



Human Rights Council
Working Group on Arbitrary Detention**Opinions adopted by the Working Group on Arbitrary Detention at its ninety-eighth session 13–17 November 2023****Opinion No. 59/2023 concerning Ronaldo José Álvarez Lagos (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,¹ on 1 June 2023 the Working Group transmitted to the Government of Nicaragua a communication concerning Ronaldo José Álvarez Lagos. 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, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

¹ [A/HRC/36/38](#).



1. Submissions

(a) Communication from the source

4. Ronaldo José Álvarez Lagos is a national of Nicaragua and was born on 27 November 1966. He is a member of the clergy and Bishop of Matagalpa.

5. According to the source, Mr. Álvarez Lagos's arrest took place against a background of human rights violations in Nicaragua and persecution of the Catholic Church and its members. The source notes that international bodies and mechanisms of the universal and regional human rights systems² have documented the sociopolitical and human rights crisis that Nicaragua has been going through since 2018 and that has resulted in at least 355 deaths and the persecution of persons expressing dissenting views or criticism of the Government.

6. The source adds that the Catholic Church in Nicaragua has been experiencing a fresh wave of government repression since 2022. More than 310 non-profit organizations associated with the Catholic Church have been stripped of their legal status, at least 12 of its media outlets have been closed and religious rituals and processions have been banned. In addition, a group of nuns was expelled from the country and at least three priests have been prohibited from returning to it.

7. The source states that, in mid-2022, various members of the clergy and other persons working with the Catholic Church began to be subjected to arrests, followed by allegedly arbitrary criminal proceedings, in retaliation for having condemned human rights violations since 2018 and having expressed opinions critical of the Government.

(i) *Mr. Álvarez Lagos's deprivation of liberty and the criminal proceedings against him*

8. According to the source, Mr. Álvarez Lagos has played a significant public role since the sociopolitical crisis began in April 2018 and was a key figure in condemning human rights violations, demanding the release of political prisoners and calling for peace and reconciliation among Nicaraguans. The source adds that Mr. Álvarez Lagos has, because of his public statements, faced a series of acts of harassment and persecution by State officials over the last four years. As a result, in May 2022, after he and his family had been subjected to weeks of harassment by the police, he decided to go on a hunger strike at Santo Cristo de las Colinas Church, located at the second entrance to Las Colinas, in Managua.

9. The source asserts that on 1 August 2022, in retaliation against Mr. Álvarez Lagos, the Nicaraguan Telecommunications and Postal Institute decided to shut down six media outlets in northern Nicaragua, four of them run by the Diocese of Matagalpa.

10. According to the source, on the morning of 4 August 2022, the National Police deployed dozens of armed officers in front of the Matagalpa diocesan office. Mr. Álvarez Lagos came out of his office and confronted the police officers. The source adds that, that afternoon, riot police were in place at Mr. Álvarez Lagos's apartments in the bishop's residence, preventing him and 11 other people from leaving the premises. According to the source, information on the situation was sent out over social media, and the Office of the United Nations High Commissioner for Human Rights issued a statement calling on the State to immediately cease all attacks on priests, parishioners and radio and television broadcasters of the Catholic Church and ensure the immediate protection of their human rights.

11. According to the source, on 5 August 2022, the National Police announced that it had opened criminal investigations into Mr. Álvarez Lagos and the persons being held in the rectory for attempting to organize violent groups and incite them to carry out acts of hatred against the public. The source claims that the actions of Mr. Álvarez Lagos and the other priests had all been peaceful and conciliatory. The source adds that, although the National Police stated that the persons under investigation would remain in their homes, the police

² The source cites [A/HRC/46/21](#), [A/HRC/49/23](#), [A/HRC/42/16](#), Human Rights Council resolutions 40/2, 43/2, 46/2 and 49/3 and annual and thematic reports on Nicaragua by the Inter-American Commission on Human Rights.

held them all in the rectory, by force and against their will, with no judicial decision authorizing them to do so.

12. The source indicates that on 7 and 17 August 2022, the police allowed three people to leave the rectory, one of whom the Government deported. The other nine people were forced to remain at the church premises, with little food, until 19 August; that is, for 15 days. That entire time, the rectory was kept under watch by dozens of police officers, the riot police and drones.

13. According to the source, on 19 August 2022, officers of the National Police and the National Legal Cooperation Directorate of Managua raided the rectory and arrested the occupants. During the operation, the police did not present a search or arrest warrant or inform the persons of their rights or the reasons for their arrest. The same day, the police issued a press release mentioning the police operation.

14. According to the source, Mr. Álvarez Lagos and eight other people were transferred to Managua. Mr. Álvarez Lagos was taken to a private home owned by his family and the other persons were taken to the Evaristo Vásquez Legal Cooperation Directorate.

15. The source alleges that Mr. Álvarez Lagos's transfer to and deprivation of liberty in a private home was not ordered by a judge, nor was the measure taken in connection with a hearing on provisional measures. According to the source, the decision was taken by the police, and the measure cannot therefore, strictly speaking, be said to constitute pretrial detention or house arrest.

