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## Human Rights Council Working Group on Arbitrary Detention

### Opinions adopted by the Working Group on Arbitrary Detention at its one hundredth session, 26–30 August 2024

#### Opinion No. 30/2024, concerning Ignacio Celso Lino, Argüello Celso Lino, Donald Andrés Bruno Arcángel and Dionisio Robins Zacarías (Nicaragua)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.
2. In accordance with its methods of work,<sup>1</sup> on 23 June 2023 the Working Group transmitted to the Government of Nicaragua a communication concerning Ignacio Celso Lino, Argüello Celso Lino, Donald Andrés Bruno Arcángel and Dionisio Robins Zacarías. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
  - (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);
  - (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);
  - (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);
  - (d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);
  - (e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability,

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<sup>1</sup> [A/HRC/36/38](#).



or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

## 1. Submissions

### (a) Communication from the source

4. Ignacio Celso Lino is a national of Nicaragua and a member of the Mayangna Indigenous People. As a territorial trustee of the Mayangna community of Suniwás (Bonanza), he is responsible for ensuring the preservation of his community's collective lands. He is also a member of a group of volunteer forest rangers who defend Mother Earth in the Mayangna Sauni As territory in the Bosawás Biosphere Reserve.

5. Argüello Celso Lino is a national of Nicaragua, a member of the Mayangna Indigenous People and a communal judge of the Mayangna community of Suniwás, being responsible for ensuring the collective security of his community. He is a member of a group of volunteer forest rangers who defend Mother Earth in the Suniwás-Saubí sector of the Mayangna Sauni As territory.

6. Donald Andrés Bruno Arcángel is a national of Nicaragua, a member of the Mayangna Indigenous People of Suniwás, and an artisanal miner of a gold vein located near Kiwakumbaih. He is a member of a group of volunteer forest rangers who defend Mother Earth in the Kahka sector (Kibusna, Pisbawas and Alal communities) of the Mayangna Sauni As territory.

7. Dionisio Robins Zacarías is a national of Nicaragua and a member of the Mayangna Indigenous People of Suniwás. Mr. Robins Zacarías has been an activist for the Constitutionalist Liberal Party, which has traditionally formed part of the opposition to the Sandinista National Liberation Front. He is a member of a group of volunteer forest rangers who defend Mother Earth in the Mayangna Sauni As territory.

### i. Context

8. According to the source, the Indigenous communities in the area are experiencing difficulties caused by the invasion of non-Indigenous settlers in the Mayangna Sauni As territory. The source adds that Indigenous lands have been invaded by criminal gangs made up of non-Indigenous people, specifically, ex-military personnel demobilized from the army and the Nicaraguan resistance of the 1980s who claim to be protected by the Sandinista National Liberation Front.

9. The source reports that threats were made against the Indigenous persons who managed the Kiwakumbaih mine in the Mayangna Sauni As territory because, in 2021, settlers had been evicted from the mine by Indigenous forest rangers originating from the territory. On 11 August 2021, the president of the Mayangna Sauni As Indigenous territorial government sent a letter to the Bonanza National Police, requesting their support at the Kiwakumbaih mine owing to "an emergency conflict situation". However, the authorities did not go there.

10. On 23 August 2021, about 37 people were working at the Kiwakumbaih mine on Pukna hill. Traditionally, the hill has been used by Indigenous communities for subsistence activities. At 3 p.m., a group of armed men surrounded the site and began to attack the community members who were there. About 22 people managed to escape and survive the attack, including several children. During the massacre, several people were killed and several women were raped, including minors.

11. According to the source, while the victims have repeatedly stated that the massacre was perpetrated by a group of non-Indigenous men, the National Police have claimed that the perpetrators were a group of Mayangna Indigenous persons. Charges were subsequently brought against 14 members of the Mayangna Indigenous People. Many of the defendants are volunteer forest rangers and Indigenous land defenders, including Messrs. Celso Lino, Mr. Bruno Arcángel and Mr. Robins Zacarías.

12. The tensions in the territory caused by the presence of settlers are constant. On 25 January 2023, the Office of the United Nations High Commissioner for Human Rights

publicly called on the Government to protect the human rights of these Indigenous communities.

ii. *Arrest and trial proceedings*

13. Five days after the Kiwakumbaih massacre, on 28 August 2021, the Celso Lino brothers were arrested at 4 p.m. by the National Police at their homes in the community of Suniwás. The source claims that the arrest was carried out without a warrant, allegedly for the illegal possession of firearms.

14. Mr. Bruno Arcángel was arrested by the National Police at 4 a.m. on 4 September 2021 at his home in the community of Kibusna. According to the source, the arrest was carried out without a warrant. Police searched the house without finding anything unusual.

15. Mr. Robins Zacarías was arrested at 3 p.m. on 3 December 2021 when he was withdrawing his children's maintenance allowance from the office of the Nicaraguan Social Security Institute in Bonanza. The police also failed to produce a warrant at the time of his arrest.

16. According to the source, the National Police identified the four Indigenous persons, along with 10 others, as the perpetrators of the Kiwakumbaih massacre. This contradicted the testimonies of more than 20 surviving witnesses of the massacre, who stated that the perpetrators were heavily armed, non-Indigenous men in military clothing who spoke Spanish.

17. Of the 14 Indigenous persons identified by the National Police as perpetrators, only four have been captured: Mr. Robins Zacarías, Mr. Bruno Arcángel and Messrs. Celso Lino.

18. According to the source, the three persons who were initially arrested – Mr. Bruno Arcángel (arrested on 4 September 2021) and Messrs. Celso Lino (arrested on 28 August 2021) – were presented to the media on 8 September 2021 as the perpetrators of the Kiwakumbaih massacre, without having been tried and in violation of the constitutional guarantee of the presumption of innocence.<sup>2</sup> The news was widely disseminated.

