
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 58/2023**

Precautionary Measure No. 558-23
José Leonardo Urbina Rodríguez regarding Nicaragua
October 9, 2023
Original: Spanish

I. INTRODUCTION

1. On July 19, 2023, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures presented by *Comisión Permanente de Derechos Humanos - CPDH* (“the applicant”) urging the Commission to require that the State of Nicaragua (“the State” or “Nicaragua”) adopt the necessary measures to protect the rights to life, personal integrity and health of José Leonardo Urbina Rodríguez (“the proposed beneficiary”). According to the request, the proposed beneficiary is a religious member of the Catholic Church. He is reportedly being deprived of his liberty and does not have access to medical attention to treat his health issues. He was allegedly admitted to the Jorge Navarro Penitentiary System in a punishment cell called “La Chiquita” [The Small One].

2. Under the terms of Article 25.5 of its Rules of Procedure, the IACHR requested information from the applicant on July 20, 2023, and the applicant replied on July 26, 2023. Subsequently, the IACHR requested information from both parties on August 1, 2023. The applicant responded on August 10, 2023. For its part, the State, to date, has not submitted any information on the matter at hand.

3. Upon analyzing the submissions of fact and law furnished by the applicant, the Commission considers that the information presented shows *prima facie* that the proposed beneficiary is in a serious and urgent situation, given that his rights to life, personal integrity, and health are at risk of irreparable harm. Therefore, it requests that Nicaragua: a) take the necessary measures to protect the rights to life, personal integrity, and health of José Leonardo Urbina Rodríguez; b) take the necessary measures to ensure that the beneficiary’s detention conditions are compatible with the applicable international standards in the matter, including: i. guaranteeing access to adequate and specialized medical care, and immediately carry out a specialized medical evaluation of his health situation; ii. ensuring access to the treatments and medications required to treat his health issues, iii. guaranteeing regular contact and access to his lawyers, and representation; c) consult and agree upon the measures to be adopted with the proposed beneficiary and his representation; and d) report on the actions undertaken in order to investigate the alleged facts that led to the adoption of this resolution, so as to prevent such events from reoccurring.

II. CONTEXT WITHIN THE COUNTRY

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 until the State

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.

suspended its presence on December 19, 2018.² For its part, the Interdisciplinary Group of Independent Experts (GIEI, for its acronym in Spanish) 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 2018 Annual Report, the IACHR included Nicaragua in Chapter IV.B in accordance with the grounds set forth 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 violations.⁷

7. 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 In October 2020, the IACHR again called on the State to immediately cease persecution of persons identified as dissidents and to reestablish democratic guarantees in Nicaragua.¹⁰ Subsequently, the Commission once again included Nicaragua in Chapter IV.B of its 2020 Annual Report.¹¹

8. In 2021, the Commission condemned the increasing acts of harassment in Nicaragua. These acts were against persons identified as government opponents, human rights defenders, and the independent press.¹² They also condemned the widespread impunity and the prolonged breakdown of the rule of law that persists in Nicaragua.¹³ On June 9, 2021, the IACHR and the Regional Office of the United Nations High Commissioner for Human Rights for Central America and Dominican Republic (OHCHR) condemned the criminal prosecution of Nicaraguan opposition leaders and urged the State to release all the persons detained

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 violent events that took place in Nicaragua between April 18th and May 30th](#). 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. [Press Release No. 249/20](#). IACHR Calls for Persecution of People Identified as Dissidents to End and for Democratic Guarantees to be Reestablished in Nicaragua. October 10, 2020.

¹¹ IACHR. [2020 Annual Report, Chapter IV.B Nicaragua](#), February 2021, paras. 5 to 29.

¹² IACHR. [Press Release No. 152/21](#). IACHR Condemns the Serious Escalation of Repression in Nicaragua. June 18, 2021.

