
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 20/2023**

Precautionary Measure No. 738-22
D.R.Z., D.A.B.A., A.C.L. and I.C.L. regarding Nicaragua
April 13, 2023
Original: Spanish

I. INTRODUCTION

1. On September 28, 2022, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures submitted by Maria Luisa Acosta Castellón, coordinator of the Center for Legal Assistance to Indigenous Peoples (CALPI); Teresa Fernández Paredes, human rights advisor for the World Organization against Torture; Alejandra Nuño, director of the University Center for Dignity and Justice “Francisco Suárez, SJ” of the *Instituto Tecnológico y de Estudios Superiores de Occidente* (CUDJ-ITESO); and, Boanerge Fornos, Nicaraguan lawyer, member of Acción Penal (“the applicants” or “the requesting party”) urging the Commission to require the State of Nicaragua (“the State” or “Nicaragua”) to adopt the necessary measures to protect the rights to life, personal integrity and health of D. R.Z., D.A.B.A., A.C.L. and I.C.L., members of the Mayangna indigenous people. They have been deprived of their liberty since 2021 without receiving adequate and timely medical attention.

2. Under the terms of Article 25 of its Rules of Procedure, the IACHR requested additional information from the applicants on November 7, 2022. The requesting party submitted information on November 21, 2022, and February 7, 2023. On February 7, 2023, the IACHR requested additional information from the requesting party. The applicants submitted information on February 17, 2023. The IACHR requested information from the State on March 10, 2023. To date, the State has not submitted any information, and the granted time limits have since expired.

3. Upon analyzing the submissions of fact and law provided by the applicants, the Commission considers that the information presented shows *prima facie* that D.R.Z., D.A.B.A., A.C.L. and I.C.L. are in a serious and urgent situation, since their rights to life, personal integrity and health are at risk of irreparable harm. Consequently, the IACHR requests that Nicaragua: a) adopt the necessary measures to protect the rights to life, personal integrity, and health of the beneficiaries, taking into account their status as members of an indigenous people; b) adopt the necessary measures to ensure that the beneficiaries’ detention conditions are compatible with the applicable international standards in this area, including the following: i) ensuring that they are not subjected to threats, intimidation, harassment, or assault within the prison; ii) guaranteeing access to adequate and specialized medical care, and immediately carrying out a specialized medical assessment of their health; and iii) granting the necessary treatments and medications to treat their respective illnesses; c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and d) report on the actions taken to investigate the alleged facts that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

II. COUNTRY CONTEXT

4. Between May 17 and 21, 2018, the Commission visited Nicaragua. During this visit, it collected numerous testimonies on human rights violations committed in the framework of protests that began the previous month. Subsequently, on June 21, 2018, the IACHR published a report on the serious human rights situation in the country.¹ In order to follow up on the recommendations issued in this report, the Special Monitoring Mechanism for Nicaragua (MESENI) was created, which remained in the country

¹ IACHR. [Gross Human Rights Violations in the Context of Social Protests in Nicaragua](#). OAS/Ser.L/V/II. Doc. 86. June 21, 2018, para. 1.

until the State suspended its presence on December 19, 2018.² For its part, the Interdisciplinary Group of Independent Experts (GIEI, for its Spanish acronym) for Nicaragua issued a report that analyzed the events that took place between April 18 and May 30, 2018, confirming the IACHR findings.³ In its Annual Report 2018, the IACHR included Nicaragua in Chapter IV.B, in accordance with the grounds established in its Rules of Procedure.⁴

5. During 2019, the Commission continued to condemn the ongoing acts of persecution, and urged the State to comply with its obligations in matters related to human rights.⁵ Subsequently, the Commission once again included Nicaragua in Chapter IV.B of its 2019 Annual Report,⁶ noting that the serious human rights crisis in the country extended during 2019, due to the de facto installation of a state of emergency characterized by the abusive exercise of public force to repress any dissenting voices against the Government; the search, closure and censorship of media outlets; the imprisonment or exile of journalists and social leaders; the closure of civil society organizations without guarantees of due process, as well as the interference and control of the executive branch over other public powers. The Commission also observed that the prolonged weakening of democratic institutions in Nicaragua has perpetuated the human rights crisis in the country and has led to structural impunity for serious human rights violations⁷.

6. During 2020, the IACHR identified the consolidation of a fifth stage of state repression in the country, characterized by intensified acts of surveillance, harassment, and selective repression against people considered to be government opponents.⁸ Thus, in May 2020, the IACHR condemned the non-compliance with its recommendations and urged the State to implement them.⁹ Subsequently, the Commission once again included Nicaragua in Chapter IV.B of its 2020 Annual Report.¹⁰

7. On October 25, 2021, the IACHR published the report “Concentration of Power and the Undermining of the Rule of Law in Nicaragua.” In this regard, the Commission has identified acts of harassment, threats, raids, arbitrary detentions, and mistreatment against any person considered to be an opponent of the current Government, perpetrated by police and vigilante groups.¹¹ On November 20, 2021, the IACHR made a statement in which it looked unfavorably upon the State of Nicaragua’s decision to denounce the Charter of the Organization of American States on November 19, 2021, during the ongoing context of crisis that the country has been experiencing in recent years. On the occasion, the Commission reaffirmed its jurisdiction over Nicaragua and stated that it would continue to exercise its monitoring mandates through the Special Monitoring Mechanism for Nicaragua (MESENI), as well as continue to analyze and process cases, petitions, and precautionary measures.¹² The IACHR once again included Nicaragua in

² IACHR. [Press Release No. 135/18](#). IACHR Launches Special Monitoring Mechanism for Nicaragua (MESENI). June 24, 2018; IACHR. [Press Release No. 274/18](#). Press Release about Nicaragua. December 19, 2018. See also: IACHR. [Press Release No. 113/20](#). Two Years After Visit to Nicaragua, IACHR Condemns Lack of Compliance with its Recommendations and Calls on the State to Urgently Implement Them. May 16, 2020.

