlight that Special Representative Ruggie—in his comments on the Guiding Principles—notes that financial institutions are one example of multilateral institutions comprised of States. He emphasizes that States must act in accordance with their human rights obligations as members of these institutions.³⁵⁰ In turn, the IACHR and its REDESCA have stated that the World Bank, the Inter-American Development Bank, and the Central American Bank for Economic Integration, as IFIs, must act in accordance with international standards on business and human rights.³⁵¹

Furthermore, the IACHR and its REDESCA state that, in order to fulfill obligations related to business and human rights, member States of IFIs should require that these institutions have accountability mechanisms regarding human rights.³⁵² According to the IACHR, this requirement can also be imposed by States in whose jurisdiction the IFIs are domiciled.³⁵³ This has been, in fact, the position of the Supreme Court of the United States on the matter.³⁵⁴

Moreover, the Guiding Principles establish that businesses must respect human rights by avoiding violations and addressing adverse human rights impacts in which they are involved.³⁵⁵ According to Ruggie, the obligation to respect human rights is a standard of conduct for all businesses, regardless of the ability or willingness of States to comply with their own human rights guidelines.³⁵⁶ Therefore, addressing adverse human rights impacts requires taking appropriate measures to prevent, mitigate, and, when necessary, remedy them.

In the same vein, the WGBHR argues that to promote development, it is essential for IFIs to publicly commit to human rights and to formulate and implement human rights due diligence policies to identify, prevent, address, and remediate potential and actual negative impacts related to their value chains.³⁵⁷ In this regard, it is common for IFIs to develop and implement social and environmental safeguard policies with implicit or explicit commitments to human rights, which link these institutions and their private or public clients.³⁵⁸ According to the OHCHR, explicitly aligning social and environmental safeguards with human rights provides conceptual benefits by strengthening institutional mandates and legitimacy, as well as operational benefits

349 *Supra*, n. 343. Principle 10.

350 *Ibid.* p. 12.

351 *Supra*, n. 340, para. 297.

352 *Ibid.*, para. 298.

353 *Ibid.*, para. 298.

354 United States of America. Supreme Court of the United States. *Jam v. International Finance Corporation*. Certiorari to the United States Court of Appeals for the District of Columbia Circuit. No. 17-1011. Argued October 31, 2018—Decided February 27, 2019.

355 *Supra*, n. 343. Principle 11.

356 *Ibid.* p. 13.

357 *Supra*, n. 339, p. 3, para. 6; pp. 7-8, paras. 25-26.

358 *Supra*, n. 339, p. 3, para. 6; pp. 8-9, paras. 27-28.

by improving risk management and stakeholder relations.³⁵⁹

According to the IACHR, IFIs should explicitly incorporate human rights standards and safeguards within their structures, policies, objective frameworks, and risk analyses.³⁶⁰ The IACHR states that the implementation of these frameworks aims to reduce IFIs' involvement in financing and developing projects that violate human rights.³⁶¹

The Guiding Principles also establish that companies are required to respect internationally recognized human rights, including at a minimum those outlined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights of the United Nations, and the Declaration on Fundamental Principles and Rights at Work of the International Labour Organization.³⁶² The Universal Declaration of Human Rights establishes the right to life; personal security; the prohibition of torture and cruel, inhuman, or degrading treatment; equality before the law; access to a fair trial; nationality; freedom of movement; freedom of opinion and expression, including the right to seek, receive and impart information

and ideas; freedom of peaceful assembly and association; and participation in government, among other rights.³⁶³ The International Covenant on Civil and Political Rights provides a detailed exploration of these rights.³⁶⁴ In turn, the International Covenant on Economic, Social and Cultural Rights establishes the right to decent work; freedom of trade union association; social security; access to health, education, and adequate housing; participation in cultural life; and enjoyment of scientific progress, among other rights.³⁶⁵ Finally, the Declaration on Fundamental Principles and Rights at Work elaborates on these rights in the workplace.³⁶⁶

Recently, financial institutions have included human rights standards in their social and environmental safeguard policies, incorporating the Guiding Principles.³⁶⁷ Special Representative Ruggie—in his comments on the Guiding Principles—notes that companies can adversely impact all human rights recognized by the cited documents. However, depending on their activities, it may be necessary to consider additional standards, particularly those relating to the human rights of individuals in groups at higher risk of vulnerability, such as indigenous peoples, women, ethnic, racial, national, religious, or linguistic minorities; children; persons

359 *Supra*, n. 338, pp. 11-12.

360 *Supra*, n. 340, para. 297.

361 *Supra*, n. 340, para. 297.

362 *Supra*, n. 343, Principle 15.