19. According to the source, after Messrs. Celso Lino and Mr. Bruno Arcángel had been arrested, they were held incommunicado for several months, without access to trusted lawyers, at the third district police station of the National Police in Managua. During the first two hearings, they were assigned court-appointed lawyers.

20. On 16 September 2021, not knowing where and in what state the detained persons were being held, the families of Messrs. Celso Lino and Mr. Bruno Arcángel filed applications for habeas corpus but the judicial system did not grant them.

21. On 9 September 2021, a special hearing for the protection of constitutional guarantees was held and Messrs. Celso Lino and Mr. Bruno Arcángel were imprisoned for 90 days so that more thorough investigations could be carried out. This procedure is based on Act No. 1060, which provides that the 48-hour detention period established in the Constitution may be extended to between 15 and 90 days so that formal charges may be brought. According to the source, this law violates the presumption of innocence and the right to be informed without delay of the charges brought against defendants.

22. On 13 September 2021, the initial hearing was held and the evidence put forward by the Public Prosecution Service was reviewed. The source claims that State agents arbitrarily proceeded to question and beat them during the investigation stage of the proceedings.

23. On 8 December 2021, following the arrest of Mr. Robins Zacarías on 3 December 2021, the four were transferred to the Jorge Navarro prison complex in Tipitapa, near Managua. Only then were the detained persons able to call their families, using another inmate's mobile phone, to tell them how and where they were.

24. On 13 December 2021, the Public Prosecution Service brought the four individuals before the Fifth District Criminal Court of Managua and charged them with the alleged offences of making threats with weapons and aggravated murder, concurrent with the offence

<sup>2</sup> See <https://www.youtube.com/watch?v=bZnBpFzBbaI>.

of ordinary abduction, on the basis of Act No. 952. The detained persons were thereby removed from their lawful court; since the acts took place under the territorial jurisdiction of Bonanza, the competent judge to hear the case was the district judge of Siuna.

25. The source states that the four individuals were tried without an interpreter, despite the fact that their mother tongue is not Spanish. It also notes that at the trial hearing on 18 February 2022, the Public Prosecution Service put forward a number of experts but did not put forward any witnesses. However, all the defence witnesses were consistent in stating that the defendants were not the perpetrators of the massacre.

26. The source reports that the Seventh District Criminal Court of Managua, basing its decision solely on the testimony of the police, found the four Indigenous persons guilty in a trial hearing held on 18 February and issued a judgment to that effect on 10 March 2022. On 28 July 2022, the First Chamber of the Managua Court of Appeal upheld the ruling, dismissing the appeals filed on behalf of the four convicted persons. In October 2022, special appeals for judicial review were filed.

27. The Seventh Criminal Court of the judicial district of Managua sentenced the detained persons to life imprisonment with the possibility of review for the offence of aggravated murder of nine persons during the Kiwakumbaih massacre (some of the victims were the in-laws of the detained persons). They were also sentenced to 4 years' imprisonment for the offence of the ordinary abduction of a woman and an Indigenous girl.

28. According to the source, the sentence was handed down by the judge of the Seventh Criminal Court of the judicial district of Managua, who has been sanctioned by the European Parliament and the United States of America for his lack of judicial independence. The source adds that First Criminal Chamber of the Managua Court of Appeal, which upheld the first instance judgment on 28 July 2022, has also been sanctioned by the European Parliament for its lack of judicial independence.

29. After the Court of Appeal had upheld the conviction, special appeals for judicial review were filed on behalf of the four Indigenous persons in October 2022. On 13 January 2023, a hearing before the Supreme Court of Justice of Nicaragua was requested but a decision on the request has not yet been issued.

30. The source claims that, on the day of the massacre, Messrs. Celso Lino, in their capacity as Indigenous communal authorities, were coming from Managua along with other community members after meeting with representatives of the Government and the Sandinista National Liberation Front, to whom they had explained what the Indigenous communities of the area were experiencing as a result of the invasion of non-Indigenous settlers in the Mayangna Sauni As territory. The source adds that witnesses testified during the trial hearing that the Celso Lino brothers were far from Kiwakumbaih at the time and date of the massacre. It also states that Mr. Bruno Arcángel, who was working on a gold vein near the site, fled like the rest of the survivors of the massacre.

31. In the meeting with representatives of the Government and the Sandinista National Liberation Front, Messrs. Celso Lino did not reach any agreement regarding the invasion of settlers in the Mayangna Sauni As territory. The source adds that the failure to achieve consent at the meeting could have led to their being unfairly blamed for the Kiwakumbaih massacre.

32. According to the source, during the trial hearings, public access to the trial was restricted to the media and the detained persons' relatives, in violation of the constitutional guarantee of public criminal proceedings.

33. The source points out that the witnesses who were interviewed were coerced by police officers into blaming the Indigenous persons. Furthermore, during the trial, the defendants were not tried on an individual basis and individual consideration was not given to the evidence for each of the acts with which they were charged.

34. The source reports that the family members have very few financial resources, making it costly and difficult for them to visit the detained persons and to bring them food and medication. The family members, who come from Bonanza, must travel to the Jorge Navarro prison complex in Tipitapa, near Managua (about 500 km away). When family members

manage to reach the prison, the prison authorities do not always allow them to visit the detained persons or deliver food to them.

35. The source states that the parents of some of the detained persons are older persons and that the women who visit them have limited knowledge of Spanish. In the Suniwás community, where most of the family members live, there is no access to mobile phones, so they must travel to a hill or to the municipal capital of the town of Bonanza to be able to communicate by phone.

36. According to the source, the detained persons have never been allowed conjugal visits. They receive visits from family members during the last week of each month rather than every two weeks, as they were allowed to do before August 2022. The source adds that, since December 2022, family members have been allowed to speak with the detained persons for only five to ten minutes, at a distance of several metres and through a glass window, using mobile phones provided by prison guards. Before December 2022, family members could talk to the detained persons for up to one hour and could also hug and touch them.