³ Interdisciplinary Group of Independent Experts (*Grupo Interdisciplinario de Expertos Independientes*, GIEI) for Nicaragua. [Report on the acts of violence that occurred between April 18 and May 30](#), 2018. December 2018.

⁴ IACHR. [2018 Annual Report. Chapter IV.B Nicaragua](#).

⁵ See in this regard: IACHR. [Press Release No. 6/19](#). 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; IACHR. [Press Release No. 26/19](#). IACHR Condemns Increasing Attacks on the Press and Ongoing Human Rights Violations in Nicaragua. February 6, 2019; IACHR. [Press Release No. 90/19](#). IACHR Condemns Continuing Acts of Repression in Nicaragua during Negotiating Table Talks. April 5, 2019.

⁶ IACHR. [2019 Annual Report. Chapter IV.B Nicaragua](#). OAS/Ser.L/V/II. Doc. 5, February 24, 2020, paras. 5 and 6.

⁷ IACHR. [2019 Annual Report. Chapter IV.B Nicaragua](#). OAS/Ser.L/V/II. Doc. 5, February 24, 2020, para. 19.

⁸ IACHR. [Press Release No. 80/20](#). Two Years into Nicaragua’s Human Rights Crisis, the IACHR Stresses its Permanent Commitment to Victims and Confirms the Consolidation of a Fifth Phase of Repression. April 18, 2020.

⁹ IACHR. [Press Release No. 113/20](#). Two Years After Visit to Nicaragua, IACHR Condemns Lack of Compliance with its Recommendations and Calls on the State to Urgently Implement Them. May 16, 2020.

¹⁰ IACHR. [2020 Annual Report. Chapter IV.B Nicaragua](#), February 2021, paras. 5 to 29.

¹¹ IACHR. [Press Release 284/2021](#). IACHR Publishes Report on the Concentration of Power and the Weakening of the Rule of Law in Nicaragua. October 28, 2021.

¹² IACHR. [Press Release 312/2021](#). The IACHR Stresses Its Competent Jurisdiction Concerning Nicaragua and laments Nicaragua’s Decision to Denounce the Charter of the OAS in a Context of Serious Human Rights Violations.

Chapter IV.B of its 2021 Annual Report, when it referred to the severe deterioration of democratic institutions in Nicaragua in the context of the 2021 general elections¹³.

8. In January 2022, the IACHR urged the State of Nicaragua to release the individuals who are reportedly still in arbitrary detention and under unsanitary detention conditions while they suffer ill-treatment and are subject to the arbitrary application of maximum-security regimes, in addition to the lack of adequate, timely, and specialized medical care. On May 13, 2022, the IACHR urged the State to guarantee the regular and dignified direct contact of political prisoners with their families. According to information received by its MESENI, deplorable conditions of detention, ill-treatment, isolation, isolated detention, and lack of access to timely, adequate, and specialized medical care for persons detained in “El Chipote” persist.¹⁴

9. During 2022, the IACHR has received information on the serious detention conditions which persons deprived of their liberty in Nicaragua are subject to. This information includes allegations of ill-treatment, arbitrary isolation regimes, retaliation or violent acts, unsanitary cells, lack of adequate and timely medical care, among other aspects. As the IACHR has been informed, although these events affect particularly those detained in the facilities of the “Nuevo Chipote”, there are also common patterns against those who remain in different facilities of the National Penitentiary System (*Sistema Penitenciario Nacional*, SPN) and police delegations. In this regard, the information received by the IACHR indicates that the integrity of the persons detained are at risk at the National Penitentiary System facilities of La Modelo, Waswalí (Matagalpa), Cuisalá (Chontales), Chácara, Chinandega, Granada; at the Comprehensive Women’s Prison (EPIM), “La Esperanza”; and at the police stations in San Carlos, Nueva Guinea, Jinotega, and Chinandega. The foregoing as a consequence of constant interrogations, insufficient access to food in quantity and quality, incommunicado detention and isolation, lack of exposure to sunlight, extreme temperatures, as well as lack of access to adequate medical care¹⁵.

10. The UN Committee against Torture also expressed its concern about reports of overcrowding, unsanitary conditions, lack of ventilation and access to natural light, limited access to drinking water and medicines in detention centers in Nicaragua, particularly La Modelo and La Esperanza, as well as in the Judicial Assistance Directorate in Managua (“El Chipote”) and the National Police Judicial Complex “Evaristo Vásquez Sánchez” (“Nuevo Chipote”). The Committee, in turn, noted reports of sexual assault and violence, especially against detained women, including transgender women in male prisons. Moreover, it expressed its dismay at the denial of access to places of deprivation of liberty to representatives of the OHCHR and other international organizations, as well as non-governmental and human rights organizations¹⁶.

11. The information available to the IACHR refers to the fact that, in some of the facilities of the National Prison System, people who are identified as “political prisoners” are given scarce food and therefore depend on the meals that their family members provide. This is reportedly also aggravated as it is up to the authorities to receive parcels or the amounts of food and water and other products, at their own discretion. Occasionally, these meals are allegedly only delivered once expired. Furthermore, family members are victims of acts of harassment and police harassment during visits. Accounts include improper touching, extensive reviews, and threats of reprisals against detained persons in case of public

¹³ IACHR. [2021 Annual Report, Chapter IV.B Nicaragua](#), May 2022, paras. 4 to 21.

¹⁴ IACHR. [Press Release 103/2022](#). IACHR Urges Nicaragua to Guarantee that Political Prisoners Have Regular Contact with Their Families in Conditions of Dignity. May 13, 2022.

¹⁵ The Nicaraguan Human Rights Center (CENIDH), the Nicaragua Never Again Collective, the Center for Justice and International Law (CEJIL), the Mesoamerican Initiative of Women Human Rights Defenders (IM-Defensoras), the International Institute on Race, Equality and Human Rights (Race and Equality), the Legal Defense Unit (UDJ) and the Registration Unit (UDR). Request for a thematic hearing on impacts on the life and health of political prisoners in Nicaragua and their families, with emphasis on the situation of women and older adults. April 20, 2022. On file with the IACHR.

