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VIA EMAIL: URGENT-ACTION@OHCHR.ORG, SRINDEPENDENCEJL@OHCHR.ORG

June 15, 2021

Mr. Diego García Sayán
Special Rapporteur on the Independence of Judges and Lawyers
c/o Office of the High Commissioner for Human Rights United Nations Office at Geneva
CH-1211 Geneva 10
Switzerland

RE: Violation of the Right to an Impartial and Independent Judiciary by the Government of
Nicaragua in the Case of Juan Sebastián Chamorro

Dear Mr. García Sayán,

We are writing to request urgent action on behalf of our client, Juan Sebastián Chamorro, a Nicaraguan citizen and presidential candidate who was recently arrested and disappeared while being investigated for baseless and politically motivated charges. Since his arrest in the evening of June 8, 2021, Dr. Chamorro has had no contact with his family, nor with his domestic or international legal counsel. Furthermore, Dr. Chamorro has reportedly been subjected to sham legal proceedings characterized by serious violations of both Nicaraguan and international law. Given the Ortega regime's well documented control over Nicaragua's judiciary, the regime's escalating attacks against the political opposition, including detention of leading opposition candidates, and the egregious due process violations already perpetrated against Dr. Chamorro, it is clear that Nicaragua has violated and will continue violating his right to an independent and impartial judiciary under Article 14(1) of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 the Universal Declaration of Human Rights (UDHR).

We therefore respectfully request that, in accordance with your working methods, you investigate the situation and immediately reach out to the Government of Nicaragua, urging it to provide proof that Dr. Chamorro is still alive, protect his physical and mental integrity, ensure his access to family and counsel, and uphold all his rights under the ICCPR, the UDHR, and the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (Body of Principles).

I. BACKGROUND ON JUAN SEBASTIÁN CHAMORRO

Juan Sebastián Chamorro is a Nicaraguan economist, political leader, and vocal critic of President Daniel Ortega. Born in Managua, Nicaragua, Dr. Chamorro pursued his education in

the United States, earning an undergraduate degree in economics from the University of San Francisco, a master's in economics with a focus on social policy from Georgetown University, and a doctorate in economics from the University of Wisconsin-Madison.

In 2005, he served as the Technical Secretary of the Presidency of the Republic – the Ministry in charge of strategic national planning – before serving as the Vice Minister of Finance the following year. During his time in the government, he contributed to the process that led to the National Development Plan; played a key role in negotiating Nicaragua's acceptance into the HIPC debt reduction program with the International Monetary Fund; and led successful negotiations with the Millennium Challenge Corporation for a US \$175 million grant to Nicaragua. From 2006 to 2011, Dr. Chamorro helped execute the grant program by heading the Millennium Challenge Account in Nicaragua, and from 2011 to 2014, he was the CEO of the export company MACESA. He later served as Executive Director of FUNIDES, a leading Nicaraguan economic think tank. He has also taught undergraduate and graduate level courses in economics at the National Autonomous University of Nicaragua and at Thomas More University in Managua.

Until earlier this year, Dr. Chamorro was also a leading figure in the Civic Alliance for Justice and Democracy (ACJD), serving as the Executive Director from 2019 to January 2021. Through his work with ACJD especially, he became one of the most prominent opposition voices in Nicaragua, pushing for government accountability, democratic reforms, and justice for victims of human rights abuses. He was a vocal supporter of peaceful civil resistance during the 2018 mass protests in Nicaragua and strongly condemned the consequent violent crackdown orchestrated by the Ortega regime. In January 2021, Dr. Chamorro stepped back from his role in ACJD to focus on his political career, and on February 27, 2021, he officially announced his presidential campaign, running on a platform of economic reform, improved social infrastructure, and enhanced justice mechanisms for victims of human rights violations.¹

Dr. Chamorro is the nephew of former Nicaraguan President Violeta Barrios de Chamorro, who beat Daniel Ortega in the 1990 election, and the cousin of presidential candidate Cristiana Chamorro, who has been placed under house arrest.² He is married to his wife Victoria Cárdenas and they have one daughter.

II. HISTORY OF PERSECUTION BY NICARAGUAN AUTHORITIES

Nicaraguan authorities and affiliated paramilitary groups have, for many years, targeted Dr. Chamorro and his family due to his advocacy and participation in civil society. Earlier this year, he told *Confidencial* that he and his family have been the victims of “attacks, beatings, raids, insults, millionaire fines, financial terrorism, threats of confiscation, and arrest warrants.”³

¹ Cindy Regidor, *Juan Sebastián Chamorro Anuncia Pilares de Su Plan de Gobierno*, CONFIDENCIAL, Feb. 27, 2021, available at <https://www.confidencial.com.ni/politica/juan-sebastian-chamorro-anuncia-pilares-de-su-plan-de-gobierno/> [in Spanish].