363 United Nations. Universal Declaration of Human Rights. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

364 United Nations. International Covenant on Civil and Political Rights. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

365 United Nations. International Covenant on Economic, Social and Cultural Rights. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

366 ILO. Declaration on Fundamental Principles and Rights at Work and its Follow-up. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/normativeinstrument/wcms_716594.pdf. Last accessed February 29, 2024.

367 *Supra*, n. 339, pp. 8-9, para. 28; *Supra*, n. 338, p.

with disabilities; and migrants and their families.³⁶⁸ The OHCHR states that aligning social and environmental policies with human rights standards enables financial institutions to leverage their understanding of obligations and to benefit from reports on countries published periodically by International Organizations.³⁶⁹

In accordance with the Guiding Principles, companies have the obligation to respect human rights, which includes: avoiding causing or contributing to adverse human rights impacts through their actions or omissions and addressing such impacts when they occur; preventing or mitigating adverse human rights impacts that are directly linked to their operations, products, services, or supply chains.³⁷⁰ The Guiding Principles also establish that to fulfill their obligation to respect human rights, companies must adopt policies and processes that are commensurate with their size and circumstances, including a human rights commitment policy; human rights due diligence processes to identify, prevent, mitigate, and address their adverse human rights impacts; and processes to remediate adverse human rights impacts that they cause or contribute to.³⁷¹ Special Representative Ruggie explains that companies must both understand and demonstrate that they respect human rights, which is only possible through the establishment of specific policies,³⁷² while the WGBHR cites as a good practice example policies of social and environmental due diligence that

incorporate human rights requirements for their clients.³⁷³

The OHCHR argues that corporate due diligence is a well-established practice that differs in some respects from human rights due diligence. The former focuses on risks to the company and the initial identification of risks, while the latter centers on the company's impact on people and extends over time.³⁷⁴ The WGBHR outlines four common stages in a human rights due diligence process: identifying and analyzing potential and actual adverse human rights impacts; implementing measures to prevent and mitigate these impacts; monitoring the effectiveness of these measures; and communicating with stakeholders.³⁷⁵

In this regard, financial institutions must explicitly reference internationally recognized rights to identify the risks of adverse impacts in each of their projects, commonly classifying projects by risk levels and adopting concrete and proportionate prevention and mitigation measures. Financial institutions and their clients must share the responsibility of regularly monitoring activities with respect to human rights throughout the project and maintain a public and accessible database on the supported projects, which includes specific information on social and environmental risks, as well as regular contact with stakeholders on the ground, in accordance with their peculiarities. Furthermore, the OHCHR highlights

368 *Supra*, n. 343, pp. 13-14.

369 *Supra*, n. 338, p. 14.

370 *Supra*, n. 343, Principle 13.

371 *Supra*, n. 343, Principle 15.

372 *Supra*, n. 343, p. 15.

373 *Supra*, n. 339, p. 11, para. 36.

374 *Supra*, n. 338, p. 16.

375 *Supra*, n. 339, pp. 12-17.

that the absence of a rigorous due diligence process may result in financial institutions being accused of complicity in serious human rights violations or crimes against humanity.³⁷⁶

The Guiding Principles assert that States must adopt appropriate administrative, legal, or other measures to ensure that when human rights violations occur within their territory, affected individuals have access to effective remedies.³⁷⁷ Special Representative Ruggie notes that if States fail to take appropriate measures to investigate, prosecute, sanction, and remedy businesses-related human rights violations, their duty to protect human rights is weakened and rendered meaningless. Access to effective remedies encompasses procedural aspects, requiring them to be legitimate, accessible, predictable, equitable, transparent, and con-

sistent with internationally recognized human rights standards, and should serve as a source of continuous learning.³⁷⁸ It also includes substantive aspects, which may involve measures such as apologies, restitution, rehabilitation, compensation, administrative or criminal sanctions, cessation of harmful conduct, and guarantees of non-recurrence.³⁷⁹

The OHCHR maintains that a proactive and consistent stance by financial institutions on effective remedies and reparative measures can help establish the distribution of responsibilities with clients and strengthen the trust of beneficiary communities.³⁸⁰ In this sense, it contends that financial institutions should operate within a remedial ecosystem where various actors cooperate with resources and concrete actions.³⁸¹

376 *Supra*, n. 338, p. 8.

377 *Supra*, n. 343, Principle 25.

378 *Ibid*, p. 22.

379 *Ibid*, p. 22.

380 *Supra*, n. 338, p. 83.

381 *Supra*, n. 338, p. 11.

5. Conclusions

The aim of the report “International Financial Support to Nicaragua and the Democratic and Human Rights Crisis” is to examine the relationship between the authoritarian regime of Daniel Ortega and Rosario Murillo and IFIs, focusing on their obligations concerning crimes against humanity committed since 2018 and the adherence to human rights by both parties.