¹⁶ Committee against Torture, Provisional Concluding Observations on Nicaragua’s Second Periodic Report, July 26, 2022. Available at: https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/NIC/CAT_C_NIC_CO_2_49329_S.pdf

denunciation of facts against them. This, therefore, makes it difficult to access information on the detained persons' situations¹⁷.

12. On September 28, 2022, the rapporteurs of the UN and IACHR urged the State to restore and make effective the full enjoyment of civil and political rights in the face of the closure and governmental co-optation of civic spaces and democratic participation in Nicaragua.¹⁸ Moreover, on November 4, 2022, the IACHR emphasized the absence of conditions to carry out free and fair elections in the country, taking into account the increase in repression and persecution against political opponents through the implementation of measures aimed at preventing their participation in the elections¹⁹.

13. In February 2023, the IACHR and OHCHR energetically condemned the new human rights violations committed by the Nicaraguan State, which have accelerated alarmingly in recent days²⁰. On February 13, 2023, the Commission recognized the release from prison of more than 200 persons deprived of their liberty for political reasons and rejected the deportation and arbitrary deprivation of their nationality by the State of Nicaragua²¹. The IACHR recognized that the release puts an end to years of arbitrary confinement under deplorable conditions of detention; however, the Commission condemned the fact that the releases have been accompanied by the arbitrary deprivation of Nicaraguan nationality, which means that most of the 222 persons released would be stateless; and it highlighted the multiple human rights violations to which these persons were subjected for several years²².

III. PRECAUTIONARY AND PROVISIONAL MEASURES GRANTED WITH RESPECT TO THE SITUATION OF THE NORTHERN CARIBBEAN COAST IN NICARAGUA

14. The Inter-American Commission and the Inter-American Court have granted precautionary and provisional measures in favor of residents of the communities of the Miskitu indigenous people of the Northern Caribbean Coast Region of Nicaragua²³. The situation under

¹⁷ The Center for Justice and International Law (CEJIL), the Human Rights Collective Nicaragua Never Again, the International Institute on Race, Equality and Human Rights (Race and Equality), the Nicaraguan Women Defenders Initiative (IND), the Mesoamerican Women Defenders Initiative (IMD), the Women's Autonomous Movement (MAM), the World Organization Against Torture (OMCT), the Legal Defense Unit (UDJ), and the Registration Unit (UDR). Report for the Second Review of Nicaragua's Obligations under the Convention against Torture. June 2022.

¹⁸ IACHR. [Press Release R218/22](#). In light of serious allegations regarding the closure of civic spaces in Nicaragua, UN, and IACHR Special Rapporteurs urge authorities to comply with their international obligations to respect and guarantee fundamental freedoms. September 28, 2022.

¹⁹ IACHR. [Press Release No. 248/22](#). IACHR Warns of Lack of Conditions for Free and Fair Municipal Elections in Nicaragua. November 4, 2022.

²⁰ IACHR. [Press Release No. 024/23](#). The IACHR and OHCHR condemn the escalation of human rights violations in Nicaragua. February 17, 2023.

²¹ IACHR. [Press Release No. 021/23](#). The IACHR welcomes the release of political prisoners in Nicaragua and rejects arbitrary deprivation of nationality. February 13, 2023.

²² Ibidem.

²³ On October 14, 2015, the IACHR granted precautionary measures in favor of the members of the Esperanza, Santa Clara, Wisconsin, Francia Sirpi communities of the Miskitu Indigenous People of Wangki Twi-Tasba Raya (IACHR, [Resolution No. 37/15, PM 505-15, Members of the "Esperanza, Santa Clara, Wisconsin, and Francia Sirpi" indigenous communities of the Miskitu people of Wangki Twi-Tasba Raya](#), Nicaragua, October 14, 2015). On January 16, 2016, the precautionary measures were extended to members of the indigenous communities of Santa Fe, Esperanza Río Coco, San Jerónimo, Polo Paiwas, Klisnak of the Miskitu Wanki Li Aubra indigenous territory, and Wiwinak of the Miskitu Li Lamni Tasbaika Kum indigenous territory (IACHR, [Resolution No. 2/16, PM 505-15, Miskitu Indigenous People of Wangki Twi-Tasba Raya](#), Nicaragua, January 16, 2016). On August 8, 2016, the precautionary measures were further extended to members of the Naranjal and Cocal indigenous communities of the Wangki Li Aubra Indigenous Territory (IACHR, [Resolution No. 44/16, PM 505-15, Miskitu Indigenous People of Wangki Twi-Tasba Raya](#), Nicaragua, August 8, 2016). Furthermore, on February 13, 2022, the precautionary measures were extended to include the inhabitants of the Musawas, Suniwas, and Wilú communities of the Mayangna Sauni As Territory, in the Autonomous Region of the North Caribbean Coast of Nicaragua (IACHR, [Resolution No. 9/22, PM-505-15, Indigenous Peoples of the Musawas, Suniwas, and Wilú Communities of the Mayangna Sauni As Territory in the Autonomous Region of the North Caribbean Coast, Nicaragua](#), February 13, 2022). After identifying specific situations of extreme risk regarding the beneficiaries of the precautionary measures, the IACHR requested provisional measures before the Inter-American Court in 2016, 2017, 2018, 2019, and 2021. After analyzing compliance with the requirements of Article 63.2 of the American Convention, the Inter-American Court granted and extended provisional measures in the "Case regarding inhabitants of the Miskitu Indigenous Communities of the North Caribbean Coast Region". On September 1, 2016, the IACHR granted provisional measures in favor of members of the communities of Klisnak, Wisconsin, Wiwinak, San Jerónimo, and Francia Sirpi (I/A Court H.R. [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean](#)

analysis has considered the violence, murders, threats, and acts of harassment perpetrated by “settlers” within the communities’ territories, in the context of a territorial conflict and land titling processes carried out by the State in these territories. In addition, both the Commission and the Inter-American Court granted precautionary measures and provisional measures in favor of members of the Center for Justice and Human Rights of the Atlantic Coast of Nicaragua (CEJUDHCAN)²⁴.