16. The source adds that on 13 December 2022, almost four months after his arrival in Managua, Mr. Álvarez Lagos was brought before a judge who admitted the prosecutor's statement of charges against him on counts of engaging in conspiracy to undermine the country's national integrity and spreading fake news through information and communication technologies to the detriment of the Nicaraguan State and society.

17. The source states that, at the hearing, the judicial authority appointed a public defender for Mr. Álvarez Lagos, ordered that he be placed under house arrest and scheduled the initial trial hearing for 10 January 2023. At the initial hearing, the judge ordered the proceedings to move to the trial phase, but a date was not set. He also extended the period of Mr. Álvarez Lagos's pretrial house arrest.

18. The source asserts that the charges were brought before the Ninth District Criminal Court of the Managua Judicial District, while the civic and religious activities for which Mr. Álvarez Lagos was being prosecuted had taken place in the district of Matagalpa. According to the source, the foregoing indicates a lack of territorial jurisdiction.

19. The source states that on 9 February 2023, 222 persons arrested in connection with the human rights crisis, including the eight persons who were with Mr. Álvarez Lagos when he was being held in the Matagalpa diocesan office, were taken from their detention centres by the authorities and transferred to the United States of America for their release. According to the source, the President of Nicaragua said in a public statement that the decision had been taken on the basis of a deportation order issued by a court on 8 February and that Mr. Álvarez Lagos had refused to comply with it. He also said that Mr. Álvarez Lagos had been transferred to La Modelo prison.

20. According to the source, the following day, on 10 February 2023, in a public statement, the President of Chamber No.1 of the Managua Court of Appeal read the operative part of a judgment against Mr. Álvarez Lagos that sentenced him to a term of imprisonment of 26 years and 4 months on counts of undermining the country's national integrity and spreading fake news through information and communication technologies, an aggravated count of obstructing official duties and counts of disobedience and contempt of authority. In addition, he was disqualified for life from serving in public office on behalf of or for the State or holding elected office and was stripped of his Nicaraguan nationality. The source states that the judgment was handed down without a trial. The trial had been scheduled for 15 February.

21. The source indicates that on 16 February 2023, Mr. Álvarez Lagos's defence counsel was notified of only the operative part of the judgment. The source adds that defence counsel filed an appeal on 21 February without having full access to the judgment, and the appeal

was ruled inadmissible on 1 March. On March 7, defence counsel filed an appeal with Criminal Chamber No. 2 of the Managua Court of Appeal; it was dismissed on 10 March. The source affirms that the judgment thereby became final, with all legal remedies in Nicaragua being exhausted.

22. The source states that for 44 days, from 9 February to 25 March 2023, Mr. Álvarez Lagos's family received no information about his whereabouts or detention conditions, even though they visited the National Prison Service multiple times. The source states that on 25 March, two of Mr. Álvarez Lagos's family members were contacted by the La Modelo prison authorities and told to come by the prison for a visit with him. Once there, the family members were transferred by pickup truck and taken to a room where Mr. Álvarez Lagos was present. According to the source, it was then that Mr. Álvarez Lagos stated that the judgment had never been read to him, and it was only at that moment that he learned that he had not only been sentenced to 26 years and 4 months in prison, but that he had also lost his citizenship rights and his nationality.

23. According to the source, Mr. Álvarez Lagos's visit with his family members lasted two hours, but 10 minutes after it began, three people arrived: a camera operator, a journalist and a photographer. The family members were photographed during the visit. The source alleges that the visit was covered in the media, exposing both Mr. Álvarez Lagos and his family.³

24. The source states that, since 9 February 2023, Mr. Alvarez Lagos has been completely isolated, denied the right to be in the sun and confined in a small cell, sleeping on a mat on a cement slab, with access to a small toilet and a bathroom. In addition, the cell block that he is in is empty, which means that he only has contact with the prison staff who bring him his food. Since February 9, he has received no medication for his chronic health conditions and has not seen a doctor. According to the source, the food that Mr. Álvarez Lagos receives is provided by the prison and is limited, and his family has not been allowed to send him packages. Furthermore, Mr. Álvarez Lagos had health problems owing to the tap water that he was drinking because the prison rationed purified water.

25. The source indicates that, from the visit of 25 March until 22 May 2023, 58 days passed without Mr. Álvarez Lagos's family members having any news of or contact with him. The source also reports that the family was not allowed to send any packages, medicine or reading material during that entire time.

26. The source adds that, on 15 April 2023, during a meeting in Managua with the China International Development Cooperation Agency, the President of Nicaragua said that the bishops of the Episcopal Conference of Nicaragua had been spokespersons for imperialism during the social unrest of 2018, and he referred specifically to Mr. Álvarez Lagos. According to the source, the President of Nicaragua stated: "They had some religious leaders as their spokespersons, not all of them, some religious leaders ... Another bishop, like the one in Matagalpa [Mr. Álvarez Lagos] went around boycotting and sabotaging the economy and production in Matagalpa, and so there were a few priests who do not accept the revolution because they came out of the Somoza movement and because they are agents of imperialism."