¹³ IACHR. [Press Release No. 93/21](#). Three Years After the Start of the Human Rights Crisis in Nicaragua, IACHR Condemns Ongoing Impunity. April 19, 2021.

in the context of the crisis.¹⁴ On September 10, 2021, the Commission and the OHCHR condemned the criminalization of individuals identified as political opponents in Nicaragua.¹⁵

9. 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.¹⁶ 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 serious crisis in the country 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.¹⁷ The IACHR once again included Nicaragua in 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 elections.¹⁸

10. In early 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 experience 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.¹⁹ It also condemned the manipulation of criminal law and the criminalization of those identified as opponents.²⁰ On May 13, 2022, the IACHR urged the State to guarantee political prisoners’ regular and dignified direct contact with their family members. According to information received by his MESENI, deplorable detention conditions, ill-treatment, isolation, incommunicado detention, and lack of access to timely, adequate, and specialized medical care for detainees in “El Chipote” persist.²¹ On August 19, 2022, the IACHR condemned the escalation of repression against members of the Catholic Church due to their critical role in denouncing human rights violations.²² On September 5, 2022, the IACHR and its SRESCER urged the immediate release of the political prisoners who are in deplorable conditions in Nicaragua.²³ Furthermore, both MESENI and its SRESCER received constant information about the serious detention conditions of those deprived of their liberty in the different facilities of the National Penitentiary System, among them “La Modelo”, “La Esperanza”, and Waswalí.²⁴ The UN Committee against Torture (CAT) 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

¹⁴ IACHR. [Press Release No. 145/21](#). IACHR and OHCHR Categorically Condemn Criminal Prosecution of Presidential Precandidates and Urge State of Nicaragua to Release Them Immediately. June 9, 2021; IACHR. [Press Release No. 171/21](#). Nicaragua: IACHR and OHCHR Demand an End to Arbitrary Arrests and the Release of All Individuals Detained Since the Start of the Crisis in Nicaragua. July 9, 2021.

¹⁵ IACHR. [Press Release No. 238/21](#). IACHR, OHCHR Condemn Criminalization, Harsh Conditions of Detention, and Failure to Enforce Due Process for Individuals Who are Perceived to Be Government Critics in Nicaragua. September 10, 2021.

¹⁶ 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.

¹⁷ 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. November 20, 2022.

¹⁸ IACHR. [2021 Annual Report](#). Chapter IV.B Nicaragua, May 2022, paras. 4 to 21.

¹⁹ IACHR. [Press Release 23/2022](#). IACHR urges the State of Nicaragua to release all persons arbitrarily detained. January 31, 2023

²⁰ IACHR. [Press Release RD026/22](#). SRESCER condemns the cancellation of the membership of 26 universities and associations for academic and social purposes by the National Assembly of Nicaragua. February 10, 2022.

²¹ IACHR. [Press Release 103/2022](#). IACHR urges Nicaragua to ensure that political prisoners have regular and dignified direct contact with their families. May 13, 2022.

²² IACHR. [Press Release No. 184/22](#). IACHR Condemns Acts of Repression and the Detention of Members of the Catholic Church in Nicaragua. August 19, 2022.

²³ IACHR. [Press Release No. 197/2022](#). IACHR and SRESCER: Immediate release of political prisoners in deplorable conditions in Nicaragua is urgently needed. September 5, 2022.

²⁴ IACHR. [Press Release 197/2022](#). IACHR and Its SRESCER Call for Immediate Release of Political Prisoners Being Held in Appalling Conditions in Nicaragua. September 5, 2022.

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”).

11. On February 9, 2023, the IACHR learned about the release of 222 people, who were deprived of their liberty in Nicaragua due to political reasons, and who were deported to the United States of America on the same day of their release in compliance with a judgment of Criminal Chamber One of the Managua Court of Appeals. This chamber ordered the immediate deportation of these individuals and the revocation of their Nicaraguan nationality. On the same day, the National Assembly approved reforms to Article 21 of the Nicaraguan Political Constitution. This Article established the acquisition, loss, and recovery of nationality and approved Law 1145 that regulates the loss of Nicaraguan nationality. The IACHR urged the State to release all persons arbitrarily detained in the context of the crisis in Nicaragua, without this implying the loss of nationality and deportation.²⁵ In June 2023, the Commission expressed its concern at the new arbitrary detentions of defenders, journalists, and members of the Catholic Church. In April and May, more than 140 people were arrested on Easter week celebrations during the commemoration of the anniversary of the 2018 protests. There were also simultaneous police operations in different departments. These mass arrests were characterized by disproportionate use of force and violent raids.²⁶