² Marlon Soto et al., *Nicaraguan Presidential Challenger Cristiana Chamorro Placed Under House Arrest*, CNN, June 3, 2021, available at <https://www.cnn.com/2021/06/03/americas/nicaragua-cristiana-chamorro-house-arrest-intl-latam/index.html>.

³ Iván Olivares, *Juan Sebastián Chamorro Se “Dedicará” a la “Política”*, CONFIDENCIAL, Jan. 11, 2021, available at <https://www.confidencial.com.ni/politica/juan-sebastian-chamorro-se-dedicara-a-la-politica/>.

On December 22, 2018, for example, he was summoned by the police for his criticism of President Ortega.⁴ Two months later, he reported that police regularly pull him over and surround his office, leading him to work remotely and sleep at different houses.⁵ Then in May 2019, Nicaraguan authorities branded him a “traitor to the nation” and demanded that he be removed from the negotiations between the regime and ACJD after he voiced his support for discontinuing funding to the National Police on human rights grounds.⁶ By December 2019, Dr. Chamorro was receiving routine death threats from Ortega loyalists.⁷

The repression began to escalate in September 2020. On September 30, 2020, Dr. Chamorro posted a video to social media showing Nicaraguan police stationed outside Intermezzo del Bosque, the community where he lives.⁸ Then, on October 25, 2020, he was blocked by police while attempting to travel from Managua to the nearby city of Masaya for ACJD activities.⁹ When he and several others attempted to exit the vehicle and peacefully pass by the police vehicles on foot, they were stopped and violently forced back.¹⁰ Videos of the incident depict police officers pushing Dr. Chamorro and his companions with riot shields and their hands despite facing no resistance from the group. When they inquired why they were being forced to turn around, they were told it was because they were “coup plotters and terrorists.”¹¹ In the weeks after this incident, the police informed Dr. Chamorro that he was not permitted to leave the city of Managua because he was the “object of an investigation,” but would not disclose the reason for the investigation.¹²

⁴ *Líder de la Oposición en Nicaragua Es Citado por la Policía tras Criticar a Ortega*, EFECTO COCUYO, Dec. 22, 2018, available at <https://efectococuyo.com/internacionales/lider-de-la-oposicion-en-nicaragua-es-citado-por-la-policia-tras-criticar-a-ortega/> [in Spanish].

⁵ Carrie Kahn, *Stay or Go? Ortega’s Crackdown Pushes Nicaraguans to Make Hard Choices*, NPR, Feb. 9, 2019, available at <https://www.npr.org/2019/02/09/692286247/stay-or-go-ortegas-crackdown-pushes-nicaraguans-to-make-hard-choices>.

⁶ *Opositor Ve Como “Elogios” los Ataques Oficialistas en Su Contra en Nicaragua*, EFE, May 11, 2019, available at <https://www.efe.com/efe/america/politica/opositor-ve-como-elogios-los-ataques-oficialistas-en-su-contra-nicaragua/20000035-3974124> [in Spanish].

⁷ Emiliano Chamorro Mendieta, *Fánaticos Orteguistas Amenazan con Asesinar a Juan Sebastian Chamorro*, LA PRENSA, Dec. 16, 2019, available at <https://www.laprensa.com.ni/2019/12/16/politica/2621805-fanaticos-orteguistas-amenazan-con-asesinar-a-juan-sebastian-chamorro>.

⁸ Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, Sept. 30, 2020, 11:08 am, available at <https://twitter.com/Jschamorro/status/1311322051626569728> [in Spanish].

⁹ Carlos Larios, *Policía Orteguista Prohíbe Salir de Managua a Juan Sebastián Chamorro*, LA PRENSA, Nov. 13, 2020, available at <https://www.laprensa.com.ni/2020/11/13/politica/2747052-policia-orteguista-prohibe-salir-de-managua-a-juan-sebastian-chamorro> [in Spanish].

¹⁰ Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, Oct. 25, 2020, 6:25 pm, available at <https://twitter.com/Jschamorro/status/1320491764390744069> [in Spanish].

¹¹ Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, Oct. 25, 2020, 6:29 pm, available at <https://twitter.com/Jschamorro/status/1320492745279049730> [in Spanish] and Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, Oct. 25, 2020, 9:28 pm, available at <https://twitter.com/Jschamorro/status/1320537770453061632> [in Spanish].