15. In 2022, the Commission granted precautionary measures in favor of the indigenous people of the Musawas, Suniwas, and Wilú Communities of the Mayangna Sauni As Territory in the Autonomous Region of the Northern Caribbean Coast through resolution 9/22²⁵. In this resolution, the Commission received information regarding the invasion of settlers in the territory of the Mayangna Sauni As communities. In that regard, the Kiwakumbaih Massacre was reported. On August 23, 2021, invading settlers massacred at least 11 Miskito and Mayangna indigenous inhabitants in the Mayangna Sauni As indigenous territory. The incident took place on the Kiwakumbaih hill, located 10 kilometers northeast of Musawas and which is commonly used by the different communities that make up the territory, as well as by inhabitants of other Miskito communities who are currently living in a situation of forced displacement. Traditionally, the hill has been used for subsistence activities such as hunting, fishing, canoe building and, recently, artisanal mining²⁶.

16. It was also reported that on August 30, 2021, National Police officers who arrived from Managua to Bonanza, called Ms. F.H.P., sister of one of the murdered persons, and took her to an office where she was intimidated so that she would file a complaint against other indigenous Mayangnas, pointing them out as the perpetrators of the Massacre. She allegedly refused because she identified mestizo members of the criminal gang called “Chavelo Meneses and Rodolfo Aguinaga” as responsible for the crime. Moreover, indigenous community members and relatives of the direct victims made a public complaint that was taken up by multiple media outlets, pointing to the gang led by a man identified as Isabel Padilla (Chabelo or Chavelo) – also known as Isabel Meneses – as the person responsible for the massacre²⁷. The representatives questioned the investigative actions carried out. On September 8, 2021, the National Police presented the brothers A.C.L. and I.C.L. as intellectual and material authors of the massacre. This is despite the fact that both are siblings of one of the female victims of sexual violence²⁸.

[Coast regarding Nicaragua](#). Order of the Inter-American Court of Human Rights of September 1, 2016). The measures were extended in favor of the members of the community of Esperanza Río Coco on November 23, 2016 (I/A Court H.R. Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast [regarding Nicaragua](#). Order of the Inter-American Court of Human Rights of November 23, 2016). Furthermore, the President of the Court extended the provisional measures in favor of the members of the Esperanza Río Wawa community on June 30, 2017 (I/A Court H.R. [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures](#). Order of the President of the I/A Court H.R. of June 30, 2017). The measures granted in June 2017 were ratified by the plenary of the Court on August 22, 2017 (I/A Court H.R. [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures](#). Order of the Inter-American Court of Human Rights of August 22, 2017). On February 6, 2020, the provisional measures were extended in favor of the members of the Santa Clara Community (I/A Court H.R. [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures](#). Order of the Inter-American Court of Human Rights of February 6, 2020). Lastly, the provisional measures were extended again on October 14, 2021, in favor of the members of the Community of Santa Fe (I/A Court H.R. [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures](#). Order of the Inter-American Court of October 14, 2021).

²⁴ On August 8, 2016, the IACHR extended the measures concerning the Miskitu indigenous peoples of the North Caribbean Coast in Nicaragua in favor of identified members of the CEJUDHCAN organization (IACHR, [Resolution No. 44/16, PM 505-15. Miskitu Indigenous People of Wangki Twi-Tasba Raya](#), Nicaragua, August 8, 2016). Moreover, the precautionary measures in favor of Ms. Lottie Cunningham, president of the CEJUDHCAN organization, were extended on June 11, 2017 (IACHR, [Resolution No. 16/17, PM-505-15, Lottie Cunningham](#), Nicaragua, June 11, 2017). After identifying specific situations of extreme risk with respect to the beneficiaries of the precautionary measures and following compliance with the requirements of Article 63.2 of the American Convention, the Court granted provisional measures in favor of Lottie Cunningham Wrem and José Medrana Coleman of the CEJUDHCAN organization on August 23, 2018 (IACHR Court. [Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures](#). Order of the Inter-American Court of August 23, 2018).

²⁵ IACHR. Resolution 9/22. Precautionary Measure No. 505-15. Indigenous peoples of the Musawas, Suniwas, and Wilú Communities of the Mayangna Sauni As Territory in the Autonomous Region of the North Caribbean Coast regarding [Nicaragua](#). Extension. February 13, 2022.

²⁶ Ibidem. Para. 14.

²⁷ Ibidem. Para. 18.

²⁸ Ibidem. Para. 19.

17. At the time of granting the precautionary measures, the Commission considered that the representation has alleged facts of particular seriousness that have occurred over time, at least since 2013, and recently at the end of 2021, which indicate a situation of violence that continued over time. Among the alleged facts that show the seriousness of the situation experienced by the inhabitants of the three identified Mayangna communities, the Commission highlights the following specific events and allegations presented by the representatives: It was reported that in August 2021 armed “settlers” violently assaulted and killed Miskitus and Mayangnas, including women and children, in an area of common use by both communities, and near the Musawas community. One of the survivors of the Suniwas Community indicated that she was a victim of sexual abuse by the “settlers” and was forced to watch the murder of her husband²⁹;

IV. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicant

18. The applicants applied for the following persons: D.R.Z., 54 years old; D.A.B.A., 39 years old; A.C.L., 49 years old; and I.C.L., 52 years old. The proposed beneficiaries are members of the Mayangna indigenous people. Allegedly, they were illegally convicted for the Kiwakumbaih Massacre that occurred on August 23, 2021, in the Sauni As Territory, located in the Bosawás Biosphere Reserve of the Autonomous Region of the Northern Caribbean Coast (RACCN) of Nicaragua. Mr. I.C.L. is a community trustee who fought for the defense of indigenous lands and Mr. A.C.L. is a teacher at the Suniwas school and community judge. Both proposed beneficiaries with the surname C.L. played a prominent role in confronting the settlers who invaded the communal lands. D.A.B.A. and D.R.Z. were reportedly active members of the Moravian Church, Mr. D.A.B.A. in the community of Kibusna and Mr. D.R.Z. in the community of Saubi.