12. More recently, in August 2023, the IACHR and the Office of the United Nations High Commissioner for Human Rights for Central America and the English-speaking Caribbean (OHCHR) condemned the continued violations of his human rights, such as the lack of access to medical care and essential medicines, the isolated detention experienced since he has been in the La Modelo prison system, and the limitation of family visits. In addition, after five years of systematic human rights violations, the IACHR urged the Government of Nicaragua to refrain from taking actions against religious freedom, and to comply with its international obligations by immediately releasing all other persons who were arbitrarily deprived of their liberty.²⁷

III. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicant

13. According to the request, Mr. José Leonardo Urbina Rodríguez is a 52-year-old priest, leader of the parish “la parroquia del Perpetuo Socorro” and episcopal vicar of Boaco. The proposed beneficiary was arrested on July 13, 2022 on charges of rape of a minor.²⁸ Mr. Urbina was the second priest arrested by the Nicaraguan government. According to reports from local residents, the proposed beneficiary prayed for the release of so-called “political prisoners” in his homilies.

14. Following his arrest and throughout the criminal proceedings, the proposed beneficiary’s defence lawyer, Frank Gutiérrez, as well as his family members, submitted several briefs to the Court in an attempt to intervene in the case. However, all briefs were ignored. His lawyer also observed several irregularities in the proceedings. For example, he questioned the speed with which the indictment was filed and the preliminary hearing was held, as it all took place on the same day of the proposed beneficiary’s arrest. In addition, his attorney stated that several members of the ruling Sandinista National Liberation Front (FSLN) party were present at what was supposed to be a private trial. This raised suspicions of possible political interference in the case. Similarly, the State allegedly retaliated against the proposed beneficiary’s lawyer as he

²⁵ IACHR, [Press Release No. 021/23](#). IACHR Welcomes Release of Political Prisoners in Nicaragua but Rejects Arbitrary Deprivation of Nationality. February 13, 2023.

²⁶ IACHR, [Press Release No. 123/23](#). IACHR Rejects Continued Repression and Human Rights Violations in Nicaragua. June 16, 2023

²⁷ IACHR, [Press Release No. 184/23](#). Nicaragua: IACHR and OHCHR urge the State to release Monsignor Rolando Álvarez and guarantee his human rights. August 18, 2023.

²⁸ According to public information, on September 1, 2022, the conviction of the proposed beneficiary was read out in which the judge imposed a sentence of 30 years’ imprisonment for alleged sexual abuse and rape of a 14-year-old girl. Publication available in: [Judge in Nicaragua imposes 30 years in prison on Monsignor Leonardo Urbina \(100noticias.com.ni\)](#)

continued to represent the proposed beneficiary, being that he was denied entry to Nicaragua after a trip to Miami. This was also believed to be based on his participation in anti-government protests and his role in the defense of Mr. Urbina Rodriguez and other deemed “political prisoners”.

15. The applicant alleged that the proposed beneficiary’s health was at serious risk as he has thrombosis in his feet, diabetes, and hypertension. He was allegedly being denied access to adequate medical care and the necessary medication to treat his conditions, despite requiring constant medication. The proposed beneficiary was reportedly diagnosed with diabetes prior to his incarceration and began to experience poor blood circulation six months after the diagnosis. In this regard, a medical certificate issued in October 2022 was provided, in which it was stated that the proposed beneficiary “*was diagnosed with Diabetes Mellitus Type 2 and Arterial Hypertension two years ago, treated with hypoglycemic agents based on metformin 850mg p.o. on an empty stomach and antihypertensive agents based on enalapril 10 mg p.o. daily with periodic visits*”. In addition, it was noted in the record that, during his last appointment on July 8, 2022, laboratory tests were performed, which included testing his glycaemia, creatinine, cholesterol, triglycerides, and uric acid. In this regard, he was diagnosed with “*high blood pressure*” and for this reason he was suggested a treatment plan of “*Sil Norboral 5/1000 one tablet taken daily on an empty stomach, Losarian 50 mg one tablet taken daily, Rosuvastatin 10 mg one tablet taken daily, and assessment by diabetologist and nutritionist*”.