¹² *Policía Orteguista Prohíbe Salir*, supra note 9; see also Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, Nov. 13, 2020, 1:04 pm, available at <https://twitter.com/Jschamorro/status/1327311491729600512> [in Spanish] and Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, Nov. 14, 2020, 12:27 pm, available at <https://twitter.com/Jschamorro/status/1327664399797153794> [in Spanish].

This travel restriction remained in place until his arrest, and Nicaraguan police continued to follow him, maintain a presence near his home, and take pictures of him, which he documented on social media.¹³ Beginning on May 20, 2021, the police restricted his movement further, placing him under *de facto* house arrest.¹⁴ One of the police captains enforcing the restrictions also violently took Dr. Chamorro's cell phone, then later stole and broke two cell phones carried by individuals attempting to visit him.¹⁵

As mentioned, the Ortega regime has also attempted to intimidate Dr. Chamorro's family. On July 16, 2020, Nicaraguan authorities filed tax fraud cases against his wife, sister-in-law, and mother-in-law, which forced his wife to temporarily go into hiding. The following month, on August 21, Judge Isabel Castro Martínez issued arrest and search warrants for his wife and mother-in-law for their alleged failure to fulfill their financial commitments to the Managua mayor's office.¹⁶ Although the Nicaraguan authorities have not acted on the warrants, they remain active. In October 2020, Nicaraguan authorities seized several properties within the Intermezzo community belonging to Dr. Chamorro's mother-in-law – five lots, her residence, and the community well¹⁷ – for alleged tax evasion and declared that the family owed more than nine million córdobas (over US \$250,000) after wrongly finding that the family had earned 325 million córdobas between 2017 and 2019.¹⁸ Due to the executive nature of the seizure, the family's lawyers only had three days to contest the allegations.¹⁹ In December 2020, Judge Ramón Real Pérez threw out the evidence presented by the defense.²⁰ All evidence presented since has also been rejected, and in March 2021, the courts denied the appeal filed by the family's lawyer.²¹ That same month, the judge appointed a professional to assess the value of

¹³ Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, Jan. 10, 2021, 3:41 pm, *available at* <https://twitter.com/Jschamorro/status/1348369312768290816> [in Spanish]; Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, Feb. 13, 2021, 10:20 am, *available at* <https://twitter.com/Jschamorro/status/1360609886518857728> [in Spanish]; and Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, Mar. 27, 2021, 5:51 pm, *available at* <https://twitter.com/Jschamorro/status/1375928441007190017> [in Spanish].

¹⁴ *El Régimen de Daniel Ortega Sitió a los Aspirantes a la Presidencia de la Oposición en Nicaragua*, INFOBAE, May 21, 2021, *available at* <https://www.infobae.com/america/america-latina/2021/05/21/el-regimen-de-daniel-ortega-sitio-a-los-aspirantes-a-la-presidencia-de-la-oposicion-en-nicaragua/> [in Spanish] and Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, May 20, 2021, 7:21 pm, *available at* <https://twitter.com/Jschamorro/status/1395517780930273282> [in Spanish].

¹⁵ Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, June 5, 2021, 9:59 am, *available at* <https://twitter.com/Jschamorro/status/1401176808565923850> [in Spanish].

¹⁶ Álvaro Navarro, *Juez de Ortega Rechaza Pruebas en Embargo Contra Esposa de Juan Sebastián Chamorro*, ARTÍCULO 66, Dec. 9, 2020, *available at* <https://www.articulo66.com/2020/12/09/juez-ortega-rechaza-pruebas-esposa-juan-sebastian-chamorro/> [in Spanish].

¹⁷ Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, Oct. 5, 2020, 10:54 pm, *available at* <https://twitter.com/Jschamorro/status/1313311753992843265> [in Spanish].

¹⁸ *Juez de Ortega Rechaza Pruebas*, *supra* note 16.

¹⁹ Xavier González, *Régimen Apuesta por “Amedrentar y Arrinconar” a Juan Sebastián Chamorro con Embargo Contra Su Familia*, ARTÍCULO 66, Oct. 6, 2020, *available at* <https://www.articulo66.com/2020/10/06/embargo-familia-juan-sebastian-chamorro-amenaza-intermezzo/> [in Spanish].

²⁰ *Juez de Ortega Rechaza Pruebas*, *supra* note 16.