(ii) *Legal analysis*

27. The source contends that Mr. Álvarez Lagos's detention is arbitrary and falls within categories I, II, III and V of the Working Group.

a. Category I

28. The source refers to article 9 of the Covenant and to the jurisprudence of the Working Group, which states that anyone who is arrested must be informed of the reasons for the arrest at the time of arrest and of the judicial avenue for challenging its lawfulness. The reasons for the detention must include its legal basis as well as the facts constituting the substance of the complaint and the wrongful act committed.

³ See <https://www.el19digital.com/articulos/ver/titulo:138268-monsenor-rolando-alvarez-recibe-visita-de-sus-hermanos>.

29. According to the source, Mr. Álvarez Lagos was held at the Matagalpa rectory without any legal basis for his detention. In a press release of 5 August 2022, the police reported that Mr. Álvarez Lagos and the other persons under investigation would remain in their homes. The source alleges that these persons were held by force, against their will, in the rectory for 15 days. The decision to impose that restrictive measure was made by the police, not by the judiciary, as there had been no order from a competent judge, issued in connection with a hearing on provisional measures. According to the source, the police had no legal authority to hold these people captive for 15 days.

30. The source adds that, during this period, Mr. Álvarez Lagos and the other persons being held were not officially informed of any criminal charges against them, did not have access to a lawyer and were unable to file any petitions with the authorities, including a writ of habeas corpus.

31. According to the source, on 19 August 2022, after entering without a warrant, the police arrested everyone who they had been holding in the rectory except one priest and took them to Managua. The decision to transfer Mr. Álvarez Lagos to a family home was taken by the police, not a judge.

b. Category II

32. The source recalls that, according to the Working Group's jurisprudence, deprivation of liberty resulting from a person's exercise of his or her freedom of religion, in violation of article 18 of the Covenant, or freedom of expression, including the freedom to impart information or ideas, in violation of article 19, constitutes arbitrary detention under category II.

33. According to the source, from the onset of the sociopolitical crisis in Nicaragua, Mr. Álvarez Lagos has been among the members of the clergy most at the forefront in terms of condemning the Government's human rights violations and demanding the release of political prisoners. Because of his pastoral activities and human rights advocacy, he has been persecuted, harassed and attacked incessantly by State officials.

34. The source states that Mr. Álvarez Lagos's actions were always within the bounds of his legitimate exercise of the freedoms of opinion, expression and religion and right of peaceful assembly. The source asserts that the Working Group has already examined several cases of arbitrary detention in Nicaragua falling within category II and that in its decisions in those cases, the Working Group has recognized that the victims were detained because they had expressed their views on a situation of public interest and criticized the Government.

35. The source adds that, in particular, in a case involving a priest who preached during protests and criticized government policy, the Working Group concluded that he had been arrested as a result of his exercise of his right to freedom of opinion and expression – for his criticism of government policy – and as a result of his exercise of his right to freedom of religion.⁴ The source argues that that conclusion should apply *mutatis mutandis* to Mr. Álvarez Lagos's case.

c. Category III

36. The source states that this category covers cases of detention where the total or partial non-observance of the international norms relating to the right to a fair trial, established in article 14 of the Covenant, is of such gravity as to give the deprivation of liberty an arbitrary character.

37. The source alleges that Mr. Álvarez Lagos's detention has in practice involved violations of almost all due process guarantees and seriously compromised the presumption of his innocence.

38. According to the source, when Mr. Álvarez Lagos was arbitrarily held by the police in the rectory for 15 days, he was not informed by any authority of the reasons for which he was being deprived of his liberty. Nor was he shown an arrest warrant or informed of his

⁴ Opinion No. 19/2019, para. 43.

rights. Between 4 and 19 August 2022, the people held in the rectory were prevented from having contact with the outside world and were thus incommunicado.

39. The source indicates that several of the offences that Mr. Álvarez Lagos was charged with, such as undermining the country's national integrity and spreading fake news, have been used to prosecute government opponents, in violation of the principle of legality and the right to freedom of opinion and expression.

40. The source adds that the constitutional right to criminal and procedural legality, set out in articles 5, 6, 32 and 34 (11) of the Constitution of Nicaragua, was violated when a judgment was handed down without due process and without a public oral hearing.

41. The source adds that Mr. Álvarez Lagos's right to a defence was violated because he did not know what acts he was accused of and his defence counsel was not allowed to duly participate in the hearings, even though counsel had been appointed in writing in December 2022.

42. The source asserts that there was also a violation of the principle of judicial impartiality, as the hearing judge showed partiality in admitting a statement of charges that had no legal grounds and was based on acts that do not constitute offences.

43. The source argues that the court lacked territorial jurisdiction because Mr. Álvarez Lagos was arrested in Matagalpa but then taken to Managua, where he was prosecuted.

44. Lastly, the source alleges that the principles of a speedy trial, due process, effective judicial protection and humanitarianism were violated when Mr. Álvarez Lagos's family members were denied information about his place of detention and he was not allowed to receive visits, medicine or packages.

d. Category V

45. The source states that this category covers cases of deprivation of liberty that violate the prohibition on discrimination based on birth, national, ethnic or social origin, language, religion, economic status, political or other opinion, gender, sexual orientation, disability or other circumstance, as established under article 26 of the Covenant, and that are intended to or may bring about an unequal application of human rights.