16. The application alleged that, to date, the proposed beneficiary has not received specialized medical care during his detention and reportedly does not have the required access to his medication. It was stated that he is allegedly at risk of serious complications, including health problems related to his eyes, pancreatic issues, and the possibility of strokes. The deterioration of the proposed beneficiary’s health due to the lack of adequate medical care could cause long-term harm or even lead to his death. Despite a request for medical attention as he requires his medication, this request was not granted. He reportedly has not had a health check-up either.

17. Regarding the detention conditions, it was reported that Mr. Urbina Rodriguez was detained at the maximum security of the prison known as “La 300”,²⁹ in Gallery 2, Ground Floor, Cell 18. Specifically, the proposed beneficiary is reportedly being held in one of the smallest maximum-security cells, known as “La Chiquita”, which he shares with a common prisoner known as “El Black”. The applicant described his detention as being in “extremely difficult conditions”. It was indicated that, due to reporting restrictions imposed by the prison authorities, no further details could be provided. According to a relative, on his last visit, the proposed beneficiary informed him that he is reportedly not allowed to the “sun patio”. The applicant considered that the detention conditions described above, along with his health conditions, could lead to a further deterioration of the proposed beneficiary’s health and, therefore, put him at even greater risk. For its part, the applicant stated that it has not received any specific reports of acts of violence against the proposed beneficiary.

18. The applicant added that Mr. Urbina Rodríguez has been able to communicate with and receive visits from his relatives on a fortnightly basis. However, he has not been allowed access to the lawyer he confides in, thereby restricting his right to an adequate defence. To date, his relatives have not had access to the proposed beneficiary’s criminal case, and they therefore have no information about the criminal proceedings against him.

19. The applicant pointed out that no protection measures have been requested from the local or state authorities “for specific reasons.” The proposed beneficiary does not have access to a lawyer he trusts who can represent him and advocate for his rights before the corresponding courts. In addition, the applicant alleged that the lack of trust in the Nicaraguan judicial system allegedly further aggravates the situation that places the proposed beneficiary at risk. In this sense, the applicant expressed that the judicial system is being used as an

²⁹ According to public information, “la 300” corresponds to the Jorge Navarro Penitentiary System (also known as “La Modelo”) where the security area for “highly dangerous prisoners” is called “Galería 300”. See in this regard: [What is the Model Prison that Daniel Ortega inaugurated as a prisoner 55 years ago and in which he has now imprisoned Bishop Rolando Álvarez - Infobae](#)

instrument by the ruling party to create an atmosphere of distrust and uncertainty, which makes it impossible to file complaints or request protection measures.

20. Among the claims, it was requested that the proposed beneficiary be provided with access to adequate medical care and medication necessary to treat his conditions and to ensure that his health does not deteriorate while in custody; given his advanced age and health conditions, to review the need to keep him in a maximum security cell and to transfer him to a suitable facility that takes into account his health and welfare needs; and to have access to a trusted lawyer who can effectively represent his interests.

B. Information provided by the State

21. In this matter, the IACHR requested information from the State on August 1, 2023. However, the State has not submitted information to date.

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

22. 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 ("OAS"), based on Article 41(b) of the American Convention on Human Rights ("American Convention") 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.

23. 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 precautionary.³⁰ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.³¹ 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.³² Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. These measures 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 allow the State concerned to comply with the final decision and, if necessary, to

³⁰ 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.

³¹ 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].

³² 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 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].

implement the remedies required.³³ 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 of 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.