37. With regard to food, the four individuals have not been allowed to cook in the prison since August 2022. Since that date, they have not been allowed to receive rice or beans from their family members and may now receive only oatmeal and biscuits. The food in the prison is scarce, raw and not well cooked and the water that they drink is dirty, which affects the detained persons' health.

38. The source claims that Messrs. Celso Lino and Mr. Bruno Arcángel asked for the prison food to be improved. As a consequence, in April 2023, the guards poured buckets of very cold water on them every morning while they were still asleep. The source also states that they were left lying there, wet and immobilized hand and foot. This has caused the detained persons to suffer from colds and infections (mainly in the sores caused by their shackles and chains).

39. The source argues that the detained persons have been subjected to ill-treatment and torture. From the outset, the prison authorities have continually questioned them. From August 2022 onwards, the Indigenous persons were separated and placed in three-person cells with two other unknown persons (ordinary convicts). The ordinary convicts mistreated them, mainly when they spoke in the Mayangna language. In addition, they were beaten and threatened with razor blades or makeshift metal knives and told that they would rot there in jail. After 10 p.m., the detained persons are not allowed to speak; if they do, the guards pour cold water on them.

40. The source adds that, since December 2022, they have been held in punishment cells and family members have seen them chained hand and foot. Because they are chained hand and foot 24 hours per day, it is difficult for them to eat, relieve themselves, sleep or bathe. When they go out into the light, they cannot see and their eyes and head hurt.

41. The source claims that the four Indigenous persons are subjected to two forms of sexual torture. Firstly, acts perpetrated by the other inmates (ordinary convicts), who sexually penetrate them while threatening them with bladed weapons. Secondly, acts perpetrated by prison guards using objects such as the ends of weapons or batons.

42. According to the source, the family members have brought these abuses to the attention of the lawyers handling their cases so that the lawyers can file a complaint with the judge and visit them in the prison complex. But the lawyers have said that they fear being subjected to reprisals if they complain to the authorities, who do not allow them to visit the prison system, which is why they have never visited the detained persons in the prison.

43. The source argues that the fundamental rights of the detained persons have been violated as they have been denied healthcare despite the fact that they suffer from serious illnesses. Mr. Bruno Arcángel has been denied healthcare despite the fact that he suffers from heart disease. Mr. Argüello Celso Lino has not received assistance, although his stomach is swollen and he complains of being in pain. Mr. Argüello Celso Lino has severe gallbladder disease. The prison authorities sometimes put them in an ambulance and take them to the city, where they are left in the ambulance all day, becoming dehydrated, without being given any water or being taken to their medical appointment. They are then taken back to the prison at the end of the day. The prison system also does not allow family members to bring them

medication. The source adds that a surgical procedure had been scheduled but was not permitted to take place.

44. The source states that Mr. Robins Zacarías looks swollen and pale and suffers from high blood pressure and cataracts, aggravated by the lack of light in the isolation cell. He also suffers from a kidney infection and has not been examined or assessed by a doctor. Mr. Robins Zacarías was the Chair of the Moravian Church Committee of the Saubí community. His family members tried to bring him a Bible but the system did not allow them to do so.

45. Mr. Ignacio Celso Lino has a hernia and claims to suffer from severe stomach pains caused by untreated gastritis. He has asked the prison authorities for help but has not received any medical assistance.

46. The source states that allowing detained persons to suffer from ailments without attending to them properly may also constitute torture or, at least, ill-treatment. If they do not receive adequate assistance, their health could be severely damaged, which, coupled with the poor prison conditions, would place them at imminent and serious risk of harm. This harm could result in their deaths and would therefore be irreparable.

47. The source adds that the Indigenous leaders are allowed only one conjugal visit per month instead of the fortnightly visits that other prisoners receive. In addition, they continue to sleep on concrete slabs without mattresses or sheets. They continue to be left in only their underwear or without any clothing at all, subjected to physical and sexual punishments, and held in insolation in maximum security cells that the prisoners call “El Infiernillo”, which are infested with mosquitoes, have no ventilation and are totally dark.

48. The source reports that, on 13 April 2023, the Inter-American Commission on Human Rights granted precautionary measures in favour of the four Indigenous persons but the Government did not implement them. On 22 June 2023, the Inter-American Commission on Human Rights requested the Inter-American Court of Human Rights to issue provisional measures. On 27 June 2023, the Inter-American Court of Human Rights ordered Nicaragua to adopt the necessary measures to protect the life, physical integrity, health and personal liberty of the four Indigenous persons and granted Nicaragua until 10 July 2023 to release them.

### *iii. Legal analysis*

49. The source states that the detentions of the four Indigenous persons are arbitrary and fall within categories I, II, III and V of the Working Group.

#### *a. Category I*

50. The source states that the arrests were carried out without warrants. It also states that it is not a case of flagrante delicto because there is no evidence against the Indigenous persons and because the survivors of the massacre testified that the attackers were non-Indigenous men who were heavily armed with military weapons and unknown to the members of the Indigenous community. In addition, the witnesses state that Mr. Bruno Arcángel was a victim of the attack and that the other three detained persons were far away from the scene.

#### *b. Category II*

51. The source states that the four detained persons are members of an Indigenous People that constitutes an ethnic, religious and linguistic minority in Nicaragua, and that they are discriminated against for reasons of race, colour, language, religion, political opinion, national or social origin, property, birth or other status. The source states that this discrimination has restricted their access to a simple legal remedy, to equal protection under the law and to be heard by a competent, independent and impartial tribunal. They have also been discriminated against in respect of their right not to be subjected to arbitrary arrest or detention, and the right of their people to be protected against persecution, forced displacement and genocide. In addition, their right to participate in government and in the defence of their communities' lands and their right to self-determination and to define

development on their own terms on the basis of their world view as Mayangna Indigenous People have been violated.