46. The source argues that two discriminatory motives can be seen in the arrest of and legal proceedings against Mr. Álvarez Lagos, those based on religion and those based on political opinion, and that they create unequal conditions for the exercise of public freedoms by Catholic priests and members of the Catholic Church and persons who hold political opinions that differ from those of the Government.

47. According to the source, high-ranking government officials have made several statements openly discrediting the Catholic Church and its clergy.⁵ The source adds that the government statements and the pattern of persecution of the Catholic Church show that Mr. Álvarez Lagos's detention is part of a strategy that seeks to suppress a religious institution and its members, resulting in discrimination and violations of the right to exercise religious freedom.

48. The source states that, on 9 February 2023, the Government of Nicaragua exiled 222 political prisoners to the United States, stripping them of their nationality and private property. According to the former prisoners, Mr. Álvarez Lagos refused to board the plane, reportedly because he did not know where they were being sent. From 9 February until 25 March 2023, the date they were allowed to visit Mr. Álvarez Lagos, his family and lawyer had no reliable information regarding his whereabouts.

49. Although the President of Nicaragua had publicly stated that Mr. Álvarez Lagos was being held at La Modelo prison, his family members went to that prison several times and were met by a refusal on the part of the prison authorities to give them information or confirm

⁵ The source mentions, for example, that during a ceremony, broadcast on radio and television, to mark the forty-third anniversary of the founding of the National Police, the President of Nicaragua accused the Catholic Church of having used its bishops in Nicaragua to mount a coup d'état and said: "Since when do priests mount coups d'état and since when do they have the authority to talk of democracy?".

his whereabouts. The authorities also refused to take the packages that they usually accepted for prisoners.

50. In the opinion of the source, the foregoing satisfies the definition of an enforced disappearance, given the refusal of the Nicaraguan authorities to acknowledge the act of deprivation of liberty or to disclose Mr. Álvarez Lagos's fate or whereabouts. The source recalls that the Working Group on Enforced or Involuntary Disappearances has consistently recognized that there is no minimum time limit, no matter how short, for an enforced disappearance to occur, and that accurate information on the detention of any person deprived of liberty and his or her place of detention should be made available promptly to family members.

51. The source submits that the arrest and detention of Mr. Álvarez Lagos are arbitrary under categories I, II, III and V of the Working Group.

(b) Response from the Government

52. In order to be able to issue an opinion in the present case, the Working Group, in accordance with its methods of work, transmitted the source's allegations to the Government of Nicaragua on 1 June 2023 and respectfully requested that it submit a response by 31 July 2023. The Working Group also asked the Government to provide detailed information regarding Mr. Álvarez Lagos's case that would clarify the legal and factual basis for the detention and the compatibility of the detention with the State's international human rights obligations. The Working Group further requested that the Government of Nicaragua safeguard Mr. Álvarez Lagos's physical and mental integrity.

53. The Working Group regrets that the Government did not submit a reply within the established time frame and did not seek an extension in accordance with paragraph 16 of the Working Group's methods of work.⁶

2. Discussion

54. 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.

55. In determining whether Mr. Álvarez Lagos's deprivation of liberty is arbitrary, the Working Group has regard to the principles that it has 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 with the Government if it wishes to refute the allegations.⁷ However, it must be borne in mind that mere assertions that lawful procedures have been followed are not sufficient to rebut the source's allegations. In the present case, the Government has chosen not to challenge the prima facie credible allegations made by the source.

56. The Working Group wishes to reaffirm that States have an obligation to respect, protect and uphold all human rights and fundamental freedoms, including liberty of person, and that any national law or procedure allowing deprivation of liberty should be formulated and implemented in conformity with the relevant international standards set forth in the Universal Declaration of Human Rights and other applicable international instruments.

57. Consequently, even if the detention is in conformity with national legislation, regulations and practices, the Working Group has a right and an obligation to assess the judicial proceedings and the law itself to determine whether the detention is also consistent with the relevant provisions of international human rights law.

58. In addition, the Working Group notes that Mr. Álvarez Lagos was under house arrest from 4 August 2022 until, it seems, 9 February 2023, when he was reportedly transferred to

⁶ A/HRC/36/38.

⁷ A/HRC/19/57, para. 68.

La Modelo prison, and recalls that house arrest amounts to deprivation of liberty when it is carried out in closed premises that the person in question is not allowed to leave.⁸

(a) Category I

59. The source claims that Mr. Álvarez Lagos was detained on 4 August 2022, when dozens of armed officers were deployed in front of the Matagalpa diocesan office, later being joined by riot police who prevented Mr. Álvarez Lagos and 11 others from leaving the premises. The source reports that information about the detention was sent out over social media and prompted the Office of the United Nations High Commissioner for Human Rights to issue a statement calling on the State to immediately cease all attacks on priests, parishioners and radio and television broadcasters of the Catholic Church and to ensure the immediate protection of their human rights. Furthermore, the source states that on 19 August 2022, the National Police and the National Legal Cooperation Directorate of Managua raided the rectory where Mr. Álvarez Lagos and others had been held since 4 August. During the operation, the police did not present a search or arrest warrant or inform the persons of their rights or the reasons for their arrest. According to the source, that same day, Mr. Álvarez Lagos and eight other people were transferred to Managua, and the police issued a press release mentioning the police operation. The Government has chosen not to refute any of these allegations.