²¹ Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, Mar. 18, 2021, 12:57 am, *available at* <https://twitter.com/Jschamorro/status/1372411708971552770> [in Spanish].

the properties, raising the family's fears that the authorities will soon attempt to auction them off.²²

III. CURRENT CAMPAIGN OF ELECTION REPRESSION BY NICARAGUAN AUTHORITIES

Nicaraguan authorities have engaged in an escalating campaign of repression against both Dr. Chamorro personally and other members of the political opposition since fall 2020. Legislatively, Nicaragua's National Assembly passed a series of broad laws and amendments designed to facilitate government persecution of dissenting voices, including the Law for the Regulation of Foreign Agents, the Special Law on Cyber-crimes, and the Law for the Defense of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace.²³ This last law (also known as Law No. 1055) in particular was strongly condemned by the international community for giving "the government of President Daniel Ortega the power to unilaterally declare citizens 'terrorists' or coup-mongers, classify them as 'traitors to the homeland' and ban them from running as candidates."²⁴ On December 21, 2020, the General Secretariat of the Organization of American States stated that the law granted the Nicaraguan Government the authority to transform the "2021 elections into an imposition rather than an election" and demanded Nicaraguan authorities repeal it.²⁵

Outside of policy, Nicaraguan authorities regularly employed repressive tactics against opposition leaders and activists, both directly and in coordination with paramilitary groups and party loyalists. These actions included illegal raids of private residences, surveillance, cyberattacks on opposition websites, disruption of private meetings and gatherings, coercive distribution of resources like food and medical supplies, torture, and arbitrary arrests and detention²⁶ resulting in over 120 political prisoners.²⁷ Further, "[p]olice regularly stationed police vehicles outside the homes of opposition members, harassing visitors and occasionally prohibiting opposition members from leaving their houses."²⁸

Building off of the 2020 legislation, the Nicaraguan Government implemented additional electoral reforms in April and May 2021 that further jeopardized the impartiality of the

²² Tweet by Juan Sebastián Chamorro (@Jschamorro), TWITTER, Mar. 25, 2021, 11:41 am, *available at* <https://twitter.com/Jschamorro/status/1375108087120560131> [in Spanish].

²³ REPORT 2020/21: THE STATE OF THE WORLD'S HUMAN RIGHTS, AMNESTY INT'L, 2021, at 265–66, *available at* <https://www.amnesty.org/download/Documents/POL1032022021ENGLISH.PDF>; *see also* SILENCE AT ANY COST: STATE TACTICS TO DEEPEN THE REPRESSION IN NICARAGUA, AMNESTY INT'L, Feb. 2021, *available at* <https://www.amnesty.org/download/Documents/AMR4333982021ENGLISH.PDF>.

²⁴ *Nicaragua Essentially Bans Opposition from 2021 Election*, ASSOCIATED PRESS, Dec. 21, 2020, *available at* https://apnews.com/article/elections-blockades-central-america-daniel-ortega-nicaragua-14d04033e443f6da9bf3d11aec0dae47?utm_source=dailybrief&utm_medium=email&utm_campaign=DailyBrief2020Dec22&utm_term=DailyNewsBrief; *see also* *Nicaragua, in 2020 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES*, U.S. DEP'T OF STATE, Mar. 30, 2021, *available at* <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/nicaragua/>.

²⁵ Press Release, *Statement From the OAS General Secretariat on Nicaragua*, OFFICE OF THE OAS GENERAL SECRETARIAT, Dec. 21, 2020, *available at* https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-127/20.

²⁶ *Nicaragua*, *supra* note 24.

²⁷ *Reportan 125 Prisioneros Políticos en Nicaragua*, DW, Mar. 6, 2021, *available at* <https://www.dw.com/es/reportan-125-prisioneros-pol%C3%ADticos-en-nicaragua/a-56790948> [in Spanish].

²⁸ *Nicaragua*, *supra* note 24.

upcoming elections and restricted space for opposition participation.²⁹ In the following weeks, Nicaraguan authorities used the reform as the basis to dissolve two opposition parties; intensified their efforts to restrict the movement of opposition figures; and raided the offices of and opened a criminal investigation into leading opposition presidential candidate Cristiana Chamorro.³⁰ The same day as the raid – May 20 – both Dr. Chamorro and another presidential candidate, Félix Maradiaga, were physically prevented from leaving their homes.³¹ On May 28, in response to these events, the Office of the UN High Commissioner for Human Rights expressed that it was “deeply concerned that Nicaragua’s chances of holding free and genuine elections on 7 November are diminishing as a result of measures taken by authorities against political parties, candidates and independent journalists.”³²