52. The source states that the Celso Lino family has a long history of community leadership in Suniwás and in the defence of the Mayangna Sauni As territory. They have played a leading role in confronting settlers who invaded the land and usurp their communal natural resources.

53. The source adds that Mr. Ignacio Celso Lino, in his capacity as community trustee, continued to defend everything that was within his power to defend, with the support of the community members. After he was arrested, his property was invaded by non-Indigenous settlers.

54. According to the source, the community members believe that Mr. Ignacio Celso Lino has been deprived of his liberty for exercising his fundamental rights and freedoms as a community trustee, while defending the collective rights to land and the Indigenous territories titled by the State for the benefit of the Indigenous communities. His actions opposed an illegal policy of internal colonization imposed by the State, which has resulted in the usurpation of the lands of the Indigenous Peoples and the people of African descent of the Caribbean Coast of Nicaragua. Indigenous communities have been attacked for almost a decade by non-Indigenous settlers who have gone unpunished. For this reason, the members of the community believe that the State is making an example of the convicted Indigenous persons so that other members of the Indigenous communities refrain from defending their traditional and ancestral lands and territories.

55. The source adds that Mr. Argüello Celso Lino has been deprived of his liberty for fulfilling his role as communal judge, in exercise of his fundamental rights and freedoms, in order to defend the collective rights to land and Indigenous territories titled by the State for the benefit of his community.

56. According to the source, Mr. Robins Zacarías may have been deprived of his liberty because he had served for a long time as a volunteer forest ranger and an activist for the Constitutionalist Liberal Party, which forms part of the opposition to the Sandinista National Liberation Front.

57. As for Mr. Bruno Arcángel, the fact that his gold vein was taken by the settlers after his arrest raises suspicions that this may be one of the reasons for his illegal conviction.

58. The source states that, if the Indigenous authorities and leaders had been the perpetrators of the attacks, the deprivation of their liberty should have brought the attacks on the Indigenous communities to an end. However, the attacks have not stopped.

c. Category III

59. The source claims that the lack of an impartial, professional and independent judicial system has violated the four Indigenous persons' right to due process and fundamental safeguards and their imprisonment has involved incommunicado detention, isolation and ill-treatment.

d. Category V

60. The source claims that the outcomes of the criminal proceedings transcend the parties directly involved and affect all members of the Mayangna Sauni As territory, as the criminalization of the Indigenous leaders and defenders of their lands and territory, and the severe penalties handed down to them, are reprisals for having carried out this defence.

61. The Indigenous origins of the detained persons are a key element in the discrimination to which they were subjected in depriving them of their liberty, on the basis of their ethnic or social origin, language, religion and property, since their defence of their lands and other natural resources is driven by the spiritual, cultural and economic dependence of the Indigenous communities on their lands and territories.

**(b) Response from the Government**

62. On 23 June 2023, the Working Group transmitted the allegations from the source to the Government under its regular communication procedure. The Working Group requested the Government to provide, by 22 August 2023, detailed information on the situation of the four individuals, clarifying the legal and factual grounds for their detentions and explaining how they are compatible with the obligations of Nicaragua under international human rights law and, in particular, the treaties ratified by the State.

63. The Working Group regrets that the Government has not submitted a response or requested an extension in accordance with paragraph 16 of the Working Group's methods of work.

**2. Discussion**

64. In the absence of a response from the Government, the Working Group has decided to render the present opinion, in conformity with paragraph 15 of its methods of work.

65. In determining whether the detentions of Messrs. Celso Lino, Mr. Bruno Arcángel and Mr. Robins Zacarías are arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has presented a prima facie case for breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.<sup>3</sup> Mere assertions that lawful national procedures have been followed are not sufficient to rebut the source's allegations.

**a. Category I**

66. The source claims that the detention of the four individuals is arbitrary because it lacks a legal basis under category I.

67. The Working Group recalls that the rule of law is a principle of governance that requires measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.<sup>4</sup> States parties must conform to this standard, since the rule of law is the cornerstone of due process, which is essential for the protection of human rights. The violation of these principles is reflected in the different categories of arbitrary detention identified by the Working Group.

68. The Working Group has considered the context in which the detentions under consideration took place, that is, the massacre that occurred in the Mayangna Suani As territory, an ancestral Indigenous territory that – according to the source – has been invaded by criminal gangs made up of non-Indigenous people, specifically, former demobilized members of the army and the Nicaraguan resistance of the 1980s who claim to be under the protection of the Sandinista National Liberation Front. Between 9 and 16 people were killed in the massacre, almost all of whom were Indigenous members of the Miskitu and Mayangna communities who worked as artisanal miners.

69. The source adds that the existing tensions are constant. The situation escalated to the point where, on 25 January 2023, the Office of the United Nations High Commissioner for Human Rights issued a new call for Nicaragua to protect the human rights of these Indigenous communities.

70. The source states that the defendants are Indigenous persons who have lived within their communities, working as subsistence farmers, and that they hold positions of authority and respect in the community as judges, trustees and protectors and defenders of their ancestral territory.

71. The Working Group notes the source's claim that the arrests were carried out by the police in an abusive manner and that all the authorities persist in treating the four human

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<sup>3</sup> [A/HRC/19/57](#), para. 68.

<sup>4</sup> [S/2004/616](#), para. 6.



rights defenders as murder suspects despite the fact that 20 surviving witnesses of the massacre have stated that the perpetrators were not Indigenous.

72. In view of the lack of information provided by the Government, the Working Group concludes that the four human rights defenders were detained without any legal basis, in violation of article 9 of the Covenant, in the circumstances set out below.