19. According to the request, the State implemented a policy of internal colonization of the Autonomous Regions of the Caribbean Coast by promoting the immigration of non-indigenous people, bringing with it the advance of the agricultural frontier and extensive cattle ranching, the extractivist policy with forestry and mining companies, which would cause environmental degradation of the Miskitu and Mayangna indigenous territories, to which the Bosawás Biosphere Reserve, recognized by UNESCO, was superimposed. In this context, the Law on Communal Property Regime (Law No. 445) which established the administrative procedure for titling indigenous and Afro-descendant territories of the Caribbean Coast, which were titled mainly between 2006 and 2010. The last stage of ownership (the sanitation stage, which consists of determining the rights of third parties or “settlers” within the territories) was not initiated and the State allegedly tolerated the illegal invasion of indigenous lands.

20. The failure of the State to implement the sanitation stage in indigenous territories and the imposition of cohabitation by the authorities on indigenous communities reportedly undermined the self-determination of the indigenous peoples and generated the armed attacks since the end of 2015 against indigenous peoples in the region. The indigenous lands have reportedly been invaded by criminal gangs made up of non-indigenous people, specifically demobilized ex-military personnel from the Army and the Nicaraguan Resistance of the 1980s, who claim to have the protection of the Sandinista National Liberation Front (FSLN) party, currently in the national government.

21. According to the information presented by the representation, during 2020, several civil society organizations and leaders of the Mayangna communities counted at least 13 murders of men from the community, eight people injured in armed attacks, two kidnappings, forced displacement of the community and two assaults on Miskitu indigenous girls. In addition, throughout the year 2021, the Mayangna communities, only in the Mayangna Sauni As Territory, reported several attacks by settlers against their communities, which generated at least 15 murders and 11 injured people, as in the case of the Kiwakumbaih Massacre.

²⁹ Ibidem. Para. 32.

22. On August 11, 2021, the President of the Indigenous Territorial Government (ITG) Mayangna Sauni As and the Secretary of the ITG reportedly sent a letter to the Bonanza National Police requesting the accompaniment of the law enforcement institution to the Kiwakumbaih mine, due to a conflict crisis. However, the authorities reportedly did not respond. On August 23, 2021, about 37 people were reportedly found working at the Kiwakumbaih mine on Pukna Hill in the Mayangna Sauni As Territory. At 3:00 p.m., a group of armed men reportedly surrounded the site and began attacking the community members present. Around 22 people managed to escape and survive the attack, including several children. During the massacre, several people were reportedly killed, and several women were allegedly sexually raped, including minors. Some of the survivors reported that the attackers are part of the Kukalón gang, led by a person known as “Chavelo”, a criminal gang that has been operating freely in the Bosawás Reserve for several years.

23. While the victims have repeatedly stated that the Kiwakumbai Massacre was perpetrated by a group of non-indigenous men - mestizos or settlers - the National Police reportedly claimed that it was a group of indigenous Mayangna. Subsequently, 14 members of the Mayangna indigenous people were allegedly accused. Many of the accused are volunteer forest rangers and indigenous land defenders. In this regard, the community members of the Mayangna Sauni As Territory reportedly denounced the repression by the Police Tactics and Weapons and Intervention and Rescue Troops (TAPIR), which allegedly pursued the 14 indigenous people identified by the National Police as responsible for the massacre. Simultaneously, the Public Prosecutor’s Office reportedly issued an arrest warrant against a human rights defender for the alleged cybercrime of spreading fake news in the case of the Kiwakumbaih Massacre, despite the fact that he had shown documentary evidence of the facts.

24. The requesting party alleges that access to an official Mayangna language interpreter was not provided during the victims’ testimonies to the National Police, and therefore the victims allege that their statements were altered by police officers. On the other hand, it was alleged that the forensic medical examiner had issued his opinion based solely on the observation of photographs of the victims’ corpses, without having requested a court order for the exhumation of the corpses for the forensic medical evaluation and, consequently, to scientifically clarify the causes of the deaths. Therefore, the requesting party argues that the National Police and the Public Prosecutor’s Office allegedly conducted a negligent investigation into the Kiwakumbaih Massacre.

25. The police reportedly arrested Mr. A.C.L. and Mr. I.C.L. at 4:00 p.m. on August 28, 2021, in the community of Suniwás, without a warrant. On September 4, 2021, at 5:00 a.m., the police reportedly arrested Mr. D.A.B.A., in the community of Kibusna, without a warrant. On December 3, 2021, at 3:00 p.m., Mr. D.R.Z., a member of the Sauni community, was reportedly arrested by the police when he was at the Nicaraguan Institute of Social Security in Bonanza, without a warrant. The proposed beneficiaries were allegedly identified and arrested as responsible for the Massacre, even though the request states that they were all at a location other than the Kiwakumbaih mine during the event. A.C.L., I.C.L. and D.A.B.A. were allegedly held in District Delegation No. 3 of the Managua National Police for several months until the arrest of Mr. D.R.Z. on December 8, 2021, at which time they were all transferred to the Tipitapa prison “Jorge Navarro”, also known as “La Modelo” prison. The proposed beneficiaries reportedly informed their relatives of their whereabouts through the telephone of another inmate. His whereabouts were reportedly unknown to his relatives from the time of his arrest.