60. The Working Group recalls that a detention is considered arbitrary under category I if it lacks a legal basis. The Working Group has previously stated that in order for a deprivation of liberty to have a legal basis, it is not sufficient that there is a law that may authorize the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case.⁹ This is typically done through an arrest warrant or a court order, or an equivalent document.¹⁰ The reasons for the arrest must be provided immediately upon arrest and must include not only the general legal basis of the arrest, but also enough factual specifics to indicate the substance of the complaint, such as the wrongful act and the identity of an alleged victim.

61. In the present case, neither the police nor the armed officers who arrested Mr. Álvarez Lagos and the others presented an arrest or search warrant or explained the reasons for the arrests. In fact, it is not clear to the Working Group whether any arrest warrant had been issued against Mr. Álvarez Lagos, since all the persons who were with him in the rectory were being held by the police by force, against their will and without any judicial authorization. The source stresses that the decision to impose that restrictive measure had been made by the police, not by the judiciary. The Working Group therefore finds a breach of articles 3 and 9 of the Universal Declaration of Human Rights and article 9 (1) of the Covenant.

62. The source alleges, and the Government has not refuted, that Mr. Álvarez Lagos was first brought before a judge on 13 December 2022, four months after his arrest on 4 August 2022. According to article 9 (3) of the Covenant, anyone arrested or detained on a criminal charge must be brought promptly before a judge or other officer authorized by law to exercise judicial power. As the Working Group has reiterated in its jurisprudence, and the Human Rights Committee has specified, 48 hours is ordinarily sufficient to satisfy the requirement of bringing a detainee “promptly” before a judge or other officer authorized by law following his or her arrest; any longer delay must remain absolutely exceptional and be justified by the circumstances.¹¹ The Working Group concludes that Mr. Álvarez Lagos was not brought promptly before a judicial authority, in flagrant violation of his rights under article 9 of the Universal Declaration of Human Rights, article 9 (3) of the Covenant and principles 11 and 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

⁸ Opinions No. 13/2007, para. 24; No. 37/2018, para. 25; and No. 11/2023, para. 49; and deliberation No. 1 (E/CN.4/1993/24, sect. II).

⁹ Opinions No. 9/2019, para. 29; No. 46/2019, para. 51; and No. 59/2019, para. 46.

¹⁰ Opinions No. 88/2017, para. 27; No. 3/2018, para. 43; and No. 30/2018, para. 39. In cases of arrests made in flagrante delicto, the opportunity to obtain a warrant will typically not be available.

¹¹ General comment No. 35 (2014), paras. 32 and 33.

63. The Working Group is concerned about the information that it has received, and that the Government has not refuted, that Mr. Álvarez Lagos was held in pretrial detention for several months, and that, from 9 February 2023, his family were unable to obtain information about his whereabouts or detention conditions, even though they visited the National Prison Service multiple times. The Working Group considers that Mr. Álvarez Lagos was subjected to enforced disappearance in breach of article 9 of the Universal Declaration of Human Rights and article 9 (1) of the Covenant. Enforced disappearances are prohibited by international law and constitute a particularly aggravated form of arbitrary detention.¹² Such deprivation of liberty, entailing a refusal to disclose the fate or whereabouts of the persons concerned or to acknowledge their detention, lacks any valid legal basis under any circumstance. It is also inherently arbitrary, as it places the person outside the protection of the law, in violation of article 6 of the Universal Declaration of Human Rights and article 16 of the Covenant. The Working Group refers the case to the Working Group on Enforced or Involuntary Disappearances for further action.

64. As the Working Group has stated, holding persons incommunicado violates their right to challenge the lawfulness of detention before a court under article 9 (4) of the Covenant.¹³ Judicial oversight of detention is a fundamental safeguard of personal liberty¹⁴ and is essential in ensuring that detention has a legal basis. Given that Mr. Álvarez Lagos was unable to challenge his detention before a court, his right to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant was violated.

65. The Working Group considers that the length of time that Mr. Álvarez Lagos was held in pretrial detention was not only excessive but also ran counter to international norms and guarantees against arbitrary detention, as set out in article 10 of the Universal Declaration of Human Rights¹⁵ and principle 11 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. This violation of Mr. Álvarez Lagos's human rights also contravenes the standard established by the Human Rights Committee, which has observed that, in order to avoid a characterization of arbitrariness, detention should not continue beyond the period for which the State party can provide appropriate justification,¹⁶ which was not observed in this case. The Working Group thus finds that Mr. Álvarez Lagos's detention constitutes a violation of the established rule of international law which clearly provides that pretrial detention should be a provisional measure of *ultima ratio*, which means that it should be the exception rather than the rule and should be adopted only as a last resort and on an exceptional basis. Moreover, it must be of short duration – that is, imposed for the shortest possible period of time.