In the past two weeks, this campaign of repression has escalated and intensified. On June 2, 2021, Nicaraguan security forces raided the home of Ms. Chamorro and placed her under house arrest, days after authorities leveled money laundering charges against her and requested that she be disqualified from the presidential race.³³ A court granted the request and Ms. Chamorro remains detained *incommunicado* in her home.³⁴ Ms. Chamorro’s arrest was followed by the arrest of another prominent opposition candidate, Arturo Cruz Sequeira, as he returned to Managua from a trip to Washington, DC. According to Nicaraguan police, Mr. Cruz was detained under the December 2020 treason law.³⁵ Nicaraguan authorities have ordered that he be detained for three months as they investigate.³⁶ In the hours preceding Dr. Chamorro’s arrest on June 8, Nicaraguan authorities arrested Félix Maradiaga at a police checkpoint in Managua, just minutes after Mr. Maradiaga left a four-hour interrogation at the Public Ministry.

On June 13 alone, Nicaraguan authorities arrested five more critics – the most detained on a single day in Ortega’s new wave of pre-election repression.³⁷ The arrests focused on former

²⁹ Carrie Kahn, *Ortega Targets Opposition Figures as Nicaraguan Elections Approach*, NPR, May 20, 2021, available at <https://www.npr.org/2021/05/20/998795586/ortega-targets-opposition-figures-as-nicaraguan-elections-approach>; *Press Briefing Notes on Nicaragua*, U.N. HIGH COMM’R FOR HUMAN RIGHTS, May 28, 2021, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27124&LangID=E>; and *Three Years On, Human Rights Abuses Continue in Nicaragua*, CIVICUS, June 5, 2021, available at <https://monitor.civicus.org/updates/2021/05/06/three-years-human-rights-abuses-continue-nicaragua/>.

³⁰ *Press Briefing Notes on Nicaragua*, *supra* note 29.

³¹ *Policía Agrede a Félix Maradiaga tras Llamado de “Salir a las Calles”*, RADIO CORPORACION, May 20, 2021, available at <https://radio-corporacion.com/blog/archivos/94667/policia-agrede-a-felix-maradiaga-tras-llamado-de-salir-a-las-calles/> [in Spanish].

³² *Press Briefing Notes on Nicaragua*, *supra* note 29.

³³ Jaelyn Diaz, *Police in Nicaragua Detain Opposition Figure at Her Home Following a Raid*, NPR, June 3, 2021, available at <https://www.npr.org/2021/06/03/1002744590/police-in-nicaragua-detain-opposition-figure-at-her-home-following-raid>.

³⁴ *US Calls on Nicaragua to Free Opposition Figure Chamorro*, ASSOCIATED PRESS, June 4, 2021, available at <https://apnews.com/article/caribbean-nicaragua-election-2020-5da0f1f8be9ebc3d53f96a2af592dae3>.

³⁵ *Nicaragua Detains Yet Another Opposition Politician*, ASSOCIATED PRESS, June 5, 2021, available at <https://apnews.com/article/caribbean-nicaragua-election-2020-003d84a2c2f24efc74abb51a7212d5e1>.

³⁶ Ismael López Ocampo and Mary Beth Sheridan, *Nicaraguan Government Launches Mass Arrests of Presidential Candidates*, WASHINGTON POST, June 8, 2021, available at <https://www.washingtonpost.com/world/2021/06/08/ortega-arrest-felix-maradiaga-nicaragua-presidential-candidate/>.

³⁷ *Nicaragua Arrests 5 More Opposition Leaders in Crackdown*, MICROSOFT NEWS, June 13, 2021, available at <https://www.msn.com/en-us/news/world/nicaragua-arrests-more-opposition-leaders-in-crackdown/ar-AAAL0cSr?ocid=ob-tw-enus-1541511688107>.

Sandinistas and those affiliated with the party Unamos, a party of “former Sandinistas angered by Ortega’s autocratic ways, nepotism and perpetual re-elections.”³⁸ Those arrested on Sunday were Unamos leader Victor Hugo Tinoco, Unamos leader Suyen Barahona, ex-Sandinista dissidents Dora María Téllez and Hugo Torres, and opposition leader Ana Margarita Vjil. Another Unamos activist, Tamara Dávila, was arrested on June 12.³⁹ Julie Chung, Acting Assistant Secretary for the Western Hemisphere at the US Department of State, called the weekend crackdown a “campaign of terror.”⁴⁰

IV. CIRCUMSTANCES OF ARREST AND DETENTION

On June 8, 2021, while at his home in Managua, Dr. Chamorro received a summons to appear at the Public Ministry on the morning of June 9, 2021 for an “interview.” Shortly thereafter, Dr. Chamorro received a message from the front gate of the neighborhood indicating that the police presence at the front of the complex was much larger than normal; while there were normally only one or two police patrol cars at the front gate, there were now six. Upon learning this, Dr. Chamorro and Mrs. Cárdenas left their house for Mrs. Cárdenas’ mother’s house, which is adjacent to the Chamorro residence and on the same property. Later, a neighbor called to say that the police had entered the neighborhood. Dr. Chamorro and Mrs. Cárdenas then returned across the property to their own home.

