

VERIFICATION PROTOCOL

Approved 2 October 1992

Published in Gazette No. 193, 8 October 1992

Preamble

The parties signing this protocol:

UNDERSTANDING: its purpose is to guarantee the effective force of the rights and guarantees of the people of Nicaragua free from discrimination, in the broader context of human rights and associated international legislation, which forms part of the laws of the Republic of Nicaragua.

REITERATING: that peace is only possible under the rule of law and when human rights constitute the ethical code of behaviour for both governing and governed.

ACCEPTING: that the ideal of the free person, free from fear and misery, can only be achieved by creating conditions that allow each individual to exercise their economic, social and cultural rights, in addition to their civil and political rights.

CONSIDERING: that the situation of violence experienced in Nicaragua constitutes a serious obstacle to consolidating a regime based on individual freedom and social justice.

IN LIGHT OF: the Government of the Republic of Nicaragua's invitation to His Most Reverend Eminence Cardinal Miguel Obando y Bravo and the International Support and Verification Commission of the Organization of American States to form a Tripartite Commission, and their willingness to contribute to the pacification of Nicaragua.

REITERATING: the commitment to overcome the situation of violence via an ad-hoc Commission comprising the signatory parties, whose actions and recommendations will help strengthen the rule of law.

RECOGNISING: the work of the Verification Bodies, His Most Reverend Eminence Cardinal Miguel y Bravo, the International Support and Verification Commission of the Organization of American States and the work of President Violeta B. de Chamorro in organising this Commission.

Have agreed the following:

VERIFICATION PROTOCOL

CHAPTER I

CREATION, COMPOSITION AND MANDATE

Article 1. Creation of the Tripartite Commission to analyse and review, in the context of the political and social outlook in post-war Nicaragua, from 27 June 1990, cases of violence that have affected both former members of the Nicaraguan Resistance and other sectors of the population affected by collective conflicts and cases in which the presumed perpetrators of the reported events are former members of the Nicaraguan Resistance to facilitate the exchange of opinions on the origin of the violence in order to formulate recommendations to improve the coordination of and mechanisms for preventing and eradicating the problems identified to promote the stability and peace of Nicaragua; and strengthen the system for the protection of rights and guarantees for sectors of the population affected by the war.

Article 2. The Tripartite Commission comprises the Government of the Republic of Nicaragua, His Most Reverend Eminence Cardinal Miguel Obando y Bravo and the International Support and Verification Commission of the Organization of American States.

Article 3. The mandate of the Commission is derived from:

- a) the agreements signed by the presidents of Central America (Esquipulas II and Tela);
- b) the agreements signed between the Government of the Republic of Nicaragua and the Nicaraguan Resistance (Toncontín, Effective and Definitive Ceasefire, the Declaration of Managua and its Protocol) and subsequent agreements;
- c) the letter of invitation from the President of the Republic of Nicaragua, Violeta B. de Chamorro, to His Most Reverend Eminence Cardinal Miguel Obando y Bravo and the General Coordinator of the International Support and Verification Commission of the Organization of American States, Dr Santiago Murray, and the corresponding response;
- d) this protocol.

CHAPTER II

FUNCTIONS

Article 4. The Commission has the following functions:

- a) analyse, review and evaluate reports previously made to the Government of the Republic of Nicaragua by the Verification Bodies regarding the rights and guarantees for demobilised members of the Nicaraguan Resistance, repatriates and family members of both groups;
- b) analyse, review and evaluate reports of violations of rights inherent to human beings regarding situations of collective conflict and cases in which the presumed perpetrators of reported events are former members of the Nicaraguan Resistance;
- c) study all cases that may be subsequently reported regarding violations of citizens' rights and guarantees involving the sectors involved in the war included in Items a) and b) and that are reported to the Verification Bodies and/or this Commission;
- d) formulate recommendations of any kind regarding the respect and promotion of citizens' rights and guarantees;
- e) request reports from any authority or official related to the remit of this Commission;
- f) contribute to eradicating the causes of violence and impunity, especially in cases with political motivations;
- g) any other function deemed appropriate by the Commission in line with its remit.

Article 5. The Commission will be assisted by the staff necessary to fulfil its functions and will establish any tripartite working sub-Commissions it deems appropriate.

CHAPTER III

PROCEDURES

Article 6. Regarding Article 4, Items a) and b), a report of action taken for each of the cases will be requested from the government. This report must be submitted to the Commission 15 days from receipt of the request. The Commission will study and evaluate the report.

Article 7. Regarding Article 4, Item c), these cases will be passed to the corresponding government bodies, which will report to the Commission within 15 days.

Article 8. The Verification Bodies, at their discretion, will raise the cases presented before them to the Tripartite Commission.

Article 9. The Commission may hear and review cases deemed to be in dispute.

Article 10. The Government of the Republic of Nicaragua will establish suitable options for reports issued in response.

Article 11. The Commission may use all forms of evidence it deems fit.

Article 12. The Commission will be able to carry out all actions that allow it to exercise its functions.

CHAPTER IV

ORGANISATION

Article 13. The Commission will have ordinary meetings on a weekly basis and extraordinary meetings upon request by any of the parties.

Article 14. The quorum will be formed by the parties comprising the Commission.

Article 15. The Commission will express itself through resolutions adopted by consensus. If specific conclusions or recommendations have been sufficiently debated or analysed and no consensus is reached, the parties reserve the right to issue their own conclusions.

CHAPTER V

GENERAL PROVISIONS

Article 16. When the Commission formulates recommendations for the Government, the latter must provide written acceptance as soon as possible.

Article 17. If the recommendation is accepted, it will be binding for the Government and the Verification Bodies will monitor the creation of the corresponding legal instruments.

Article 18. The Government of Nicaragua will guarantee unconditional respect for the physical and moral integrity of the members of the Commission, delegates, advisers and support staff in exercising their functions.

Article 19. The Government of Nicaragua will provide the Commission with facilities to carry out its functions.

CHAPTER VI
FINAL PROVISIONS

Article 20. Each of the parties of the Commission will designate their representatives and advisers as they deem appropriate.

Article 21. The Government of Nicaragua delegates Dr José Bernard Pallais, Deputy Minister of Foreign Affairs, and Ronald Avilés Iglesias, Deputy Minister of the Interior, who will be entitled to act jointly or alternatively, as its representatives; His Most Reverend Eminence Cardinal Miguel Obando y Bravo delegates Roberto Rivas Reyes as his personal representative; and the International Support and Verification Commission of the Organization of American States delegates Dr Santiago M. Murray, its General Coordinator in Nicaragua.

Article 22. The parties may be represented by their advisers at ordinary or extraordinary meetings.

Article 23. Without prejudice to the functions established in this Protocol, the Verification Bodies that make up the Commission will continue to carry out their original mandates.

Done in the City of Managua, Nicaragua, 2 October 1992.

Violeta Barrios de Chamorro – President of the Republic of Nicaragua

His Most Reverend Eminence Cardinal Miguel Obando y Bravo

Dr Santiago Murray – General Coordinator of the International Support and Verification Commission of the Organization of American States in Nicaragua