Since 2000, Sandinista leader and President Daniel Ortega has implemented constitutional, legal, and institutional reforms that have led to the establishment of a dictatorship. State powers are concentrated in the Executive branch, specifically in the Presidency and Vice Presidency, with complete subordination of the Legislative, Judicial, and Electoral branches. There is no distinction between the government and the Sandinista party, making it impossible to differentiate between governmental and political actions.

Since 2018, the authoritarian regime of Daniel Ortega and Rosario Murillo has systematically and widely violated human rights, particularly targeting a specific sector of the civilian population—those opposed to the regime or perceived as such—for political reasons. These actions have led to the complete closure of civic space and have been thoroughly documented and recognized by the GHREN as crimes against humanity.

Despite extensive documentation and awareness of the Nicaraguan democratic and human rights crisis, IFIs continue to support projects in Nicaragua. Crimes against humanity and human rights violations have not been enough for IFIs to alter their strategy regarding the country or to strengthen their human rights due diligence. As of February 2024, there are 97 projects underway in Nicaragua with a total approved amount of US\$5.08 billion. Notably, of the 97 projects in progress, 57 were approved after the onset of the crisis in 2018, totaling US\$2.78 billion. Below is the distribution among the institutions:

CABEI	20 projects	3,272.71 billion
IDB	45 projects	687.04 million
IDB Invest	20 projects	327.01 million
IDA/IBRD	8 projects	388.73 million
IFC	6 projects	232.08 million
IMF	1 proyecto	172.53 million
TOTAL	97 projects	5,082.43 million

These IFIs are prohibited from engaging in political activities according to their internal rules. They must make their decisions and conduct their activities impartially, focusing solely on economic factors, without being influenced by political issues or interfering in the internal affairs of their members. However, respect for democracy and human rights is economically relevant and should be taken into account by IFIs in their decisions and activities in Nicaragua. For instance, the complete closure of Nicaragua's civic space obstructs access to and dissemination of public information about development projects. The concentration of power in the Presidency and the lack of judicial independence prevent citizens from challenging the misappropriation of public resources administratively or judicially, and even less from seeking remedies for damages suffered. Finally, the persecution of civil society organizations and individuals who oppose or are perceived as such discourages and intimidates citizens from filing complaints, including with local administrations and the independent accountability mechanisms of the IFIs.

Under DARS and DARIO, IFIs are internationally accountable for their unlawful acts, including both actions and omissions that breach their international obligations under international law. Unlawful acts by an International Organization can be committed either individually or in conjunction with States or other International Organizations, through means such as aid, assistance, direction, control, or coercion, provided there is awareness of the circumstances surrounding the unlawful act and the act would be deemed unlawful if committed by that organization. Recognition of international responsibility entails legal consequences, including the obligation to cease and

desist, refrain from repetition, and provide full reparation for the damage caused through measures such as restitution, compensation, and satisfaction, either to the State or directly to any entity or individual, with internal rules not serving as justification for non-compliance. IFIs do not have absolute judicial immunity and, when they violate their international obligations, are subject to claims for damages before competent national courts.

Moreover, under the provisions of DACAH and DCJC, IFIs are accountable for adhering to jus cogens norms, such as the prohibition of crimes against humanity. Jus cogens norms reflect and protect fundamental values of the international community and are universally applicable, holding hierarchical superiority over other international legal norms. IFIs must adhere to their obligations to prevent crimes against humanity and must not cooperate through assistance, direction, control, or coercion with the Ortega regime while it remains responsible for such crimes. They should also not recognize as legal any situation created by the Ortega regime's crimes, nor offer assistance or support that helps maintain such a situation, such as resources used without proper human rights due diligence that – in practice – perpetuate the regime in power. In a preventive capacity, IFIs must implement normative, administrative, and judicial measures regarding their personnel, projects, and activities, and cooperate with States and other International Organizations to address and end the situation.

According to the United Nations Guiding Principles on Business and Human Rights, IFIs are responsible for respecting internationally recognized human rights. This responsibility includes avoiding actions or omissions that cause

or contribute to adverse human rights impacts and addressing those impacts when they occur. Furthermore, IFIs must work to prevent or mitigate adverse human rights impacts directly linked to their operations, products, services, or supply and value chains. As the WGBHR highlights, to fulfill their role in promoting development, IFIs must publicly commit to human rights and develop and implement human rights due diligence policies. These policies should

identify, prevent, address, and remedy potential and actual negative human rights impacts associated with their value chains. However, there is no evidence that IFIs have adopted enhanced safeguard policies for their projects in Nicaragua, despite being aware that they are collaborating with the authoritarian regime of Daniel Ortega and Rosario Murillo, which is responsible for committing acts that constitute crimes against humanity.