26. The requesting party argues a series of violations of due process of law and judicial guarantees in the framework of the criminal proceedings against members of the communities of the Mayangna Sauni As Territory regarding the Kiwakumbaih Massacre³⁰. On February 18, 2022, at the trial

³⁰ In that sense, it was alleged that (i) the presumption of innocence may not have been respected as the proposed beneficiaries have reportedly been presented as perpetrators of the crimes, in a prison conference of the National Police, before their trial; (ii) there has allegedly been no contradictions on the collection and analysis of evidence by police officers; (iii) the Public Prosecutor’s Office has purportedly removed the accused persons from their natural judge, the events have reportedly occurred in the territorial jurisdiction of Bonanza, therefore, the competent judge allegedly is the Siuna District Judge, however, the accusation has been reportedly made before the Fifth Criminal District Court of Managua; (iv) the personal exhibition appeals filed in favor of the accused might not have been attended; (v) the four accused persons have been allegedly kept in a situation of solitary confinement; (vi) the trial has been purportedly held behind closed doors

hearing, the Public Prosecutor's Office did not present any witnesses and only presented several police experts. However, all of the defense witnesses were consistent in asserting that the defendants were not responsible for the Massacre. Nevertheless, the Seventh Criminal District Trial Judge of Managua reportedly found A.C.L., I.C.L., D.A.B.A. and D.R.Z. guilty. After the sentencing, the hearing minutes were not delivered to the parties and the recording was not obtained, and the case was not accessible on the online service of the Nicaraguan Judicial System. Judgment no. 41, which found the defendants guilty, was issued on March 10, 2022, and was reportedly read by the Judge in the case, without the parties having access to a written version of the sentence. Through the sentence, the proposed beneficiaries were sentenced to life imprisonment for being co-perpetrators of the crime of aggravated murder of nine people, and to four years' imprisonment for being co-perpetrators of the crime of simple kidnapping of Mrs. Bernicia Celso Lino and her daughter K.J.P.C. The sentence was appealed by the technical defense of the proposed beneficiaries. However, on July 28, 2022, the Court of Appeals of the Managua District, Criminal Chamber Number One, reportedly confirmed the sentence. The sentences were appealed in cassation in October 2022.

27. Regarding their conditions of detention, the proposed beneficiaries were allegedly denied effective medical care despite suffering from serious medical conditions and illnesses: Mr. A.C.L. reportedly suffered from liver and gallbladder ailments, and Mr. D.A.B.A. reportedly suffered from heart problems. Mr. D.R.Z. has cataracts that worsened due to the lack of medical attention and allegedly suffers from a kidney infection that has not been treated. Mr. I.C.L. reported having gastritis and a hernia that had not been treated despite requesting medical assistance. The defense attorney for the proposed beneficiaries reportedly requested medical assistance, and although the judge reportedly ordered that they be provided with medical care, the judge's orders were not complied with. On one occasion, Mr. I.C.L. reportedly requested an injection and the nurse allegedly broke the ampoule bottle and only administered him distilled water. Mr. D.A.B.A. stated that at times he suffocates and is unable to breathe, he reportedly notified the prison authorities, but did not receive treatment or assistance. Likewise, Mr. A.C.L. states that when he complained of pain, the prison authorities would put him in an ambulance, take him to the city, but would not provide him with treatment; they would only leave him in the ambulance all day without food or water. The proposed beneficiaries were not receiving medical treatment and could not receive medications from their family members, as the custodians would not accept the medications or would not give them to them when accepted.

28. According to the request, the proposed beneficiaries were pale in appearance from insufficient sun exposure and thin from not being allowed to cook or receive food from family members, and the food in the prison was little, poorly cooked, and only fed once or twice a day. The drinking water was contaminated. Furthermore, it was reported that the proposed beneficiaries are allegedly shackled, which prevents them from eating comfortably or even fulfilling their physiological needs, they are half-naked and secluded in maximum security cells infested by mosquitoes, in permanent darkness; they reportedly have no mattress or sheets and have to sleep on the cement floor. They are purportedly kept in chains 24 hours a day, which allegedly makes it difficult for them to move around to meet their basic needs, and their showers consist of buckets of water being thrown at them. Mr. I.C.L. indicated that he had to sleep seated because he alleged that he could not lie down due to the chains on his feet and hands.

29. The representation reported that the proposed beneficiaries informed facing physical, emotional, and sexual torture. The proposed beneficiaries are allegedly mistreated by the other inmates when they speak in Mayangna. They have been reportedly beaten and threatened with death with knives or "metal spells". In addition, they are purportedly tortured by the guards of the criminal system, they are reportedly beaten by them and if they talk to each other after 10:00 p.m., they are allegedly thrown water. The proposed beneficiaries stated that the sexual abuse

without constitutional guarantees; and (vii) the physical, psychological and moral integrity of the accused have been allegedly violated as they were reportedly captured without a warrant and during the investigation stage state agents allegedly beat them and carried out illegal interrogations.

reportedly occurs in two ways: (i) the acts are allegedly perpetrated by the common prisoners - as opposed to the proposed beneficiaries - who purportedly penetrate them while threatening them with bladed weapons; and (ii) the guards allegedly carry out abuses with objects such as points of weapons, batons, among others.

30. The relatives of the proposed beneficiaries reportedly have to travel from Bonanza to the La Modelo penitentiary, almost 500 km away. In addition to physical distance, their relatives reportedly have to face economic, cultural, and linguistic barriers. Due to this, it is alleged that the relatives of Mr. D.A.B.A. have not been able to visit him since July 2022. According to the information presented since October 2022, the frequency of visits has been purportedly reduced from bimonthly to monthly. It is alleged that visits are extremely short and monitored by guards of the criminal system. They are reportedly carried out from afar; therefore, the proposed beneficiaries cannot hug their relatives. It is also alleged that the relatives of the proposed beneficiaries do not have access to cell phones in the community, so they purportedly have to travel to be able to communicate by telephone. Making it difficult to communicate with their families.

31. The relatives have reportedly informed the defense attorneys about the events that they deem as torture for them to bring it to the attention of the judges. However, attorneys have purportedly expressed fear of retaliation if they complained to the judicial authorities. Moreover, it was reported that visits by attorneys may not be allowed in the prison system and they have reportedly never been able to physically communicate with their clients.

B. Information provided by the State

32. The IACHR requested information from the State on March 10, 2023. However, the State has not submitted any information to date.