Forty armed police officers arrived at the Chamorro residence, where they jumped the fence and forced open the gate. Dr. Chamorro immediately put his hands up and was then taken away by two police officers.

After Dr. Chamorro was taken away, the vast majority of the officers present remained on the property. They surrounded the house of Dr. Chamorro’s mother-in-law, and at least 25 armed police officers entered Dr. Chamorro’s house, which they raided. Throughout all of this, Mrs. Cárdenas emphasized that they were not armed and that they would comply fully with the officers’ demands. Over the course of four hours, the police searched the Chamorro residence fully. They put numerous items into small bags, including notebooks, papers, and electronics such as cell phones, DVDs, the Internet router, and cable box. They also took electronics that belonged to Dr. Chamorro’s daughter and the family’s cleaning lady.

The police never presented an arrest warrant for Dr. Chamorro or a search warrant for his property. Once they finished the raid, Mrs. Cárdenas was made to sign the register of all the items taken by the police, but she was not given a copy of the document.

On June 8, 2021, the National Police indicated that Dr. Chamorro:

is being investigated for committing acts that undermine independence, sovereignty, and self-determination; incite foreign interference in internal affairs;

³⁸ *Nicaragua Stages Unprecedented Roundup of Opposition Leaders*, NBC NEWS, Jun. 14, 2021, available at <https://www.nbcnews.com/news/latino/nicaragua-stages-unprecedented-roundup-opposition-leaders-rcna1188>.

³⁹ *Id.*

⁴⁰ Tweet by Julie Chung (@WHAAsstSecty), TWITTER, June 13, 2021, 6:25 pm, available at <https://twitter.com/WHAAsstSecty/status/1404203289445650432>.

solicit military interventions; organize with funding by external entities in order to execute acts of terrorism and destabilization; propose commercial and economic blockades and financial operations against the state and its institutions; demand, praise, and applaud the imposition of sanctions against the state of Nicaragua and its citizens; and damage the supreme interests of the nation in conformity with Article 1 of the Law 1055 ‘Law for the Defense of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace.’⁴¹

At the time of this submission, the exact whereabouts and health status of Dr. Chamorro are unknown. Since his arrest and disappearance, Dr. Chamorro has had no contact with his family, nor with his domestic or international legal counsel.

Since his arrest, Nicaraguan police have not allowed family or counsel access to Dr. Chamorro. The day after his arrest, Dr. Chamorro’s family went to El Chipote prison, where he was rumored to be held. They were initially told that Dr. Chamorro was not held there; however, after a conversation with the prison guards, the family was told they could deliver some items – but they did not actually confirm that Dr. Chamorro was inside. At first, his family was allowed to bring food three times per day; after a few days, they were only permitted to bring liquids and snacks. Most recently, Dr. Chamorro’s family was only allowed to deliver liquids to the prison. Still, however, neither the prison guards nor the Nicaraguan authorities have ever explicitly stated that Dr. Chamorro is being held at El Chipote prison, and his family cannot confirm that these provisions were actually given to him.

On June 10, after Dr. Chamorro had been detained for 48 hours, his domestic counsel filed an appeal of personal appearance at the Appellate Tribunal of the Criminal Chamber, District of Managua. Under Articles 25, 33, and 34 of the Constitution, if a detainee is not brought before the corresponding magistrate within 48 hours of his arrest, the detention is illegal.⁴² Neither Dr. Chamorro’s family nor legal counsel has received a response from the court regarding the appeal of personal appearance submitted on June 10.

In the afternoon of June 10, the Public Ministry published a press release announcing that it had filed a request for a special hearing on constitutional guarantees in Dr. Chamorro’s case, as Dr. Chamorro is “being investigated for the possible commission of illegal acts through FUNIDES and for having strong evidence that he has attacked Nicaraguan society and the rights of the people, in accordance with Law No. 1055” and for “allegedly [carrying] out acts that undermine the independence, sovereignty, and self-determination of Nicaragua and that has publicly incited the foreign interference in internal affairs, proposing or managing economic, commercial, and financial operations blockades against the country and its institutions and has demanded, exalted, and celebrated the imposition of sanctions against the State of Nicaragua and

⁴¹ *Nota de Prensa, 140-2021*, NATIONAL POLICE OF NICARAGUA, June 8, 2021, *available at* <https://www.lavozdelsandinismo.com/nicaragua/2021-06-08/policia-nacional-nota-de-prensa-140-2021-informa-sobre-detencion-de-juan-sebastian-chamorro-garcia/> [in Spanish].