24. 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.³⁴ 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.³⁵ This is better suited to be addressed by the Petition and Case system. The following analysis 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.³⁶

25. The Commission recalls that, 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, integrity, health and other human rights, inasmuch as prison authorities exercise a strong control or command over the persons in their custody.³⁷ 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 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.³⁸

26. 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

³³ 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.

³⁴ 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.

³⁵ 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.

³⁶ 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 gravity and urgency and the necessity to avoid irreparable damage 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].

³⁷ See in this regard: I/A Court H.R. Matter 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.

³⁸ 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.

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 ensured.³⁹

27. In the matter at hand, the Commission observes that the alleged situation of risk that the proposed beneficiary faces is part of the context which Nicaragua is experiencing which is particularly hostile against persons who play a critical role in denouncing human rights violations in the current context, and which has also intensified over time. In particular, it notes that the alleged facts are part of an environment of repression against members of the Catholic Church, already known by the IACHR, in which “the worsening of a systematic context of persecution, criminalisation, harassment, police harassment, stigmatising statements, and, in general, acts of repression (...)”⁴⁰ due to their critical role in denouncing human rights violations, has become evident.⁴¹ In this context, the Commission has granted precautionary measures to members of the Catholic Church in Nicaragua.⁴²

28. In the same way, the IACHR recalls the information gathered on the detention conditions in Nicaragua, which referred to “the serious detention conditions of persons deprived of their liberty in the different facilities of the National Penitentiary System” such as “La Modelo” where the proposed beneficiary is currently being held. The complaints alleged, among other aspects, “lack of access to health care, exacerbation of illnesses, insufficient and poor quality food, arbitrary application of isolation or punishment regimes”.⁴³ In its 2021 Annual Report, the IACHR indicated that, according to the information available, the situation of persons detained in “La Modelo” persists in terms of “overcrowded and unsanitary conditions, dispossession of belongings, mistreatment, application of maximum security regimes without objective criteria, and lack of adequate and timely medical attention.⁴⁴ Additionally, the IACHR learned that the areas of maximum security in “La Modelo” known as “La 300”, “Infiernillo” or “Chiquita” have detention conditions that are “even more precarious and inhumane”.⁴⁵ Furthermore, according to its 2022 Annual Report, in June 2022 the IACHR received information in the framework of a hearing to monitor precautionary measures granted to persons detained in La Modelo, in which serious conditions of overcrowding as well as unsanitary conditions, lack of access to health services, lack of access to timely, adequate and specialised medical care, among other aspects, were denounced.⁴⁶ Furthermore, in light of specific situations of risk, the IACHR has granted precautionary measures in specific situations in which inadequate and precarious detention conditions have been verified, as well as the lack of medical care and treatment.⁴⁷

29. In addition, the Commission deems it appropriate to make reference to the findings of the Inter-American Court, in the adoption of provisional measures in the Case of Seventeen Persons Deprived of Liberty Regarding Nicaragua in relation to the “La Modelo” prison, observing that “[...] the sanitary conditions were precarious because the inmates lacked adequate access to electricity and drainage services, and were

³⁹ I/A Court H.R. Matter of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures. Adoption of Urgent Measures. Order of the President of the Inter-American Court of Human Rights of May 21, 2019 [only in Spanish]. Considerandum 23.

⁴⁰ IACHR, [Annual Report 2022, Chapter IV.B Nicaragua](#). OEA/Ser.L/V/II/ Doc.50 rev.1. April 1, 2023. Para. 130-132;

⁴¹ IACHR, [Press Release No. 184/22](#). IACHR Condemns Repression and Arrests of Members of the Roman Catholic Church in Nicaragua. August 19, 2022.

⁴² IACHR, [Resolution 37/2018](#). Silvio José Baez Ortega and family members regarding Nicaragua. May 29, 2018 and IACHR, [Resolution 87-2021](#). Juan Abelardo Mata Guevara and relatives regarding Nicaragua. May 11, 2021; and [Resolution 19/2023](#). Rolando José Álvarez Lagos regarding Nicaragua. April 13, 2023.