V. ANALYSIS OF THE ELEMENTS OF SERIOUSNESS, URGENCY, AND IRREPARABLE HARM

33. The precautionary measures mechanism is part of the Commission's function of supervising compliance with the human rights obligations established in Article 106 of the Charter of the Organization of American States, based on Article 41(b) of the American Convention on Human Rights and Article 18(b) of the IACHR Statute. Furthermore, the mechanism of precautionary measures is described in Article 25 of the Rules of Procedure, according to which the Commission grants precautionary measures in situations that are serious and urgent as well as necessary to prevent irreparable harm.

34. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have repeatedly established that precautionary and provisional measures have a dual nature, both protective and precautionary³¹. Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.³² To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.³³

³¹ See in this regard: I/A Court H.R. See in this regard: I/A Court H.R. Matter of the Yare I and Yare II Capital Region Penitentiary Center. Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. Case of Carpio Nicolle et al. v. Guatemala. Provisional Measures. Order of July 6, 2009, considerandum 16.

³² See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. Bámaca Velásquez Case. Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. Case of Fernández Ortega et al. Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish].

³³ See in this regard: I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]; I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the

Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object 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 the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations³⁴. In the process of reaching a decision, according to Article 25(2) of its 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.

35. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.³⁵ Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments. This³⁶ is better suited to be addressed by the Petition and Case system. The analysis performed herein relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.³⁷

36. In addition, the Commission recalls that, in the context of the persons deprived of liberty in Nicaragua and in relation to persons deprived of liberty in general, the State is in a special position of guarantor that implies the duty to respect their life, health, and personal integrity, in addition to other human rights, inasmuch as prison authorities exercise a strong control or command over the persons in their custody.³⁸ This is due to the unique relationship and interaction of subordination between the person deprived of liberty and the State. This is characterized by the

Court of February 8, 2008, considerandum 9; I/A Court H.R. Matter of the Criminal Institute of Plácido de Sá Carvalho. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

³⁴ See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 7; I/A Court H.R. Matter of “El Nacional” and “Así es la Noticia” newspapers. Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23; I/A Court H.R. Matter of Luis Uzcátegui. Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19.

³⁵ See in this regard: I/A Court H.R. Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, considerandum 13 [only in Spanish]; I/A Court H.R. Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006, considerandum 23.

³⁶ IACHR. Resolution 2/2015. Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico. January 28, 2015, para. 14; IACHR. Resolution 37/2021. Precautionary Measure No. 96-21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021, para. 33.

³⁷ In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme seriousness, urgency, and necessity to avoid an irreparable harm to persons.” See in this regard: I/A Court H.R. Matter of James et al. regarding Trinidad and Tobago. Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. Case of Barrios Family v. Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].

³⁸ See in this regard: I/A Court H.R. Case of Mendoza et al. v. Argentina. Preliminary Objections, Merits, and Reparations. Judgment of May 14, 2013. Series C No. 260. Para. 188; IACHR. Report on the Human Rights of Persons Deprived of Liberty in the Americas. OAS/Ser.L/V/II. Doc. 64. December 31, 2011. Para. 49.

particular intensity with which the State can regulate their rights and obligations, and by the very circumstances of imprisonment. In these circumstances, prisoners are prevented from satisfying on their own a series of basic needs that are essential for the development of a dignified life.³⁹

37. More specifically, the Commission recalls that the Inter-American Court has indicated that the State must ensure that a person is detained in conditions that are compatible with respect for their human dignity, that the manner and method of exercising the measure does not subject them to distress or hardship that exceeds the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, their health and well-being are adequately ensured⁴⁰.

38. Under the terms of Article 25(6) of the Rules of Procedure, the Commission observes that the alleged situation of the proposed beneficiaries is framed within the context of the indigenous communities of the North Caribbean Coast in Nicaragua, a situation in respect of which precautionary measures and provisional measures have been granted (see *supra* para. 14). In this regard, considering the context that Nicaragua is currently going through, the particular situation of deprivation of liberty of the proposed beneficiaries, and the fact that they are members of the indigenous peoples of the Caribbean of Nicaragua, the Commission will proceed to analyze the procedural requirements regarding their situation.

39. Before carrying out the aforementioned analysis, the Commission would like to note that it is aware that the proposed beneficiaries have been arrested and sentenced for the events that occurred in the Kiwakumbaih Massacre, which was addressed at the time of granting the precautionary measures in favor of the Indigenous Peoples of the Musawas, Suniwas, and Wilú Communities of the Mayangna Sauni As Territory in the Autonomous Region of the North Caribbean Coast regarding Nicaragua⁴¹. At that time, the Commission called on the State to investigate the events that gave rise to the aforementioned precautionary measures. On this occasion, the Commission notes the due process questions raised by the applicants during the course of the criminal proceedings (see *supra* para. 26). However, it recalls that, given the nature of the allegations presented, it is appropriate to analyze them within the framework of the Petition and Case System, once the corresponding procedural prerequisites have been met. Therefore, the Commission will focus on the conditions of detention in which the proposed beneficiaries are held.

40. When analyzing the requirement of *seriousness*, the Commission considers that it has been met. In this regard, the Commission observes that the proposed beneficiaries are members of the Mayangna indigenous people of the Caribbean Coast of Nicaragua. The Commission identifies that the proposed beneficiaries are currently deprived of liberty in the Jorge Navarro Penitentiary Center and they were deprived of their liberty on different dates in 2021, allegedly without arrest warrants. It is alleged that, after their arrest, their relatives could not obtain information about their situation, but the proposed beneficiaries have allegedly informed them of their whereabouts, thanks to the telephone of another inmate (see *supra* para. 25). The Commission observes that Mr. A.C.L., I.C.L. and Mr. D.A.B.A. have been approximately three months without communicating with their relatives.

41. The Commission also stresses that the proposed beneficiaries reportedly suffer from diseases and therefore need medicines. However, there is allegedly no knowledge of access to medical care, despite the existence of orders from the Judiciary in this regard (see *supra* para. 27). The information available also indicates that the proposed beneficiaries are reportedly held in maximum security cells, in total darkness, and handcuffed 24 hours a day. Furthermore, the Commission was informed that they are

³⁹ IACHR. Report on the Human Rights of Persons Deprived of Liberty in the Americas. OAS/Ser.L/V/II. Doc. 64. December 31, 2011. Paras. 49-50.