⁴² CONSTITUTION OF THE REPUBLIC OF NICARAGUA, Jan. 1, 1987, Arts. 25, 33–34, *available at* https://www.constituteproject.org/constitution/Nicaragua_2014.pdf?lang=en.

its citizens.”⁴³ The special hearing took place that same day, the request was granted, and Dr. Chamorro was remanded to judicial detention for 90 days. Dr. Chamorro’s lawyer was not informed of the secret hearing, and it is not known if Dr. Chamorro himself was even present.

V. LEGAL ANALYSIS

Political influence on a court or judge violates an accused’s right to an independent and impartial tribunal. Article 14(1) of the ICCPR provides that “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law,” which is reiterated in Article 10 of the UDHR.⁴⁴ In addition, the Body of Principles requires a “judicial or other authority” to have the “strongest possible guarantees of competence, impartiality and independence.”⁴⁵ The UN Human Rights Committee has emphasized that “the right to be tried by an independent and impartial tribunal is an absolute right that may suffer no exception”⁴⁶ and that states must ensure “the actual independence of the judiciary from political interference by the executive branch” and “protect[] judges from any form of political influence in their decision-making.”⁴⁷ Notably, Nicaragua’s Constitution explicitly provides that “[a]ll persons in the national territory shall enjoy State protection and recognition of the rights inherent to the human person, as well as unrestricted respect, promotion and protection of those human rights, and the *full applicability of the rights set forth in the Universal Declaration of Human Rights . . . [and] in the International Pact of Civil and Political Rights of the United Nations.*”⁴⁸

The investigation and detention of Dr. Chamorro is entirely politically motivated. This is clear from the Ortega regime’s general control over the judiciary, the regime’s escalating repression against the political opposition in the lead up to the November 2021 election, and the egregious violations of Dr. Chamorro’s due process rights – including a secret detention hearing in which he was remanded to 90 days’ detention despite having no legal counsel – which indicate the court is operating with a willful disregard for both international law and Nicaragua’s Constitution.

⁴³ *Comunicado 011-2021*, MINISTERIO PÚBLICO DE NICARAGUA, June 10, 2021, available at <https://ministeriopublico.gob.ni/comunicado-11-2021/> [in Spanish]; see also *Régimen Investiga a FUNIDES para Inculpar a Juan Sebastian Chamorro*, ARTÍCULO 66, June 11, 2021, available at <https://www.articulo66.com/2021/06/11/regimen-investiga-a-funides-para-inculpar-a-juan-sebastian-chamorro/> [in Spanish].

⁴⁴ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, adopted 1948, at Art. 10 (“Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”).

⁴⁵ Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, G.A. Res. 47/173, U.N. Doc. A/43/49, adopted 1988, available at <https://www.globaldetentionproject.org/wp-content/uploads/2016/06/The-Body-of-Principles-for-the-Protection-of-All-Persons-under-Any-Form-of-Detention-or-Imprisonment.pdf>.

⁴⁶ *González del Río v. Peru*, Communication No. 263/1987, U.N. Doc. CCPR/C/46/D/263/1987, U.N. HUMAN RIGHTS COMMITTEE, adopted Oct. 28, 1992, at ¶ 5.2.

⁴⁷ *General Comment No. 32 on Article 14: Right to Equality Before Courts and Tribunals and to a Fair Trial*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/32, Aug. 23, 2007, at ¶ 19.

⁴⁸ CONSTITUTION OF THE REPUBLIC OF NICARAGUA, Jan. 1, 1987, Art. 46, available at https://www.constituteproject.org/constitution/Nicaragua_2014.pdf?lang=en (emphasis added).