66. In addition, the Working Group is alarmed by the source's allegations, not refuted by the Government, that in Managua – where Mr. Álvarez Lagos was detained not on the basis of legal charges but of a decision by the police – the judge admitted the prosecutor's statement of charges against Mr. Álvarez Lagos on counts of engaging in conspiracy to undermine the country's national integrity and spreading fake news through information and communication technologies to the detriment of the Nicaraguan State and society, without evidence or a legal basis of any kind. In view of this situation, the Working Group decides to refer the present case to the Special Rapporteur on the independence of judges and lawyers for further action.

67. Lastly, the Working Group notes the source's allegations, not refuted by the Government, that from 9 February 2023, Mr. Álvarez Lagos did not receive medication for his chronic health conditions and was not seen by a doctor, and that he became ill owing to the tap water that he was drinking because the prison rationed purified water.

68. The Working Group is concerned about these allegations and reminds the Government that, under article 10 of the Covenant, all persons deprived of their liberty must be treated

¹² See opinions No. 5/2020, No. 6/2020, No. 11/2020, No. 13/2020 and No. 9/2022.

¹³ See opinions No. 45/2017, No. 46/2017, No. 35/2018, No. 9/2019, No. 44/2019, No. 45/2019, No. 15/2020, No. 16/2020 and No. 36/2020.

¹⁴ [A/HRC/30/37](#), para. 3.

¹⁵ See [A/HRC/19/57](#), paras. 48–58. See also opinions No. 5/2019, para. 26; and No. 62/2019, paras. 27–29.

¹⁶ Opinions No. 5/2019, para. 26; and No. 62/2019, paras. 27–29.

with humanity and with respect for the inherent dignity of the human person and that endangering the health of detainees is contrary to rules 22 (2), 24, 25, 27 and 30 of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

69. In the light of the foregoing, the Working Group concludes that Mr. Álvarez Lagos's detention is arbitrary because it lacks a legal basis and falls within category I.

(b) Category II

70. The source indicates that Mr. Álvarez Lagos's deprivation of liberty resulted from his exercise of his right to freedom of opinion and expression, religion and peaceful assembly as a priest and bishop. The source reminds the Working Group that it has issued an opinion in a similar case that took place in Nicaragua.¹⁷

71. According to the source, Mr. Álvarez Lagos has faced a series of acts of harassment and persecution by State officials over the last four years because of his public statements against human rights violations in the country, his demands for the release of political prisoners and his calls for peace and reconciliation among Nicaraguans. The source explains that, as a result, Mr. Álvarez Lagos decided in May 2022 to go on a hunger strike at Santo Cristo de las Colinas Church, located at the second entrance to Las Colinas, in Managua. The source adds that, in retaliation against Mr. Álvarez Lagos, the Nicaraguan Telecommunications and Postal Institute decided to shut down six media outlets in northern Nicaragua, four of them run by the Diocese of Matagalpa. These acts of persecution culminated in the arrest of Mr. Álvarez Lagos and other persons on 4 August 2022.

72. The Working Group also notes the source's allegation that during a meeting in Managua with the China International Development Cooperation Agency, the President of Nicaragua said that the bishops of the Episcopal Conference of Nicaragua had been spokespersons for imperialism during the social unrest of 2018 and referred specifically to Mr. Álvarez Lagos. Then, in mid-2022, various members of the clergy and other persons working with the Catholic Church began to be subjected to arrests and allegedly arbitrary criminal proceedings in retaliation for having condemned human rights violations since 2018 and having expressed opinions critical of the Government.

73. The Government has chosen not to contest the source's allegations although it has had the opportunity to do so.

74. The Working Group reaffirms the view of the Human Rights Committee that freedom of opinion and freedom of expression are indispensable conditions for the full development of the person and constitute the foundation stone for every free and democratic society.¹⁸ These two freedoms, as set out in articles 18 and 19 of the Universal Declaration of Human Rights and article 19 of the Covenant, form a basis for the full enjoyment of a wide range of other human rights, such as the right to freedom of assembly and association, and for the exercise of the right to political participation set forth in articles 20 and 21 of the Universal Declaration of Human Rights and articles 21, 22 and 25 of the Covenant.¹⁹

75. The importance of freedom of opinion is such that no Government may impair other human rights on the basis of a person's actual or perceived opinions, whether of a political, scientific, historical, moral, religious or any other nature. Consequently, it is neither compatible with the Universal Declaration of Human Rights or the Covenant to criminalize the holding of an opinion nor permissible for a person to be harassed, intimidated, stigmatized, arrested or subjected to pretrial detention, trial or imprisonment on account of his or her opinions.²⁰

76. The Working Group is persuaded that the detention of Mr. Alvarez Lagos is related to his exercise of his right to freedom of opinion and political expression, his right to practise his religion and his right of peaceful assembly, in violation of articles 18, 19 and 20 of the Universal Declaration of Human Rights and articles 19, 21 and 22 of the Covenant, which

¹⁷ Opinion No. 19/2019, para. 43.

¹⁸ Human Rights Committee, general comment No. 34 (2011), para. 2.

¹⁹ *Ibid.*, para. 4.