⁴⁰ I/A Court H.R. Matter of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures. Adoption of Urgent Provisional Measures. Order of the President of the Inter-American Court of Human Rights of May 21, 2019 [only in Spanish]. Considerandum 23.

⁴¹ IACHR. Resolution 9/22. Precautionary Measure No. 505-15. Indigenous peoples of the Musawas, Suniwas, and Wilú Communities of the Mayangna Sauni As Territory in the Autonomous Region of the North Caribbean Coast regarding Nicaragua. [Extension](#). February 13, 2022.

reportedly in unhealthy conditions since the water to which they have access is allegedly dirty water. The proposed beneficiaries are reportedly extremely thin and pale, since, as it is alleged, they do not have access to adequate food and they are not exposed to sunlight (see *supra* para. 28).

42. Conditions of detention are purportedly accompanied by constant threats from guards and other persons deprived of their liberty, threats that sometimes have allegedly turned into physical and sexual assaults (see *supra* para. 29). The serious situation that the proposed beneficiaries face has been purportedly classified by the representation as physical, psychological, and sexual torture (see *supra* para. 29). The Commission emphasizes that physical torture reportedly materializes due to the conditions of detention: lack of sufficient food, the conditions in which they live day to day, shackled 24 hours a day which makes it difficult for them to meet their most basic needs such as food and sleep (see *supra* para. 28). It was alleged that the psychological torture allegedly materializes due to the emotional impact of their detention conditions and the difficulty in communicating with their relatives due to the physical, cultural, and economic distance that in many aspects could not be overcome as is the case of the relatives of Mr. D.A.B.A., who has not received visits since July 2022 (see *supra* para. 30). Lastly, sexual torture reportedly materializes with the various sexual cases of abuse carried out by both guards and other persons deprived of liberty (see *supra* para. 29).

43. The seriousness of the situation is reportedly intensified by the fact that the legal defense of the proposed beneficiaries purportedly fears denouncing the acts of torture before the State authorities in the context of repression and deprivation of nationality of critical voices in Nicaragua. The Commission notes that the attorneys of the proposed beneficiaries have allegedly expressed fear of possible retaliation that could be taken against them if they complained or claimed for the rights of their clients before the judicial authorities (see *supra* para. 31). This context of helplessness and vulnerability has been addressed by the Commission in the framework of the monitoring that it has been carrying out in the country after the events of 2018.

44. Having requested information from the State under Article 25 of the Rules of Procedure, the Commission regrets the lack of response to the request for information. Although the foregoing is not sufficient *per se* to justify the granting of precautionary measures, the lack of response from the State prevents the Commission from knowing the measures that have been reportedly implemented to address the situation that places the proposed beneficiaries at risk and to dispute the facts alleged by the applicants. Therefore, the Commission does not have information to assess whether the situation that places the proposed beneficiary at risk has been mitigated or has disappeared. The foregoing is particularly relevant, given that the proposed beneficiaries are deprived of liberty, in the custody of the State, and that the alleged facts are attributable to state and parastatal actors. Given the seriousness of the alleged facts in the context in which they are inserted, the Commission also has no information on whether investigations into the alleged facts have been opened.

45. Due to the above and considering the conditions of detention of the proposed beneficiaries, the Commission concludes that, from the *prima facie* standard and in the context that Nicaragua is experiencing, it is sufficiently proven that the rights to life, integrity, and health of D.R.Z., D.A.B.A., A.C.L. and I.C.L. are in a situation of serious risk.

46. With regard to the requirement of *urgency*, the Commission deems that it has been met given that, should the proposed beneficiaries continue to face the situation described, they are likely to be imminently exposed to a greater impact on their rights. Thus, in view of the imminent materialization of the risk, it is necessary to immediately adopt measures to safeguard the proposed beneficiaries' rights to life, personal integrity, and health. When making such assessments, the Commission takes into account that the proposed beneficiaries have health conditions and they are in State custody, therefore, they are in a particularly vulnerable situation. Despite their arrest in 2021, they allegedly have not received adequate and timely medical care to date. In this sense, the Commission does not have specific information from the State that allows it to assess the actions that are reportedly being taken to address the alleged risk faced by the proposed beneficiaries.

47. Regarding the requirement of *irreparable harm*, the Commission considers that it

has been met, insofar as the potential impact on the rights to life, and personal integrity, by their very nature, constitutes the maximum situation of irreparability.

VI. BENEFICIARIES

48. The Commission declares as beneficiaries of the precautionary measures: (1) D.R.Z., (2) D.A.B.A., (3) A.C.L. and (4) I.C.L., who are duly identified in this proceeding in the terms of Article 25 of the Rules of Procedure.

VII. DECISION

49. The Inter-American Commission considers that this matter meets, *prima facie*, the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, it requests that Nicaragua:

- a) take the necessary measures to protect the rights to life, personal integrity and health of the beneficiaries, taking into account their status as indigenous people;
- b) take the necessary measures to ensure that the detention conditions of the proposed beneficiaries are compatible with applicable international standards in this field, including: (i) ensuring that they are not subjected to threats, intimidation, harassment, or assault within the prison; (ii) ensuring access to adequate and specialized medical care and immediately carrying out a specialized medical assessment of their health; and (iii) providing the necessary treatment and medication to treat their respective conditions;
- c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and
- d) report on the actions taken to investigate the alleged facts that gave rise to the adoption of this resolution, so as to prevent them from reoccurring.

50. The Commission requests that the State of Nicaragua report, within 15 days as from the notification of this resolution, on the adoption of the precautionary measures granted and to regularly update this information.

51. 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 under the applicable instruments.

52. The Commission instructs its Executive Secretariat to notify this resolution to the State of Nicaragua and the applicants.

53. Approved on April 13, 2023, by Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Joel Hernández García; Julissa Mantilla Falcón; Edgar Stuardo Ralón Orellana; and Carlos Bernal Pulido, members of the IACHR.

María Claudia Pulido
Assistant Executive Secretary