73. The source states that, five days after the Kiwakumbaih massacre, on 28 August 2021, Messrs. Celso Lino were arrested at 4 p.m. by the National Police at their homes in the community of Suniwás. Mr. Bruno Arcángel was arrested by the National Police at 4 a.m. on 4 September 2021 at his home in the community of Kibusna. The arrests were carried out without warrants. Mr. Robins Zacarías was arrested at 3 p.m. on 3 December 2021 when he was withdrawing his children's maintenance allowance from the office of the Nicaraguan Social Security Institute in Bonanza. The police also failed to produce a warrant at the time of his arrest.

74. The Working Group notes that no arrest warrant was produced in any of the four arrests described above. Furthermore, the arrested persons were not informed of the reason for the arrest or of their right to have recourse to a lawyer or an interpreter, since their mother tongue is not Spanish. On the contrary, the arrests were forcibly carried out while the detained persons were at home or, in one case, at his children's school. In addition, the homes of the detained persons were searched without warrants and no evidence was found.

75. The Working Group is alarmed to note that these arrests cannot be considered to have been made in flagrante delicto since 20 people have specifically stated that the aggressors were not Indigenous, wore military uniforms and spoke Spanish.

76. The Working Group recalls that, under international law, the authorities must invoke the legal basis for an arrest and apply it to the circumstances of the case, from which it follows that the accused person is entitled to be presented with an arrest warrant or court order (or equivalent document)<sup>5</sup> in order to ensure the exercise of effective oversight by a competent, independent and impartial judicial authority, which is procedurally inherent in the right to liberty and security and the prohibition of arbitrary deprivation under articles 3 and 9 of the Universal Declaration of Human Rights, article 9 (1) of the Covenant and principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.<sup>6</sup>

77. The Working Group considers that, in order to invoke a legal basis for deprivation of liberty, the authorities should have informed the detained persons of the reasons for their arrest at the time of their arrest. In failing to do so, they violated article 9 of the Universal Declaration of Human Rights, as well as principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, rendering the arrests devoid of any legal basis.

78. The Working Group is seriously concerned to note that the four Indigenous persons were held in pretrial detention, and recalls that deprivation of liberty is not only a question of legal definition, but also of fact, and must be justified as reasonable, necessary and proportionate in the light of the circumstances and reassessed as it extends in time.<sup>7</sup> It must not be punitive in nature and must be based on an individual evaluation of each case. Furthermore, article 9 (3) of the Covenant requires that the justification for pretrial detention must be analysed in a reasoned judicial decision in every case. This was not done in the case of the four Indigenous persons, who were arrested, held incommunicado, hindered and delayed at all stages of the proceedings, and denied alternative measures to detention and access to a trusted lawyer.

79. The Working Group recalls that, in accordance with article 9 (3) of the Covenant, pretrial detention should be the exception rather than the rule and should be ordered for the

<sup>5</sup> Opinion No. 88/2017, para. 27. In cases of arrests made in flagrante delicto, it is not generally possible to obtain a warrant.

<sup>6</sup> Opinion No. 3/2018, para. 43; and Human Rights Committee, general comment No. 35 (2014), para. 33.

<sup>7</sup> Human Rights Committee, general comment No. 35 (2014), para. 18.

shortest possible time. Pretrial detention must be based strictly on an individualized determination that it is reasonable and necessary for such purposes as to prevent flight, tampering with evidence or the recurrence of the offence. The Working Group has not received any plausible explanation for the application of this measure and notes that the source has attached documentation proving non-compliance with these standards.

80. The Working Group stresses that legal safeguards against arbitrary deprivation of liberty, as set out in article 9 of the Universal Declaration of Human Rights and the Covenant, require that anyone arrested or detained on a criminal charge be brought promptly before a judge so that a decision on his or her situation may be taken. As the Working Group has reiterated in its jurisprudence, 48 hours is ordinarily sufficient to meet such a requirement, and any additional delay must remain absolutely exceptional and be justified in the circumstances.<sup>8</sup>

81. The Working Group finds that the four Indigenous persons were not brought promptly before a judicial authority, in violation of article 9 of the Universal Declaration of Human Rights and article 9 of the Covenant.

82. Having examined all the documentation, the Working Group concludes that the detention of the four Indigenous persons is arbitrary because it lacks a legal basis and falls within category I.

b. Category II

83. The source alleges that the detention of the four Indigenous persons is arbitrary under category II as it results from the exercise of fundamental rights or freedoms, including the rights to equality before the law, freedom of movement, freedom of expression, freedom of assembly and association and freedom to participate in public affairs, all of which are guaranteed by the Universal Declaration of Human Rights and the Covenant.

84. The detained persons are members of an Indigenous People that constitutes an ethnic, religious and linguistic minority. The source states that the detained persons have dedicated their lives to defending their territory, although they do not receive equal protection before the law and their people are not protected against persecution, forced displacement or genocide. Furthermore, they have not been guaranteed the rights to participate in government, to defend their communities' lands, to self-determination or to define development on their own terms on the basis of their world view as Mayangna Indigenous People.

85. In the absence of any contradictory information, the Working Group is persuaded by the source's claims that the real reasons for the detention of the four Indigenous persons are linked to the Government's efforts to curtail the freedom to promote, protect and exercise the right to participate in public affairs.

86. This situation prompts the Working Group to reaffirm that the work of human rights defenders is fundamental to the strengthening of democracy. The obstacles and restrictions faced by environmental human rights defenders have been of particular interest to the Working Group<sup>9</sup> and the Human Rights Council. The latter has adopted a resolution recognizing the importance of environmental human rights defenders and their protection, expressing grave concern about their situation around the world, strongly condemning all violations or abuses against environmental human rights defenders by State and non-State actors, and stressing that such acts may violate international law and undermine sustainable development at the local, national, regional and international levels.<sup>10</sup>

87. The Working Group notes that the Celso Lino family has a long history of community leadership in Suniwás and in the defence of the Mayangna Sauni As territory. They have played a leading role in confronting settlers who invade the land and usurp its communal natural resources.