⁴³ IACHR, [Press Release No. 197/2022](#). IACHR and Its SRESCER Call for Immediate Release of Political Prisoners Being Held in Appalling Conditions in Nicaragua. September 5, 2022.

⁴⁴ IACHR, [Annual Report 2021](#), Chapter IV.b Nicaragua. OEA/Ser.L/V/II/ Doc.64 rev.1. May 26, 2022. Para. 153.

⁴⁵ IACHR, [Persons Deprived of Liberty in Nicaragua](#), October 5, 2020, para. 120.

⁴⁶ IACHR, [Annual Report 2022, Chapter IV.B Nicaragua](#). OEA/Ser.L/V/II/ Doc.50 rev.1. April 1, 2023. Para. 155.

⁴⁷ IACHR, [Resolution 37/2021](#). Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021; IACHR, [Resolution 57/2022](#). José Santos Sánchez and his family unit regarding Nicaragua, October 24, 2022. IACHR, [Resolution 74/2022](#), Rodrigo José Navarrete Vanegas and his family unit regarding Nicaragua, December 19, 2022. Rolando José Álvarez Lagos regarding Nicaragua. April 13, 2023; IACHR, [Resolution 20/2023](#), D.R.Z., D.A.B.A., A.C.L. and I.C.L. regarding Nicaragua. April 13, 2023.

exposed to the presence of insects; [...] that they received food in poor condition, and that they lacked natural light for prolonged periods of time”, among others.⁴⁸ The Commission has not received any information that indicates that this situation has improved over time.

30. Taking into account the particular context Nicaragua is experiencing and the situation of confinement faced that the proposed beneficiary, the Commission will proceed to analyze the procedural requirements regarding José Leonardo Urbina Rodríguez in Nicaragua.

31. With regard to the requirement of *seriousness*, the Commission considers that it has been met. In this regard, the Commission identifies that the proposed beneficiary is currently deprived of his liberty in the Jorge Navarro “La Modelo” Penitentiary System after his arrest on July 13, 2022. Since this date, he has reportedly not had access to medical care or the necessary medicines, despite having illnesses that precede his imprisonment. Preliminarily, the Commission notes that the proposed beneficiary is a leader of the parish “parroquia del Perpetuo Socorro” and episcopal vicar of Boaco. During his homilies, he reportedly publicly called for the release of political prisoners (see *supra* para. 14).

32. The IACHR takes note of the seriousness of the alleged situation and observes that the aforementioned circumstances that Mr. Urbina Rodríguez faces reportedly stem from his participation and leadership position as a member of the Catholic Church and the role he has been playing in support of the release of the country’s so-called “political prisoners” in the country. The Commission considers that this position could have the effect of aggravating his current risk situation. The Commission also notes that, according to the applicant, during the legal proceedings against the proposed beneficiary, his private lawyer allegedly suffered acts of reprisals by State agents upon assuming his defense (see *supra* para. 15). He also referred to the speed with which criminal proceedings were carried out following his arrest, and the fact that the proposed beneficiary’s relatives did not have access to information about the case (see *supra* para. 15 and 19). In this respect, the Commission notes that, according to public information, the proposed beneficiary was sentenced to 30 years of imprisonment in 2022.⁴⁹

33. In this context, the Commission understands that, although the mechanism of precautionary measures is not called upon to refer to the proceedings that are part of the criminal proceedings initiated against the proposed beneficiary or its compatibility with the American Convention, the Commission understands that he is reportedly currently in the penitentiary system. Under these circumstances and in the context described above, the Commission expresses its concern given the alleged lack of health care to address his health problems and the lack of sufficient information on his current detention conditions. This situation has been maintained over time despite visits by the family members.

