
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 4/2020**

Precautionary Measure No. 1191-19
Elizabeth Velásquez and her nuclear family regarding Nicaragua
January 15, 2020
Original: Spanish

I. INTRODUCTION

1. During the working visit carried out by the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission," "the Commission," or "the IACHR") from May 17 to 21, 2018, several requests for precautionary measures were received, urging the Commission to require the State of Nicaragua (hereinafter "the State" or "Nicaragua") to protect the life and personal integrity of persons who are at risk as a result of the violence that took place since April 18, 2018. The Commission continues to monitor the situation and the requests for precautionary measures received during and after the visit. According to the request received on December 17, 2019, Ms. Elizabeth Velásquez and her family are at risk in Nicaragua.

2. Pursuant to the terms of Article 25 of its Rules of Procedure, the IACHR requested information from the State on December 23, 2019. The applicants submitted additional information on January 10, 2020. To date, the State has not provided its response.

3. Upon analyzing the available information, in light of the applicable context and the findings made, the Commission considers that the information submitted demonstrates *prima facie* that the rights to life and personal integrity of Ms. Elizabeth Velásquez and her family are in a situation of seriousness and urgency. Consequently, in accordance with Article 25 of the Rules of Procedure, the Commission requests that the State of Nicaragua: a) take the necessary measures to guarantee the rights to life and personal integrity of Elizabeth Velásquez and her family members. In particular, the State must ensure that the rights of the beneficiary are respected in accordance with the standards set forth in international human rights law, both by state actors and in relation to acts of risk attributable to third parties; b) consult and agree upon the measures to be taken with the beneficiary and his representatives; and c) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

II. PRECEDENTS

4. The Commission conducted a visit to Nicaragua in May 2018 and collected numerous testimonies about human rights violations that had occurred since April, when a series of protests took place. After the visit, the Commission published a report that included recommendations. To verify compliance, the Special Follow-up Mechanism for Nicaragua (MESENI by its Spanish acronym) was established, and remained in the country until December 19, 2018, when the State decided to suspend its stay. For its part, the Independent Interdisciplinary Group of Experts (GIEI by its Spanish acronym) issued a report analyzing the events that occurred between April 18 and May 30, 2018, which confirmed the findings of the IACHR.¹

¹ GIEI, Report on the violence that occurred between 18 April and 30 May 2018. December 2018. Available at: https://gieinicaragua.org/giei-content/uploads/2019/05/GIEI_REPORT_ENGLISH_simplepage.pdf

5. On the occasion of a presentation to the Permanent Council of the Organization of American States, the Commission shared the data collected by the MESENI, according to which, from April 2018 to January 10, 2019, 325 people died and more than 2,000 were injured; 550 were detained and prosecuted; 300 health professionals were dismissed; and at least 144 students of the National Autonomous University of Nicaragua were expelled.² For the 2018 annual report, the IACHR included Nicaragua in Chapter IV-B of its annual report, in accordance with the grounds established in its Rules of Procedure.

6. During 2019, the Commission continued to condemn the persistence of acts of persecution, urging the State to comply with its obligations. On April 25, the IACHR shared the assessment and results achieved by the MESENI, which continued to monitor the country from Washington, D.C. In June, the State approved a Law on Comprehensive Care for Victims and an Amnesty Law, which were criticized for not complying with international standards on truth, justice, reparation and guarantees of non-repetition.³ Throughout the last few months, the Commission continued to record serious incidents. In August, for example, it expressed its concern at the State's announcement that it would not continue with the Negotiating Table for Understanding and Peace, initiated on February 27, 2019 between the Government and the *Alianza Cívica por la Justicia y la Democracia* [*Civic Alliance for Justice and Democracy*].⁴ On September 6, the IACHR denounced the intensification of harassment against human rights defenders and persons who, despite having been released from prison, continued to be intimidated.⁵

7. On November 19, the Commission once again drew attention to the ongoing repression, noting that "[...] the closure of democratic spaces that characterizes the human rights crisis that persists in Nicaragua has been compounded by a growing focus on State persecution of the families of persons deprived of their liberty in the context of the crisis, through surveillance and obstruction of their peaceful actions."⁶

III. SUMMARY OF FACTS AND ARGUMENTS PRESENTED BY THE REPRESENTATIVES

8. Elizabeth Velasquez is the mother of Josue Israel Mojica Garcia, a young 20-year-old high school student at La Salle School, who was killed on July 8, 2018 during the so-called "clean-up operation" in the city of Diriamba, department of Carazo. The proposed beneficiary is part of the *Asociación Madres de Abril* (Mothers of April Association - AMA), and participates in its activities, including those that pertain to the Museum "AMA and Do Not Forget, Museum of Memory against Impunity". She also participates in activities aimed at denouncing government repression at the international level.