<sup>8</sup> See opinion No. 66/2020; and Human Rights Committee, general comment No. 35 (2014), para. 33.

<sup>9</sup> See Opinion No. 3/2020.

<sup>10</sup> See Human Rights Council resolution 40/11.

88. The Working Group notes that Messrs. Celso Lino have been deprived of their liberty for exercising their fundamental rights and freedoms as a communal trustee and a communal judge, in defence of the collective rights to land and Indigenous territories titled by the State for the benefit of their communities. Mr. Robins Zacarías has been deprived of his liberty because he had served for a long time as a volunteer forest ranger and a member of the Constitutionalist Liberal Party, which forms part of the opposition to the Sandinista National Liberation Front.

89. The Working Group is persuaded that Indigenous Peoples who are defending their territory are being persecuted and intimidated. In the present case, both the Inter-American Court of Human Rights and the Office of the United Nations High Commissioner for Human Rights have issued warnings about this situation. The Indigenous persons have repelled the settlers by exercising community resistance, which they did by voicing their complaints and objections, mobilizing in defence of the territory in question and sharing information about the situation through various media outlets. These activities were carried out peacefully and were therefore protected under international human rights law.<sup>11</sup> These rights – to freedom of expression, peaceful assembly and association – were restricted for the detained persons, resulting in their arrest and prosecution.

90. The Working Group does not consider that an analysis was conducted to determine whether the grounds on which articles 19 (3), 21 and 22 (2) of the Covenant allow for the restriction of these rights, namely, to ensure respect for the rights or reputations of others or to protect national security, public order, or public health or morals, actually applied. Moreover, it should be recalled that a heightened standard of protection and detention review applies in cases where freedom of expression and opinion appear to have been restricted, particularly when such detentions involve human rights defenders.<sup>12</sup>

91. The source claims that the right to seek, receive and impart information and ideas of all kinds has been violated, insofar as, since 2015, the authorities have officially and repeatedly refused access to information on the granting of the mining concession, the environmental license and the municipal operating permits issued to the mining company.

92. The source points out that the aforementioned detentions violate article 25 of the Covenant as they result solely from the exercise of activities to defend the detained persons' right to live in their ancestral territories and their opposition to the Government's decision to grant these lands, which constitute a protected area, to settlers and outsiders for the purposes of mining.

93. The Working Group notes that environmental defenders are entitled to the rights and protections set out in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, including the rights to freedom of expression, assembly and association, and the right to an effective remedy.

94. According to the United Nations Declaration on the Rights of Indigenous Peoples, Indigenous Peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions. This view is strengthened by the opinion of the Human Rights Council that environmental defenders have the right to be protected in their work. In addition, the Council has called on States to promote a safe and enabling environment in which individuals, groups and organs of society, including those working on human rights and environmental issues, including biodiversity, can operate free from threats, hindrance and insecurity.<sup>13</sup>

95. In the absence of information provided by the Government, the Working Group considers that the source has demonstrated that the four human rights defenders were detained for exercising their rights enshrined in the Declaration on Human Rights Defenders,

<sup>11</sup> Human Rights Committee, general comment No. 37 (2020).

<sup>12</sup> Opinions No. 88/2017; and No. 41/2017, para. 95.

<sup>13</sup> See Human Rights Council resolution 40/11.

and for promoting democratic participation and combating violations of the environmental rights of their community.

96. The Working Group has determined that the detention of persons for their activities as human rights defenders is a violation of their rights to equality before the law and equal protection of the law, their rights to freedom of opinion, expression and association, and their right to participate in political affairs recognized in both the Universal Declaration of Human Rights and the Covenant. These are long-standing fundamental principles in the area of the protection of human rights and their violation renders the detention of the four human rights defenders arbitrary under category II.

97. In view of the gravity of the case, the Working Group will refer it to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the human right to a clean, healthy and sustainable environment and the Special Rapporteur on the rights of Indigenous Peoples.

c. Category III

98. In the light of its findings under category II, namely, that the detention results from the exercise of the rights to freedom of opinion, expression, association and political participation, the Working Group considers that there are no grounds for a trial. However, since a trial has taken place, and in view of the claims made by the source, the Working Group will proceed to analyse whether, in the course of this trial, the fundamental components of a fair, independent and impartial trial were respected.

99. The source reports that, once detained, the four Indigenous persons disappeared and remained incommunicado for several months, without access to trusted lawyers. On 16 September 2021, not knowing where and in what state the detained persons were being held, the families of Messrs. Celso Lino and Mr. Bruno Arcángel filed applications for habeas corpus, which were denied.

100. The source reports that, following the arrest of Mr. Robins Zacarías on 3 December 2021, the police transferred the four defendants to the Jorge Navarro prison complex in Tipitapa, near Managua. Only then were the detained persons able to call their families, using another inmate's mobile phone, to tell them how and where they were.

101. During the disappearance and incommunicado detention, the detained persons were tortured, according to the source. In addition to being continually questioned, they were placed in ordinary cells with other dangerous prisoners whom they did not know. The other prisoners abused them by beating them and threatening them with razor blades. After 10 p.m., they could not talk because the guards would pour ice water on them.

102. Since December 2022, they have been held in punishment cells and their relatives saw that they were chained hand and foot 24 hours per day, making it difficult for them to eat, relieve themselves, sleep or bathe. They were then held in solitary confinement and in total darkness all day and night. In addition, according to the source, the detained persons were subjected to sexual torture by other inmates and by prison guards.

103. This situation has contributed to the physical and psychological deterioration of the detained persons and is beginning to have serious and irreparable consequences for their health, endangering their lives. The aim of the authorities is to break their resistance and to make an example of them for other members of their communities so that they do not continue to defend their lands. This situation is also directly linked to the context of violence caused by the internal colonization of the lands of the Indigenous Peoples of the Caribbean Coast.