6. Recommendations

At Race and Equality, we understand that International Financial Institutions (IFIs) and their work are essential for sustainable development and the reduction of inequalities in Nicaragua. However, it is necessary for these institutions to operate within their mandates and in accordance with their internal rules and with international law to end the democratic and human rights crisis in the country, fulfilling their obligations to prohibit crimes against humanity and respect human rights. In this regard, we recommend:

To the State of Nicaragua:

- 1) Ensure public access to information in line with international standards regarding development projects executed within its territory, refraining from persecuting, or criminalizing those who request information about these projects.
- 2) Guarantee a thorough and prior social and environmental risk analysis for development projects in its territory, in line with its obligations under domestic and international law regarding human rights and the prohibition of crimes against humanity.
- 3) Strengthen the monitoring of development project execution within its territory, in line with its obligations under domestic and international law regarding human rights and the prohibition of crimes against humanity.
- 4) Ensure the investigation, prosecution, trial, and punishment of all those responsible for human rights violations and crimes against humanity in the context of development projects in its territory, while ensuring full reparations for the victims, refraining from persecuting, or criminalizing the victims or their representatives, in accordance with domestic and international law.
- 5) In coordination with IFIs, immediately review the projects within its territory in light of confirmed violations of its obligations concerning human rights and the prohibition of crimes against humanity, as established by domestic and international law. Where applicable, suspend and/or cancel such projects to investigate and identify those responsible for these violations and crimes, as well as to address the resulting consequences and provide guarantees of non-repetition.

To the International Financial Institutions

- 1) Ensure immediate public access to information about your projects in Nicaragua in accordance with international human rights standards, implementing measures to protect individuals requesting this information.

- 2) Immediately review your projects and, if violations of rights and crimes against humanity are confirmed, proceed with conditional suspension and/or cancellation of these projects in Nicaragua.
- 3) Ensure a thorough and prior social and environmental impact analysis for your development projects in Nicaragua, guaranteeing the right to prior, free, and informed consultation where applicable, in line with your obligations under human rights and the prohibition of crimes against humanity.
- 4) Ensure that instruments and mechanisms for overseeing project implementation and financing are clear and accessible to anyone wishing to file complaints about negative impacts and implementation failures.
- 5) Guarantee effective execution monitoring, supervision, and oversight of your development projects in Nicaragua, adhering to your human rights obligations and the prohibition of crimes against humanity.
- 6) Prioritize and expedite complaints submitted to your control mechanisms, as well as cases opened on your initiative, related to human rights violations and crimes against humanity within the projects you support. Adhere to international human rights law and implement appropriate measures to ensure reparations and protection for victims and their representatives.
- 7) Rigorously monitor and process the information you have, in line with your internal regulations, regarding complaints, investigations, and decisions by international human rights bodies on violations and crimes against humanity in Nicaragua.
- 8) Cooperate with the international community of States and International

Organizations to end the democratic and human rights crisis in Nicaragua.

To the International Community of States

- 1) Request information from IFIs about development projects in Nicaraguan territory, taking into account the State's compliance with its international human rights obligations, and facilitate public access to this information.
- 2) Request the strengthening of state bodies and financial institutions responsible for the risk analysis of development projects in Nicaraguan territory in accordance with obligations concerning crimes against humanity and human rights.
- 3) Cooperate and request the strengthening of state bodies and financial institutions responsible for monitoring the implementation of development projects in Nicaraguan territory, in accordance with obligations related to crimes against humanity and human rights.
- 4) Request the strengthening of state bodies and financial institutions responsible for investigating, prosecuting, judging or analyzing, sanctioning, and determining comprehensive reparations for victims of human rights violations within development projects in Nicaraguan territory.
- 5) Request the suspension and/or cancellation of projects in Nicaraguan territory when violations are confirmed, in accordance with obligations related to crimes against humanity and human rights.
- 6) Cooperate with IFIs and international organizations to end the democratic and human rights crisis in Nicaragua.

To International Organizations

- 1) Request information on development projects in Nicaraguan territory and ensure public access to this information.
- 2) Investigate *ex officio* and request the strengthening of state bodies and financial institutions responsible for the risk analysis of development projects in Nicaraguan territory, in line with obligations related to crimes against humanity and human rights.
- 3) Request the strengthening of state organs and financial institutions responsible for monitoring the implementation of development projects in Nicaraguan territory, in accordance with obligations related to crimes against humanity and human rights.
- 4) Advocate for the strengthening of state organs and financial institutions responsible for investigating, prosecuting, judging or analyzing, sanctioning, and determining comprehensive reparations for victims of human rights violations within development projects in Nicaraguan territory.
- 5) Request the suspension and/or cancellation of projects in Nicaraguan territory when violations are confirmed, in accordance with obligations related to crimes against humanity and human rights.
- 6) Collaborate with the international community of States and with IFIs to end the democratic and human rights crisis in Nicaragua.