9. On September 30, 2019, the Museum was inaugurated as an initiative of the AMA with the support of the Nicaraguan Center for Human Rights (CENIDH) and the Nicaraguan Academy of Sciences.

² IACHR, IACHR denounces the weakening of the rule of law in the face of serious human rights violations and crimes against humanity in Nicaragua, January 10, 2019.

³ IACHR, IACHR, and OHCHR express their concern about the approval of the Law for Integral Attention to Victims in Nicaragua, June 3, 2019. Available at: IACHR Expresses Concern Over the Passing of the Amnesty Law in Nicaragua, June 12, 2019. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2019/145.asp

⁴ IACHR, IACHR Expresses Concern over Nicaragua's Announcement That It Will Not Continue Dialogue and Calls on the State to Comply with Its Obligations to Guarantee and Respect Human Rights, August 6, 2019. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2019/194.asp

⁵ IACHR, IACHR Speaks Out Against Ongoing Repression in Nicaragua and Expresses Its Concern at Increased Harassment of Human Rights Defenders and People Who Have Been Released from Prison, September 6, 2019. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2019/220.asp

⁶ IACHR, IACHR Condemns Persecution of Victims of Repression in Nicaragua and Calls on State to Prevent Revictimization and Promote Truth, Justice, Reparation, and Measures of Nonrepetition, November 19, 2019. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2019/297.asp

The applicants indicated that the main objective of the Museum is to contribute to dignifying and honoring the memory of the victims of government actions in the context of April 2018. The museum would contain "profiles of the victims of State violence", as well as information and accounts of the events, photos, audiovisual materials, and various documents that may allow visitors to gauge the context of the social protest. The applicants indicated that since the inaugural event there has been an increase in harassment attacks against the mothers and relatives of those murdered.

10. On October 30, 2019, the mothers in AMA publicly denounced the harassment, threats and attacks against them and their families, including the desecration of their children's graves. Elizabeth Velásquez said that her current situation was "critical" and that since the time of her son's death she had not had a moment's rest, since she had been the victim of threats and constant surveillance by persons close to the Government. Since the death of her son, the proposed beneficiary has lived under constant siege by the police and also by people affiliated with the government who drive Hilux vans. The proposed beneficiary claimed that certain individuals in a gray vehicle and on motorcycles constantly pass in front of her house. Moreover, one of her neighbors who is a government sympathizer reportedly watches her when she goes to church or to work, which brings great unrest for her and her family.

11. In June 2019 her husband was reportedly threatened directly by a recognized government sympathizer, known as "Chukie", although his name is "Silvestre". This person reportedly signaled to him that "they were going to kill him". On August 2, 2019, the proposed beneficiary was summoned to an initial preliminary hearing by the local criminal court in Diriamba, as a defendant in a siege case against Augusto César Baltodano Mora, whom she identified as a "paramilitary". The proposed beneficiary indicated that she was forced to sign a mediation agreement with this man in order not to face a trial since she does not trust the authorities, neither police nor judicial.

12. On November 2, 2019, the "day of commemoration of the dead," while the proposed beneficiary was at the market in Diriamba buying flowers to visit the cemetery, she received a call warning her that her son's grave had been desecrated. Upon arrival at the cemetery, the proposed beneficiary verified that the tombstone and grave had been destroyed, after which she approached the Town Hall, but the guards and workers there did not answer her questions about what had happened. Ms. Velásquez considers that these events are attributable to supporters of the Nicaraguan governing party:

"It's the *Sandinistas* themselves who destroyed the grave. It wasn't enough for them to kill him, and they're still at it. Who else could it be, if my son's vault was the only one destroyed in the whole cemetery? It was a targeted attack, and what upsets them the most is that I painted the stone in blue and white, we put blue and white flowers on it. That's what they hate so much".

13. That day, the grave of another murdered young man, José Manuel Narváez Campos, was also desecrated and stained with black oil. The cross on his grave was said to have been scratched with the initials "FSLN" and with phrases used by government supporters, including "They couldn't and they never will be able to".

14. Roberto José Mojica Velásquez, the proposed beneficiary's eldest son, who drives a motorcycle taxi for a living, was reportedly arrested up to four times on the same day by the police, without any explanation of the reason for his arrest. An officer known as "Leslie" reportedly did not answer any questions about the reason for the arrest. The officers only laughed, causing the proposed beneficiary to feel intimidated, humiliated and hurt.