²⁰ *Ibid.*, para. 9.

renders Mr. Álvarez Lagos's detention arbitrary under category II. In the light of these circumstances, the Working Group refers the case to the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association for appropriate action.

(c) **Category III**

77. Given its finding that Mr. Álvarez Lagos's detention is arbitrary under categories I and II, since it resulted from his exercise of his human rights, the Working Group considers that there was no basis for a trial. However, since criminal proceedings were initiated against him for offences carrying potentially long prison sentences and in view of the source's allegations and the lack of a response from the Government, the Working Group will proceed to analyse whether the fundamental elements of a fair, independent and impartial trial were respected during the judicial proceedings.

78. The Working Group adheres to the international human rights law principles that everyone has the right not to be arbitrarily deprived of their 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. In essence, the presumption of innocence means that a person accused of a criminal offense must be treated as if he or she had not committed an offence and be considered not to have done so until found guilty under a final verdict of an independent and impartial court.

79. This did not happen in Mr. Álvarez Lagos's case since, according to the source, various authorities made public statements regarding his guilt before the opening of public oral proceedings. In a public statement, the President of Nicaragua reported that the decision to take 222 detainees from their detention centres and to transfer them to another country had been based on a deportation order issued by a court on 8 February 2023 and that Mr. Álvarez Lagos had refused to comply with it and been transferred to La Modelo prison. Likewise, on 10 February 2023, in a public statement, the President of Chamber No.1 of the Managua Court of Appeal read the operative part of a judgment against Mr. Álvarez Lagos that sentenced him to a term of imprisonment of 26 years and 4 months on counts of undermining the country's national integrity and spreading fake news through information and communication technologies, an aggravated count of obstructing official duties and counts of disobedience and contempt of authority.

80. The source states that the judgment was handed down without a trial and that the trial had been scheduled for 15 February 2023. The Government has chosen not to respond to the source's allegations.

81. The Working Group considers that the statements made about Mr. Álvarez Lagos by the President of Nicaragua and the President of Chamber No.1 of the Managua Court of Appeal demonstrate utter disregard for the presumption of innocence, particularly given that they were made before the trial – scheduled for 15 February 2023 – began. Mr. Álvarez Lagos was presented and portrayed by the government-controlled media as a convicted criminal, 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 be presumed innocent.²¹

82. Furthermore, the Working Group is concerned that Mr. Álvarez Lagos was found guilty without a trial and was sentenced, without his knowledge and in absentia, to 26 years and 4 months in prison, the loss of his Nicaraguan nationality and lifetime disqualifications from serving in public office on behalf of or for the State and from holding elected office.

83. According to article 14 (1) of the Covenant, everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal in the determination of any criminal charge against him or her.

84. In the present case, Mr. Álvarez Lagos was judged without trial when the President of Chamber No.1 of the Managua Court of Appeal spoke publicly about the judgment against

²¹ Human Rights Committee, general comment No. 32 (2007), para. 30.

him before the date set for the trial, 15 February 2023, in violation of article 14 (1) and 3 (d) of the Covenant.

85. The Working Group notes with alarm the source's assertion about the court's lack of territorial jurisdiction in the present case. The Working Group is aware that the Ninth District Criminal Court of the Managua Judicial District heard the charges against Mr. Álvarez Lagos, which, according to the source, related to offences that had allegedly occurred in the Diocese of Matagalpa, where Mr. Álvarez Lagos was arrested.

86. 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.²²

87. In the light of the foregoing, the Working Group considers that the court that heard Mr. Álvarez Lagos's case was not competent to do so and that, consequently, his right to be tried by a judge duly appointed by law was violated, in contravention of article 14 (1) of the Covenant.

88. The Working Group notes the ineffectiveness of the appeals filed by Mr. Álvarez Lagos for review of the custodial measure imposed on him and notes with alarm that Mr. Álvarez Lagos only learned of his sentence from third parties, having been denied even the possibility of filing a writ of habeas corpus, a remedy that constitutes a human right in itself, as can be inferred from a reading of articles 9 and 10 of the Universal Declaration of Human Rights and a legal principle universally recognized as an effective protection against unjust, illegal or arbitrary detention.

89. The Working Group stresses that its extensive jurisprudence has established that the remedy of habeas corpus protects two fundamental rights, namely, personal liberty in terms of freedom of movement and the detainee's right to personal integrity, one of the essential rights that must be observed during a fair trial. The right to habeas corpus is not subject to any exceptions or derogations, even in the context of an armed conflict, and it therefore acts as a guarantee that the legality of any form or measure of deprivation of liberty may be challenged.²³ All of this was ignored by the Government in the proceedings against Mr. Álvarez Lagos, in violation of articles 9 and 10 of the Universal Declaration of Human Rights and article 14 (5) of the Covenant.

90. 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.²⁴ In addition, legal consultations and all communications with lawyers must remain confidential. The Working Group notes the source's allegations, not refuted by the Government, that Mr. Álvarez Lagos did not know what acts he was accused of, and that the judicial authority did not appoint a public defender until four months after his arrest.

91. The Working Group considers that the four months during which Mr. Álvarez Lagos was without legal assistance prevented him from having a fair trial in conformity with the principle of equality of arms and from enjoying his 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.