7. International Financial Support to Nicaragua

International Financial Institution	Code of the Project	Project Name	Project Name	Approved Amount in US\$
IDB	NI0031	Conditional Revolving Credit Line PPF	12/22/1993	5,000,000.00
IDB Invest	NI1017B-01	Cafe Soluble III	7/19/2005	7,000,000.00
IDB Invest	NI3770A-01	Medicina de Atención Integral, S.A.	8/17/2006	120,000.00
IDB Invest	NI3814A-01	Kola Shaler Industrial S.A.	5/14/2007	250,000.00
IDB Invest	NI1046A-02	Banco de Finanzas II	5/22/2007	10,000,000.00
IDB Invest	NI-L1028	Banco de la Producción S.A.	7/13/2007	178,644,000.00
IBRD / IDA	P104543	NI Debt Reduction Facility - Debt Buy-Back	7/31/2007	45,000,000.00
IDB Invest	NI-L1031	Banco de Finanzas - TFFP	3/20/2008	44,361,100.00
IDB Invest	NI3833A-01	Compañía Cervecera de Nicaragua S.A.	10/3/2009	7,000,000.00
CABEI	302059	Programa Nacional de Electrificación Sostenible y Energía Renovable [National Sustainable Electrification and Renewable Energy Program]	9/29/2010	534,000,000.00
IDB Invest	NI3844A-01	Salnicisa	4/4/2011	154,000.00
IDB Invest	NI3833R-01	Compañía Cervecera de Nicaragua S.A.	11/17/2011	7,000,000.00
IDB Invest	NI3838R-01	Casa Pellas	12/9/2011	3,500,000.00
IDB Invest	NI-L1065	Rent to Own: Innovation to Improve Access to Social Housing in Nicaragua	5/15/2012	10,000,000.00
IFC	32253	Ingenio Montelimar	6/3/2013	15,000,000.00
IDB Invest	NI3838A-02	Casa Pellas, S.A.	9/7/2013	4,500,000.00
IDB Invest	NI3872A-01	Financiera Fama, S.A.	9/13/2013	500,000.00

International Financial Institution	Code of the Project	Project Name	Project Name	Approved Amount in US\$
IDB	NI-X1007	Contingent Loan for Natural Disaster Emergencies	11/27/2013	186,000,000.00
IFC	33779	Metropolitano II	4/29/2014	4,350,000.00
CABEI	302411	Programa para la sostenibilidad del sector de agua y saneamiento rural [Program for the Sustainability of the Rural Water and Sanitation Sector]	6/25/2014	30,000,000.00
CABEI	302441	Reemplazo del Hospital Regional Nuevo Amanecer RAAN-Bilwi [Replacement of the Nuevo Amanecer Regional Hospital RAAN-Bilwi]	8/25/2014	52,971,592.00
IDB	NI-L1082	Modernization of Infrastructure and Management of Hospitals - Western Region	10/29/2014	85,000,000.00
IDB	NI-G1005	SALUD MESOAMERICA 2015: Second Individual Operation	12/19/2014	3,632,041.00
IDB	NI-L1095	Community Health Program for Rural Municipios	6/23/2016	45,000,000.00
CABEI	500193	VI Proyecto de Mejoramiento de Carreteras	7/26/2016	70,450,000.00
IDB	NI-G1008	Geothermal Exploration Program and Improved Power Transmission in the framework of Nicaragua's Investment Plan - SREP (grant) Funding.	9/7/2016	750,000.00
IDB	NI-G1007	Geothermal Exploration Program and Improved Power Transmission in the framework of Nicaragua's Investment Plan - SREP (Contingency) Funding.	9/7/2016	6,750,000.00
IDB	NI-G1006	Geothermal Exploration Program and Improved Power Transmission in the framework of Nicaragua's Investment Plan - CTF Funding.	9/7/2016	9,524,000.00
IDB	NI-L1094	Geothermal Exploration and Transmission Improvement Program under the PINIC	9/7/2016	76,370,000.00