15. The proposed beneficiary believes she is being monitored in light of the claims she has made at the national and international levels as a member of AMA, as well as the activities carried out in the

framework of the 174th period of sessions of the IACHR in Ecuador, which were widely publicized. On November 12, 2019, while she was in Ecuador, people close to the government, as well as people from the Carazo mayor's office, reportedly asked her son Roberto Mojica "where his mother was". That same day she was reportedly summoned to appear at the Town Hall to notify that she would be fined because the motorcycle taxi has a radio, which is reportedly a violation. Ms. Velásquez indicated that most of the motorcycle taxis that circulate in that city have radios.

16. The proposed beneficiary further added that she has a motorcycle taxi as a source of income, which is driven by her son Roberto José Mojica, who provides transportation service to the community. The proposed beneficiary considers that the police and the Mayor's Office of Carazo want to take away the motorcycle taxi as a form of retaliation since they found out that her son Josué Israel Mojica had participated in the protests of April 2018, and that he had been directly involved in the traffic blockages in the city of Diriamba. Ms. Elizabeth expressed great fear for her son Roberto, who works with the motorcycle taxi, as well as for her husband and other family members, all of whom could be victims of an attack.

17. After she returned from her participation in the 174th session of the IACHR, Ms. Velásquez suffered a constant siege and she witnessed an increased presence of persons affiliated to the governing party. Paramilitary agents in vans, allegedly from the Mayor's Office, pass by her house every day. Also, police officers pass by with more frequency and point to her house. The proposed beneficiary further noted that she had seen and recorded the truck passing by her house. This van allegedly stops at her neighbor's house, who is a member of the governing party and reportedly provides information on her and her family's surveillance to both the police and the paramilitaries.

18. In November 2019, when she received a visit from members of CENIDH, the police and paramilitaries in a white van reportedly drove by constantly and even stayed for a few minutes in front of her house. Similarly, when a CPDH lawyer and other friends visited her, the police also reportedly constantly passed by her house at that time. Moreover, she is monitored by paramilitaries that drive a van identified by Ms. Velásquez as belonging to the mayor.

19. The proposed beneficiary learned through her sister that some supporters of the FSLN party, known in the community by the surname Malespín, told their neighbors that they were going to take Ms. Elizabeth to the courts, because they were being accused for the desecration of her son Josué's grave. The accusations against these people with the surname Malespín were allegedly made on social media. According to the applicants, the Malespín told their sister's neighbor that, if it had really been them, they would not only have destroyed the vault, but would have taken the body out of its grave, also adding that in any case they would have done something to the remaining family members.

20. The applicants finally informed that no complaint has been filed with the authorities because they believe that the members of the police force themselves are operating with the parastatal forces, to carry out the harassment, siege and threats against her and her family members, generating fear and distrust.

IV. ANALYSIS OF THE ELEMENTS OF SERIOUSNESS, URGENCY AND RISK OF IRREPARABLE HARM

21. The mechanism of precautionary measures is part of the Commission's function of monitoring compliance with the human rights obligations set out in Article 106 of the Charter of the Organization of American States. These general functions are established in Article 41(b) of the American Convention on Human Rights, also contained in Article 18(b) of the IACHR's Statute, while the mechanism of

precautionary measures is described in Article 25 of the Commission's Rules of Procedure. In accordance with that article, the Commission grants precautionary measures in situations that are serious and urgent, where such measures are necessary to prevent irreparable harm.

22. The Inter-American Commission and the Inter-American Court on Human Rights (hereinafter “the Inter-American Court” or “I/A Court H.R.”) have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding the protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving legal situations while the bodies of the Inter-American System analyze a petition or case. Their objective and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits, and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures allow the State concerned to comply with the final decision and, if necessary, implement the ordered reparations. For such purposes, according to Article 25(2) of the Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the Inter-American System;
- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

23. The Commission recalls that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the purpose of the assessment of the information provided should be to determine *prima facie* if a serious and urgent situation exists.⁷ Similarly, the Commission stresses that, by its very mandate, it is not appropriate to determine the criminal or administrative responsibilities of the persons involved in this case, since the analysis is carried out exclusively on the basis of the requirements of Article 25 of the Rules of Procedure of the IACHR, which can be assessed without making determinations on the merits.

24. As it pertains to the requirement of seriousness, the Commission deems it relevant to understand the facts alleged in the current context of Nicaragua, with regard to which several episodes of harassment against human rights defenders for the exercise of their work have been recorded, and in some instances precautionary measures have even been granted. In fact, according to the information provided, the situation of risk of the proposed beneficiary is directly related to her participation in the “April Mothers’ Association”, of which she is the most visible leader. Furthermore, her activities in denouncing the situation, both internally and before the Commission itself, have contributed to increasing her exposure to Nicaraguan society. Ms. Velásquez has further gained exposure by appearing in the broadcast of the sessions held in November 2019 in Ecuador, during which she participated in a public hearing.