104. The abuse and torture described have been reported to their lawyers, who are afraid to file a complaint for fear of being subjected to reprisals. In total disregard for the law, the lawyers are not permitted to visit their clients. The source argues that the most fundamental rights of the detained persons have been violated as they have been denied medical care despite the fact that they suffer from serious illnesses.

105. The Working Group is persuaded that the State has violated article 9 (3) and (4) of the Covenant and the right to an effective remedy provided for in article 2 (3) of the Covenant and articles 6 and 8 of the Universal Declaration of Human Rights.<sup>14</sup> It reiterates its concern that holding persons in an unknown location is *prima facie* considered to be enforced disappearance, and holding them incommunicado violates their right to challenge the lawfulness of their detention before a court, as enforced disappearance constitutes a particularly aggravated form of arbitrary detention. In the present case, the complainants were disappeared for several months; consequently, the Working Group refers the case to the Working Group on Enforced or Involuntary Disappearances.

106. The detained persons have been continually subjected to torture, prompting the Inter-American Court of Human Rights to issue provisional measures in their favour. However, as the acts of torture continue to be carried out, the Working Group is alarmed to receive reports from the source indicating that these Indigenous authorities and leaders are currently still not allowed to receive conjugal visits and that they receive visits from their family members only once a month (unlike other prisoners, who receive visits every two weeks). They also continue to be poorly fed and the water that they drink continues to be dirty; they continue to suffer from chronic illnesses without receiving any healthcare or medication. In addition, they continue to sleep on cement slabs without mattresses or sheets; they continue to be left in only their underwear or without any clothing at all, subjected to physical and sexual punishments, and kept in insolation in maximum security cells that the prisoners call “El Infiernillo”, which are infested with mosquitoes, have no ventilation and are totally dark.

107. The acts of torture to which the four detained persons were subjected, which were not investigated by the authorities, as demonstrated by the source, violate the absolute prohibition of torture as a peremptory norm of international law, article 5 of the Universal Declaration of Human Rights, article 7 of the Covenant and articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The situation described is so serious that the Working Group has decided to refer the case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

108. The Working Group recalls that the denial of medical care can constitute a form of torture and cruel and inhuman treatment.<sup>15</sup> Noting the gravity of the allegations, the Working Group considers that the violations relating to the conditions of detention of the four Indigenous persons and the lack of medical care significantly undermined their ability to properly defend themselves. The Working Group has consistently concluded that torture or other forms of ill-treatment or punishment that make it impossible for a person to prepare a proper defence for a trial constitute a violation of his or her right to a fair trial.<sup>16</sup>

109. The Working Group notes that everyone has the right not to be arbitrarily deprived of his or her liberty and to be presumed innocent until proven guilty. The right of the accused to be presumed innocent is one of the cornerstones of the right to a fair trial. The presumption of innocence is enshrined in article 14 (2) of the Covenant. The presumption of innocence means that a person accused of a criminal offence should be treated and considered as if he or she has not committed an offence until convicted by a final judgment issued by an independent and impartial court.<sup>17</sup>

110. In the case of the four defenders, the police recorded a video (see para. 18) and broadcast it to the whole country, presenting the defenders as the perpetrators of the massacre committed. Subsequently, according to the source, the police and other authorities gave extensive statements to the press on the matter.

111. The four defendants were therefore put on display as convicted criminals, in violation of article 11 (1) of the Universal Declaration of Human Rights and article 14 (2) of the Covenant, which recognize the right to the presumption of innocence.<sup>18</sup>

<sup>14</sup> Opinions No. 82/2018, para. 28; and No. 18/2019, para. 33.

<sup>15</sup> [A/HRC/38/36](#), para. 18, and opinion No. 20/2022, para. 104.

<sup>16</sup> Opinion No. 65/2022, para. 117.

<sup>17</sup> Human Rights Committee, general comment No. 32 (2007).

<sup>18</sup> *Ibid.*, para. 30.

112. The Working Group recalls that, according to general comment No. 32 (2007) of the Human Rights Committee, the right to equality before the courts and tribunals and to a fair trial is a key element of human rights protection and serves as a procedural means to safeguard the rule of law. Furthermore, the aim of article 14 of the Covenant is to ensure the proper administration of justice, guaranteeing a series of specific rights, which, in the case of the four Indigenous persons, have been violated.

113. The Working Group stresses that one of the fundamental guarantees of due process is the principle of legality. Charges that do not correspond to the facts fail to meet the requirement of legal certainty and enable guilt by analogy, as has clearly occurred in the present case.

114. One of the various procedural flaws that has been identified is that the indictment hearing was convened without the defendants being able to speak with their lawyers or families or being able to prepare a defence against the charges. Furthermore, 20 witnesses who claimed that the defendants were not the perpetrators were ignored and the offence with which they were charged was not established. The detained persons were not provided with an interpreter, in violation of article 14 (3) of the Covenant.

115. The trial proceedings were repeatedly suspended because of the coronavirus disease (COVID-19) pandemic. The Working Group is alarmed to note the source's claim about the court's lack of territorial jurisdiction in the present case. The Working Group is aware that it was the Managua judicial district that heard the charges against the four Indigenous persons and that this is neither where they live nor where the offence was allegedly committed. Therefore, the court that convicted them does not have jurisdiction or competence.

116. The four Indigenous persons should be under the jurisdiction and competence of the Bonanza district judge, as Bonanza is the jurisdiction to which the Indigenous territory where the events allegedly occurred belongs.

117. In its jurisprudence, the Working Group has repeatedly stated that, where national law expressly assigns competence to the court of the jurisdiction where an offence was allegedly committed, it is a violation of the right to be tried by the competent or duly appointed judge for a person accused of an offence committed in one jurisdiction to be tried by a court in another jurisdiction.<sup>19</sup>

118. In the light of the foregoing, and in the absence of information provided by the Government, the Working Group considers that the court that heard the case of the four Indigenous persons was not competent to do so, which violated their right to be tried by the duly appointed judge, in contravention of article 14 (1) of the Covenant.