International Financial Institution	Code of the Project	Project Name	Project Name	Approved Amount in US\$
CABEI	500218	Programa de Sostenibilidad del Sector Eléctrico de Nicaragua [Electric Sector Sustainability Program for Nicaragua]	9/28/2016	163,500,000.00
CABEI	500212	Proyecto Desarrollo Sostenible de los Medias de Vida de las Familias Rurales en el Corredor Seco de Nicaragua [Sustainable Development Project for the Livelihoods of Rural Families in the Dry Corridor of Nicaragua]	10/26/2016	15,000,000.00
CABEI	500240	Rehabilitación de la Pista Juan Pablo II y Construcción de Pasos a Dnivel [Rehabilitation of the Juan Pablo II Highway and Construction of Overpasses]	1/24/2017	105,470,000.00
IDB Invest	11979-01	Global CTG	3/21/2017	4,000,000.00
IDB Invest	12082-01	Compañía Distribuidora de Nicaragua S.A.	8/11/2017	13,000,000.00
IDB Invest	12145-01	Hogarama	9/5/2017	400,000.00
IFC	40113	LAFISE SA	11/22/2017	72,000,000.00
CABEI	500276	Proyecto de Saneamiento de Bluefields [Bluefields Sanitation Project]	11/28/2017	38,804,000.00
CABEI	500316	VII Programa de Mejoramiento y Rehabilitación de Carreteras [VII Road Improvement and Rehabilitation Program]	11/28/2017	238,000,000.00
IDB	NI-L1145	Project for the Improvement and Sustainable Management of Drinking Water and Sanitation Services in Urban and Periurban Areas	11/29/2017	72,000,000.00
IDB	NI-L1143	Programa Multisectorial de Atención a Determinantes de la Salud en el Corredor Seco	12/1/2017	133,000,000.00
IBRD / IDA	P163531	Nicaragua Property Rights Strengthening Project	3/15/2018	50,000,000.00
IBRD / IDA	P164452	NI - Integrated Public Provision of Health Care Services	3/15/2018	60,000,000.00

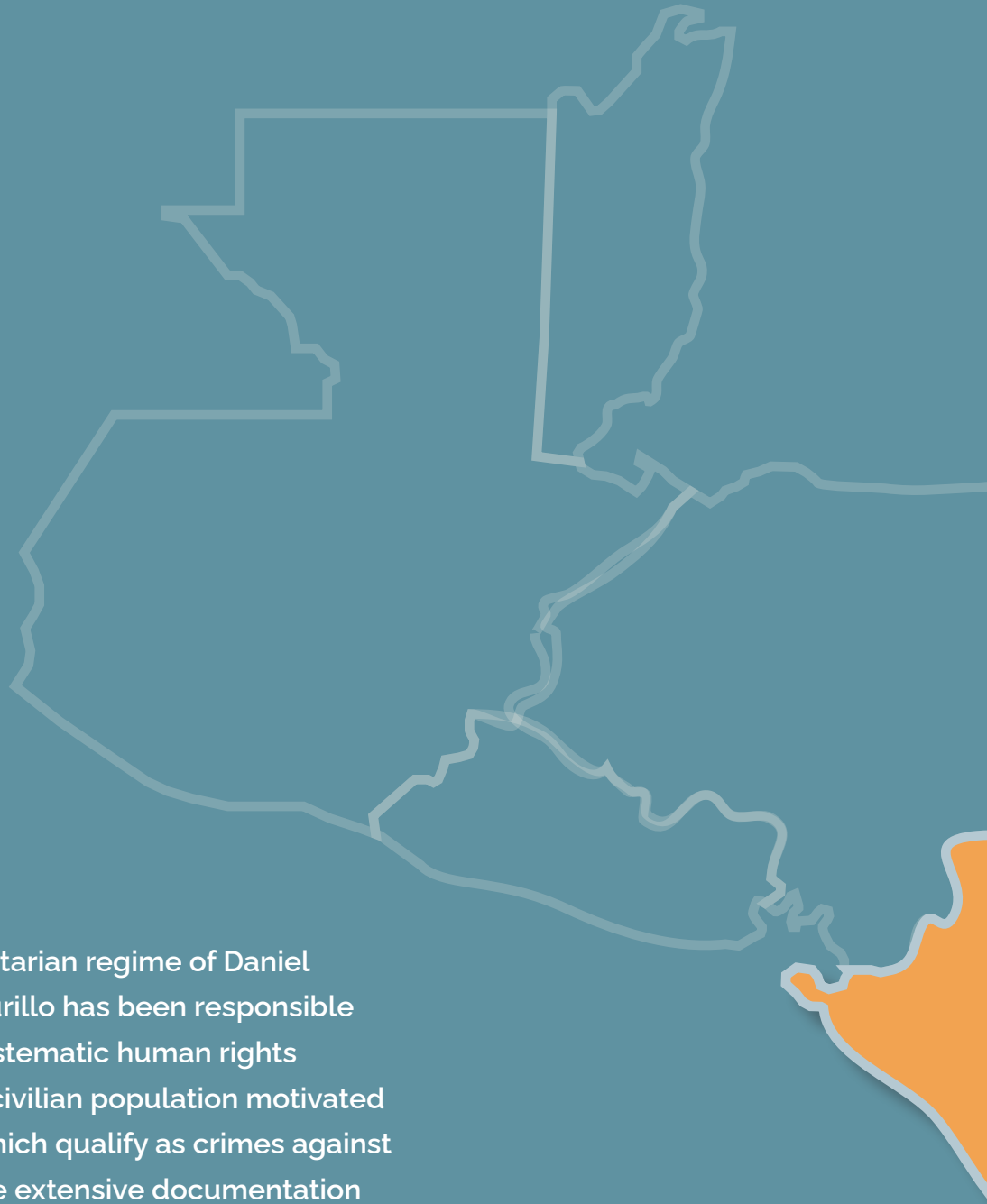
International Financial Institution	Code of the Project	Project Name	Project Name	Approved Amount in US\$
IDB	NI-G1021	Mesoamerican Health Initiative Nicaragua - Third Individual Operation	7/27/2018	1,295,000.00
CABEI	500397	VIII Programa de Mejoramiento y Ampliación de Carreteras [VIII Road Improvement and Expansion Program]	11/27/2018	176,654,696.00
IDB	NI-T1253	Expanding Opportunities for Early Childhood Development in Nicaragua	12/4/2018	500,000.00
IFC	602676	Climate Agri Fin	1/8/2019	730,000.00
CABEI	500422	IX Programa de Mejoramiento y Ampliación de Carreteras [IX Road Improvement and Expansion Program]	3/26/2019	333,874,540.00
IDB	NI-G1022	Nicaragua - Regional Malaria Elimination Initiative (IREM) in Mesoamerica and Dominican Republic	3/27/2019	5,200,000.00
IDB Invest	12582-01	Banpro DPR – Supporting middle-sized agroindustry producers in Nicaragua	6/21/2019	27,000,000.00
CABEI	500429	Proyecto de Mejoramiento y Ampliación de los Sistemas de Agua Potable y Saneamiento en 7 ciudades [Project for the Improvement and Expansion of Drinking Water and Sanitation Systems in 7 Cities]	7/31/2019	251,470,000.00
IDB	NI-T1271	Methodology for the Identification of Land for Civil Works	10/17/2019	300,000.00
IDB	NI-T1274	Smart Cocoa Production	10/23/2019	1,500,000.00
IDB	NI-T1277	Support for the Preparation and Initial Execution of the Potable Water and Rural Sanitation Program NI-L1154	10/29/2019	300,000.00
IDB Invest	12814-01	Nicaragua Sugar	11/13/2019	25,000,000.00
IDB	NI-T1279	Definition of Investments in the Bilwi - Prinzapolka Region of the North Caribbean Coast Autonomous Region	11/15/2019	100,000.00