25. In this sense, although the applicants noted that Ms. Velásquez has lived “in constant siege” since the death of her son, the facts reported point to a resurgence of the risk against her, given that the

⁷ In this regard, for example, referring to provisional measures, the Inter-American Court has indicated that a minimum of detail and information is required to allow a *prima facie* assessment of a situation of extreme gravity and urgency. I/A Court H.R., Case of the children and adolescents deprived of liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of provisional measures. Provisional Measures in respect of Brazil. Resolution of the Inter-American Court of Human Rights of 4 July 2006. Recital 23.

alleged harassers went from mere threats and surveillance operations to desecrating the grave of her son, fully conscious of not only the pain that this entails for a mother but also the symbolic implication for a group of relatives whose work is focused on honoring the memory of the victims of the repression. In addition to this act of intimidation, the Commission notes that taking into consideration her appearance at the session and her actions to denounce the perpetrators, the proposed beneficiary has been the object of more acute persecution, since the acts of surveillance have increased particularly in recent months.

26. Pursuant to the above, it should be noted that the increased police presence, as reported by the applicants, the insistence on obtaining information about them in apparently suspicious circumstances and the alleged participation or complicity of State agents, suggest that the risk has recently intensified. In light of the statements made by persons related to the desecration of the tomb and the well-known context with respect to human rights defenders, the Commission understands that, as the proposed beneficiary continues its activities, the situation as of now suggests the possible materialization of damage to her rights to life and personal integrity.

27. The Commission deeply regrets the lack of response from the State of Nicaragua to the request for information made on December 23, 2019. Although the State's failure to respond does not *per se* imply the granting of precautionary measures, it does prevent the Commission from obtaining information from the State on the situation of the proposed beneficiary; thus, the Commission is not able to identify whether the applicants' allegations may be contested, nor determine if measures have actually been adopted by the authorities to mitigate the alleged risk. Furthermore, although it is not within the Commission's responsibility to determine who is responsible for the risk events, or whether they are attributable to agents of the State of Nicaragua, when evaluating this application, it does take into account the seriousness of a possible participation by State agents, in accordance with the allegations made, since this may place the proposed beneficiary in a situation of vulnerability.

28. In the circumstances, the Commission considers, on the basis of the applicable *prima facie* standard and on the context of the State of Nicaragua, that there is sufficient evidence to conclude that Ms. Velasquez's rights to life and personal integrity are at serious risk. In view of the above-mentioned risks, the Commission considers that this situation also extends to the family members of the proposed beneficiary.

29. As regards the requirement of urgency, the Commission considers that it has been met since the facts described suggest that the situation of risk is likely to continue and to be exacerbated over time; in view of the imminent materialization of the risk, it is immediately necessary to take measures to safeguard their rights to life and personal integrity.

30. As regards the requirement of risk of irreparable harm, the Commission considers that it has been met, since the possible impairment of the rights to life and personal integrity, by its very nature, constitutes a maximum situation of irreparability.

IV. BENEFICIARIES

31. The Commission declares Ms. Elizabeth Velásquez and her family as the beneficiaries, who are identifiable under the terms of Article 25 of the Rules of Procedure.

V. DECISION

32. The Commission considers that the present matter meets *prima facie* the requirements of

seriousness, urgency and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the State of Nicaragua:

- a) adopt the necessary measures to guarantee the rights to life and personal integrity of Elizabeth Velásquez and her family members. In particular, the State must ensure that the rights of the beneficiary are respected in accordance with the standards set forth in international human rights law, both by state actors and in relation to acts of risk attributable to third parties;
- b) consult and agree upon the measures to be taken with the beneficiary and her representatives; and
- c) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

33. The Commission requests that the Government of Nicaragua report, within 15 days from the date of this resolution, on the adoption of the precautionary measures requested and to update this information periodically.

34. The Commission emphasizes that, in accordance with Article 25 (8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment on any violation of the rights protected in the American Convention on Human Rights and other applicable human rights instruments.

35. The Commission instructs the Secretariat of the Inter-American Commission to notify this Resolution to the State of Nicaragua and to the representatives.

36. Approved on January 15, 2020 by: Esmeralda Arosemena de Troitiño, President; Joel Hernández García, First Vice-President; Antonia Urrejola Noguera, Second Vice-President; Flávia Piovesan, Julissa Mantilla Falcón, and Edgar Stuardo Ralón Orellana, members of the IACHR.

Paulo Abrão
Executive Secretary