119. The Working Group notes the ineffectiveness of the appeals filed by the four defendants to request a review of the custodial measure against them and to request medical examinations and medication.

120. The Working group notes, moreover, that in order to ensure that detained persons are able to effectively exercise their right to challenge the legality of their detention, they should have access, immediately after their arrest, to legal assistance of their own choosing, and such access must be provided without delay.<sup>20</sup> In addition, legal consultation and all communications with lawyers must remain confidential. The Working Group is alarmed to note that the lawyers have not been able to meet with their clients, as this is prohibited in the place where they are being held.

121. This situation alarms the Working Group, which considers that the months during which the four Indigenous persons were without legal assistance prevented them from having a fair trial in conformity with the principle of equality of arms and from enjoying their right to have adequate and sufficient time and facilities to prepare a defence, in violation of articles 10 and 11 (1) of the Universal Declaration of Human Rights and article 14 (3) (b) of the Covenant.

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<sup>19</sup> Opinion No. 58/2021, para. 85.

<sup>20</sup> A/HRC/30/37, annex, paras. 12–15.

122. In the light of the foregoing, the Working Group is persuaded that the authorities failed to comply with international standards relating to the right to a fair, independent and impartial trial. Accordingly, the Working Group declares the detention of the four Indigenous persons to be arbitrary under category III.

d. Category V

123. The source states that the four persons were detained because of their activities as defenders of the human rights and environmental rights of their people and ancestral territories, and because of their status as Indigenous persons and their unfavourable political view of the Government, which does not comply with its obligation to protect these territories.

124. The Working Group recalls that detention is arbitrary under category V when it constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, sex, orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings.

125. Furthermore, the Working Group notes that one of the factors that suggest that there is a discriminatory aspect to a deprivation of liberty is whether it is part of a pattern of persecution against the detained persons that includes, for example, previous arrests or acts of violence or threats.<sup>21</sup>

126. As established in the discussion concerning category II, the detention of the four defenders resulted from their exercise of their fundamental rights under international law. When a deprivation of liberty has resulted from the active exercise of civil and political rights, there is a strong presumption that the deprivation of liberty also constitutes a violation of international law on the grounds of discrimination.<sup>22</sup> In this context, the Working Group refers to the source's allegations, not refuted by the Government, that have already been considered in the present opinion.

127. Where Indigenous territories are concerned, The Working Group endorses the views expressed by the Committee on the Elimination of Racial Discrimination, which has urged Nicaragua to guarantee the protection of the rights of Indigenous Peoples to own, use, develop and exercise control over their lands, territories and resources; and to make progress in the demarcation and titling of these territories, and to ensure their legal recognition and legal protection.<sup>23</sup> With regard to reports of acts of violence and attacks on the lives and physical integrity of members of Indigenous Peoples and people of African descent, specifically in the Mayangna Sauni As territory in the Bosawás Biosphere Reserve, the experts found it regrettable that they had received no information indicating that these abuses have been investigated and they fear that they could go unpunished.<sup>24</sup>

128. The source has also stated that, during the proceedings, the four defenders were treated with evident contempt and with particular harshness because they are Indigenous persons. They were even denied access to an interpreter.

129. The Working Group considers this detention to be arbitrary under category V because of the discrimination exercised against the four Indigenous persons. The four defenders were detained because they formed part of the political opposition, because of their roles within their community and to teach a lesson to the other residents of the place, in violation of articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant.

e. Concluding remarks

130. In order to allow the Working Group to establish a direct dialogue with all State authorities, representatives of civil society and detained persons, with a view to gaining a

<sup>21</sup> A/HRC/36/37, para. 48.

<sup>22</sup> Opinion No. 88/2017, para. 43; and No. 59/2019, para. 79.

<sup>23</sup> CERD/C/NIC/CO/15-21.

<sup>24</sup> Ibid.

better understanding of the situation of deprivation of liberty in the country, the Working Group would welcome the opportunity to conduct a visit to Nicaragua, as requested in its notes verbales of 24 April and 21 November 2018. The Working Group recalls that on 26 April 2006 the Government of Nicaragua extended an open invitation to the special procedures of the Human Rights Council and that its most recent visit to Nicaragua was from 15 to 23 May 2006.<sup>25</sup>

### 3. Disposition

131. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Ignacio Celso Lino, Argüello Celso Lino, Donald Andrés Bruno Arcángel and Dionisio Robins Zacarías, being in contravention of articles 2, 3, 6–11 and 18–20 of the Universal Declaration of Human Rights and articles 2, 9, 14, 16, 19, 21, 22, 25 and 26 of the Covenant, is arbitrary and falls within categories I, II, III and V.

132. The Working Group requests the Government of Nicaragua to take the steps necessary to remedy the situation of the four individuals without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the Covenant.

133. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release the four individuals immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law.

134. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of the four individuals and to take appropriate measures against those responsible for the violation of their rights.

135. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the human right to a clean, healthy and sustainable environment, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on Torture and the Special Rapporteur on the rights of Indigenous Peoples.

136. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

### 4. Follow-up procedure

137. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether the four individuals have been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to the four individuals;
- (c) Whether an investigation has been conducted into the violation of the rights of the four individuals and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Nicaragua with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

138. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and

<sup>25</sup> [A/HRC/4/40/Add.3](#).



whether further technical assistance is required, for example through a visit by the Working Group.

139. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as of any failure to take action.

140. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.<sup>26</sup>

*[Adopted on 30 August 2024]*

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<sup>26</sup> Human Rights Council Resolution 51/8, paras. 6 and 9.