International Financial Institution	Code of the Project	Project Name	Project Name	Approved Amount in US\$
IDB	NI-T1270	Use of Mobile Services in the Provision of Social Services to Vulnerable Population	11/15/2019	200,000.00
IDB Invest	12597-01	CRN – CCN Reciclaje [CRN – CCN Recycling]	12/12/2019	30,000,000.00
CABEI	500507	Programa Nacional de Construcción de Viviendas de Interés Social [National Program for the Construction of Social Housing]	1/4/2020	171,653,400.00
IDB	NI-L1161	Immediate Response of Public Health to Contain and Control Coronavirus and Mitigate its Effect on the Provision of the Service in Nicaragua	7/31/2020	43,000,000.00
IDB	NI-T1290	Support for Strengthening Project Execution and Supervision	8/5/2020	500,000.00
IDB	NI-T1294	Education and Socio-emotional support in Times of COVID-19	9/30/2020	364,353.00
IDB	NI-T1296	Strengthening of Measures for the Prevention of COVID-19 in the Water, Sanitation and Public Transport Services in Nicaragua	10/16/2020	300,000.00
IFC	43081	Monte Rosa Nicaragua	11/13/2020	85,000,000.00
CABEI	500645	Programa Multisectorial para la Reactivación Económica y la Protección Social (NIC-Solidaria) [Multisectorial Program for Economic Reactivation and Social Protection (NIC Solidaria)]	11/24/2020	300,000,000.00
IDB	NI-T1291	Containment and Mitigation Measures of Coronavirus (Covid-19) in Nicaragua	12/14/2020	1,200,000.00
IBRD / IDA	P173823	Nicaragua COVID-19 Response	12/18/2020	20,000,000.00
IFC	604064	Mercon Robusta Coffee Development in Nicaragua	1/1/2021	55,000,000.00