34. According to the information available, the proposed beneficiary has a series of health issues such as Type 2 diabetes mellitus, high blood pressure, and thrombosis in the feet. Given these issues, the proposed beneficiary reportedly requires several medications as part of his usual treatment. However, he is allegedly unable to access to the respective medications, and he is not permitted basic or specialized medical services (see *supra* para. 16). In this regard, the Commission observes that the respective authorities were reportedly requested to provide medical attention to the proposed beneficiary and to deliver his medication. However, this request has not been met to date and the proposed beneficiary allegedly continues to lack health care and treatment (see *supra* para. 17). This situation is all the more concerning considering that the proposed beneficiary reportedly needs his medication in order to avoid serious complications to his health.

⁴⁸ I/A Court H.R. Matter of Members of the Nicaraguan Center for Human Rights (*Centro Nicaragüense de Derechos Humanos, CENIDH*) and the Permanent Commission on Human Rights (*Comisión Permanente de Derechos Humanos, CPDH*) regarding Nicaragua. Adoption of Urgent Provisional Measures. Order of the President of the Inter-American Court of Human Rights of July 12, 2019.

⁴⁹ SWISSINFO.CH, Nicaraguan priest sentenced to 30 years in prison for abusing a minor, September 2, 2022.

35. With regard to his detention conditions, the Commission observes that Mr. Urbina Rodriguez is reportedly being held in one of the smallest maximum-security cells known as “La Chiquita,” which he shares with another prisoner. However, given the information restrictions imposed by the same prison authority, access to greater detail regarding the proposed beneficiary’s detention conditions is hindered, although the applicant describes it as “extremely difficult”. The only information provided by the proposed beneficiary through a relative was that he is reportedly not allowed to go out into the courtyard and have exposure to sunlight (see *supra* para. 18). In this context, the prison authorities also deny entry to the proposed beneficiary’s lawyer (see *supra* para. 19).

36. 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 a precautionary measure, in this case, the lack of response from the State prevents the Commission from knowing the adopted measures that are purportedly being implemented to address the situation that places the proposed beneficiary at risk and to dispute the facts alleged by the requesting party. The Commission also notes that the proposed beneficiary is in the custody of the State, which reportedly has information regarding his current situation, detention conditions and, in particular, his current health.

37. In these circumstances, the Commission considers *prima facie* that, given the facts alleged by the applicant, which were not contested by the State, and in light of the context that Nicaragua is experiencing, the rights to life, personal integrity, and health of Mr. Urbina Rodriguez are at serious risk.

38. As for the requirement of urgency, the Commission considers that it is met due to the fact that, if the situation described continues, given his condition as a prisoner, together with the lack of access to necessary, timely, and adequate care to treat his health problems and the detention conditions he faces, allow this Commission to understand the imminent possibility that the risk materializes in the current context of the country. In addition, the Commission does not have concrete and sufficient information from the State to assess the actions that are being taken to address and mitigate the alleged risk faced by the proposed beneficiary.

39. Regarding the requirement of irreparable harm, the Commission considers that it has been met, insofar as the potential impact on the rights to life, personal integrity, and health, by their very nature, constitutes the maximum situation of irreparability.

V. BENEFICIARY

40. The Commission declares José Leonardo Urbina Rodríguez, who is duly identified in these proceedings, as the beneficiary.

VI. DECISION

41. 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 José Leonardo Urbina Rodriguez;

b) take the necessary measures to ensure that the beneficiary’s detention conditions are compatible with the applicable international standards in the matter, including: i. guaranteeing access to adequate and specialized medical care, and immediately carry out a specialized medical evaluation of his health situation; ii. ensuring access to the treatments and medications required treat his health issues, iii. guaranteeing regular contact and access to his lawyers, and representation;

c) consult and agree upon the measures to be adopted with the proposed beneficiary and his representation; and

d) report on the actions undertaken in order to investigate the alleged facts that led to the adoption of this resolution, so as to prevent such events from reoccurring.

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

43. 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.

44. The Commission instructs its Executive Secretariat to notify the State of Nicaragua and the applicant of this Resolution.

45. Approved on October 9, 2023, by Margarette May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Julissa Mantilla Falcón; Carlos Bernal Pulido; and José Luis Caballero Ochoa, members of the IACHR.

Jorge H. Meza Flores
Assistant Executive Secretary