92. Lastly, the Working Group is concerned about the source's statement, which has not been challenged, that after some time had passed during which they did not know Mr. Álvarez

²² Opinions No. 28/2014, para. 46; No. 30/2014, para. 51; No. 1/2015, paras. 31 and 34; No. 6/2019, para. 135; No. 12/2019, para. 121; No. 43/2019, para. 77; and No. 58/2021, para. 85.

²³ E/CN.4/1993/24, para. 43 (c); E/CN.4/1994/27, para. 36; E/CN.4/1995/31, para. 45; E/CN.4/1996/40, paras. 110 and 124.5; E/CN.4/2004/3, paras. 62, 85 and 87; E/CN.4/2005/6, paras. 47, 61, 63, 64, 75 and 78; A/HRC/7/4, para. 64, 68 and 82 (a); A/HRC/10/21, paras. 53, 54 and 73; and A/HRC/13/30, paras. 71, 76–80, 92 and 96.

²⁴ A/HRC/30/37, annex, paras. 12–15.

Lagos's whereabouts or his detention conditions and after State authorities had spoken about the judgment against him, Mr. Álvarez Lagos's family members were summoned to visit him, the visit took place in the presence of a camera operator, journalist and photographer and information about it was published in the media, exposing Mr. Álvarez Lagos and his family.

93. 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 Mr. Álvarez Lagos's detention arbitrary under category III.

(d) Category V

94. The source asserts that Mr. Álvarez Lagos was deprived of his liberty because of his political opinions critical of the Government and his status as a member of the clergy and Bishop of Matagalpa.

95. 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. 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 person that includes, for example, previous arrests or acts of violence or threats.²⁵

96. As set out in the discussion concerning category II, Mr. Álvarez Lagos's detention resulted from his exercise of his 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.²⁶ In this context, the Working Group refers to the source's allegations, not refuted by the Government, that have already been considered in paragraphs 71 and 72 of the present opinion.

97. The Working Group endorses the statements of the Special Rapporteur on freedom of religion or belief that discrimination within the context of the right to freedom of religion or belief is not limited to members of religious minorities or non-believers and can also apply to members of religious majority groups, inhibiting their fundamental freedoms, perpetuating significant inequalities in numerous sectors and limiting their ability to participate effectively in the cultural, religious, social and public life of their countries,²⁷ as has clearly occurred in Mr. Álvarez Lagos's case.

98. Furthermore, the Working Group recalls that the right to hold and express opinions, including those not in accord with official government policy, and religious freedom are protected by article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant, both of which were violated in a manner discriminatory against Mr. Álvarez Lagos.

99. The Working Group therefore considers the detention to be arbitrary under category V because of the discrimination against Mr. Álvarez Lagos, a human rights defender, in the exercise of his religion and in relation to his publicly expressed political position and opinions. It is clear that Mr. Álvarez Lagos's detention was based on his religion and political dissent, 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

100. The Working Group is alarmed to learn that Mr. Álvarez Lagos has been sentenced to lose his Nicaraguan nationality, which could amount to a violation of article 15 of the Universal Declaration of Human Rights, which establishes that everyone has the right to a nationality and that no one may be arbitrarily deprived of his or her nationality. It also

²⁵ A/HRC/36/37, para. 48.

²⁶ Opinions No. 88/2017, para. 43; No. 13/2018, para. 34; and No. 59/2019, para. 79.

²⁷ See A/75/385.

deprives him of his citizenship rights, which leaves him completely powerless with respect to the State's obligation to ensure that his human rights are respected.

101. The Working Group wishes to recall the emphasis placed by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on the fact that the right to a nationality is recognized and protected under various international and regional human rights instruments,²⁸ the right to have a nationality and citizenship being an element of a person's inherent dignity under international human rights rules and principles. The Working Group decides to refer this case to the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

102. 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 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 2006.²⁹

3. Disposition

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

The deprivation of liberty of Ronaldo José Álvarez Lagos, being in contravention of articles 2, 3, 6, 7, 8, 9, 10, 11, 18, 19 and 20 of the Universal Declaration of Human Rights and articles 2, 9, 14, 16, 19, 21, 22 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, III and V.

104. The Working Group requests the Government of Nicaragua to take the steps necessary to remedy the situation of Ronaldo José Álvarez Lagos 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 International Covenant on Civil and Political Rights.

105. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Álvarez Lagos immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

106. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Álvarez Lagos and to take appropriate measures against those responsible for the violation of his rights.

107. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Working Group on Enforced or Involuntary Disappearances.

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

4. Follow-up procedure

109. 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:

²⁸ A/HRC/38/52, para. 24.

²⁹ A/HRC/4/40/Add.3.

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- (a) Whether Mr. Álvarez Lagos has been released and, if so, on what date;
 - (b) Whether compensation or other reparations have been made to Mr. Álvarez Lagos;
 - (c) Whether an investigation has been conducted into the violation of Mr. Álvarez Lagos's rights 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.

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

111. 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.

112. 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.³⁰

[Adopted on 13 November 2023]

³⁰ Human Rights Council resolution 51/8, paras. 6 and 9.