International Financial Institution	Code of the Project	Project Name	Project Name	Approved Amount in US\$
CABEI	500495	Bio-Clima: Acción Integrada para Reducir la Deforestación y Fortalecer la Resiliencia en las Reservas de Biosfera Boaswás y Río San Juan [Bio-Clima: Integrated Action to Reduce Deforestation and Strengthen Resilience in the Bosawás and Río San Juan Biosphere Reserves]	12/15/2020	108,360,008.00
IBRD / IDA	P175878	Nicaragua Hurricanes Eta and Iota Emergency Response Project	1/22/2021	80,000,000.00
CABEI	500627	Programa de Ampliación del Sistema de Transmisión Eléctrica de Nicaragua	3/23/2021	40,100,000.00
CABEI	500674	Fortalecimiento de la capacidad de atención en la red de servicio hospít. de unids. de salud priorizadas - Tramo a Directo BCIE [Strengthening the Capacity for Care in the Hospital Service Network of Prioritized Health Units - Direct BCIE Section]	3/23/2021	85,031,592.00
IBRD / IDA	P164134	Nicaragua Dry Corridor Nutrition-Sensitive Agriculture Project	3/30/2021	2,739,800.00
CABEI	500701	Apoyo para la implementación del Plan de Despliegue de Vacunación y Atención de la COVID-19 Rep Nic [Support for the Implementation of the Vaccination Deployment and COVID-19 Care Plan for the Republic of Nicaragua]	4/27/2021	100,000,000.00
IDB	NI-T1298	Young People Working to Improve Access to Water and Sanitation in Rural Communities in Nicaragua	4/28/2021	300,000.00
IDB	NI-T1283	Support for the Design and Implementation of the IDB Group Strategy with Nicaragua.	6/5/2021	200,000.00

International Financial Institution	Code of the Project	Project Name	Project Name	Approved Amount in US\$
IDB	NI-T1299	Support for Strengthening the Water and Sanitation Sector in Nicaragua	6/22/2021	339,353.00
IDB	NI-T1300	Promoting Youth Employment Through Digital Development	7/1/2021	303,411.00
IDB	NI-T1297	Promote the Use of Clean Technologies to Support Employment Generation in Vulnerable Groups on the Caribbean Coast	8/18/2021	275,000.00
CABEI	500749	X Programa de Ampliación y Mejoramiento de Carreteras [X Program for Road Expansion and Improvement]	12/13/2021	382,580,372.00
IBRD / IDA	P178259	Nicaragua AF COVID-19 Response Project	6/23/2022	116,000,000.00
IDB	NI-T1309	Improving opportunities for small producers in the livestock sector	6/24/2022	100,000.00
IDB	NI-T1306	Promotion of Education Technologies in Vulnerable Populations	6/24/2022	300,000.00
IDB	NI-T1312	Mapping poverty conditions in Nicaragua	7/8/2022	500,000.00
IDB	NI-T1308	Improving transport conditions in rural and vulnerable areas	7/11/2022	650,000.00
IDB	NI-T1313	Resilient Models of Social Housing for Vulnerable Populations	12/5/2022	665,623.00
IDB	NI-T1319	Action Plan C&D	1/2/2023	687,228.00
IDB	NI-T1314	Strategy to Improve the State of Child Nutrition in the Vulnerable Population of Nicaragua.	6/8/2023	200,000.00
IBRD / IDA	P181157	Additional Financing to the Nicaragua Eta and Iota Emergency Response Project	6/16/2023	15,000,000.00
IDB	NI-T1316	Multidimensional analysis of infrastructure and services with a resilient approach in vulnerable areas	6/19/2023	450,000.00

International Financial Institution	Code of the Project	Project Name	Project Name	Approved Amount in US\$
IDB	NI-T1315	Reducing developing gaps of migrant's communities of origins	6/26/2023	400,000.00
IDB	NI-T1317	Support to the Solid Waste Sector in Nicaragua	6/27/2023	200,000.00
IDB	NI-T1320	Differentiated instruction to close learning gaps across gender and diverse backgrounds	9/22/2023	660,000.00
IMF	x	Outstanding Purchases and Loans (SDR)	10/31/2023	130,000,000.00
IDB	NI-T1318	School Committee Training in Nutrition	11/3/2023	1,000,000.00
IDB	NI-T1321	Enhancing Nicaragua's Climate Governance Framework	12/5/2023	687,758.00
IDB	NI-T1329	Action Plan C&D	1/2/2024	771,177.00
CABEI	500349	Mejoramiento de las Capacidades Técnicas y Operativas de Puerto de Corinto [Improvement of the Technical and Operational Capacities of the Port of Corinto]	24/07/2018	74,795,523.00



Since 2018, the authoritarian regime of Daniel Ortega and Rosario Murillo has been responsible for widespread and systematic human rights violations against the civilian population motivated by political reasons, which qualify as crimes against humanity. However, the extensive documentation and understanding of the Nicaraguan democratic and human rights crisis have not been sufficient for International Financial Institutions to change their strategy regarding the country or to enhance their human rights due diligence.