A. *Nicaragua’s Judiciary Is Controlled by the Executive*

It is widely recognized that Nicaragua’s judiciary is not independent, but rather is completely controlled by the executive. The US State Department, for example, has reported that “Ortega’s Sandinista National Liberation Front party exercises total control over” the judiciary and that the “Supreme Court and lower-level courts remained particularly susceptible to bribes, manipulation, and political influence, especially by the FSLN.”⁴⁹ Freedom House has similarly noted that “[t]he judiciary remains dominated by FSLN and PLC appointees” and “generally serve[s] the interests of the FSLN.”⁵⁰ Freedom House further highlighted that President Ortega’s political repression has included “politicized court rulings. . . that prevented opposition figures from participating in politics.”⁵¹

B. *The Persecution of Dr. Chamorro Is Part of a Larger Attack on the Political Opposition in Nicaragua*

The political nature of Dr. Chamorro’s persecution is evident from its context – i.e., the campaign of repression that Nicaragua has inflicted on the political opposition since fall 2020, and in particular since June 2 (detailed above). As of the filing of this Urgent Appeal, at least four presidential candidates have been detained – Cristiana Chamorro (June 2), Arturo Cruz Sequeira (June 5), Felix Maradiaga (June 8), and Dr. Chamorro (June 8) – as have other opposition leaders and activists – José Adán Aguerra (June 8), Violeta Granera (June 8), José Pallais (June 9), Tamara Dávila (June 12), Suyen Barahona (June 13), Hugo Torres (June 13), Dora Téllez (June 13), Ana Margarita Vijil (June 13), and Víctor Hugo Tinoco (June 13). Moreover, all of them are currently under investigation under the highly problematic Law No. 1055, enacted in December 2020, which allows the government to bar individuals from running for political office if they have committed any one of a listed set of vague acts⁵² (for example, several are accused of “damaging the supreme interests of the nation”). The use of Law No. 1055 in particular indicates a deliberate attempt to disqualify all potential credible challengers to President Ortega in the upcoming presidential election. As Human Rights Watch presciently observed soon after it was passed, Law No. 1055 “appears designed to bar opposition candidates from participating in the 2021 presidential elections.”⁵³

⁴⁹ *Nicaragua*, *supra* note 24.

⁵⁰ *Freedom in the World 2020: Nicaragua*, FREEDOM HOUSE, accessed June 13, 2021, available at <https://freedomhouse.org/country/nicaragua/freedom-world/2020>.

⁵¹ *Id.*

⁵² Ley de Defensa de Los Derechos Del Pueblo a la Independencia, la Soberanía y Autodeterminación Para la Paz, No. 1055, Dec. 21, 2020, at Art. 1, available at [http://legislacion.asamblea.gob.ni/SILEG/Iniciativas.nsf/C4084E2665A5610F06258642007E9C3F/\\$File/Ley%20N%C2%B0%201055,%20Ley%20Defensa%20de%20los%20Derechos%20del%20Pueblo.pdf?Open](http://legislacion.asamblea.gob.ni/SILEG/Iniciativas.nsf/C4084E2665A5610F06258642007E9C3F/$File/Ley%20N%C2%B0%201055,%20Ley%20Defensa%20de%20los%20Derechos%20del%20Pueblo.pdf?Open) [in Spanish].

⁵³ *Nicaragua: Law Threatens Free, Fair Elections*, HUMAN RIGHTS WATCH, Dec. 22, 2020, available at <https://www.hrw.org/news/2020/12/22/nicaragua-law-threatens-free-fair-elections>; see also REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: SITUATION OF HUMAN RIGHTS IN NICARAGUA, U.N. Doc. A/HRC/46/21, Feb. 11, 2021, at ¶ 29, available at <https://undocs.org/A/HRC/46/21> (“Law 1055 . . . contain[s] very broad definitions that give leeway to efforts to prevent opposition candidates from participating in the November 2021 elections.”).

C. *There Is No Legitimate Legal Basis for Dr. Chamorro's Detention*

Article 9(1) of the ICCPR prohibits arbitrary arrest or detention and provides that “[n]o one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”⁵⁴ Article 33 of Nicaragua’s Constitution also prohibits arbitrary detention.⁵⁵

The press release from the Public Ministry on June 10, 2021 (Comunicado 011-2021) appears to confirm that Nicaraguan authorities are justifying Dr. Chamorro’s detention under Law No. 1060, enacted in February 2021, which amended the Code of Criminal Procedure to allow the judicial authority, at the request of the government attorney, to detain suspects for up to 90 days to allow for more time to gather evidence for potential criminal charges.⁵⁶ Law No. 1060 was invoked, for example, during a preliminary hearing on June 7 as a basis to detain Arturo Cruz Sequeira, also a potential opposition presidential candidate, for 90 days.⁵⁷ However, Law No. 1060 is plainly incompatible with international law.

The Human Rights Committee has explained that, under ICCPR Article 9(3), pretrial detention on a criminal charge “shall be the exception rather than the rule” and “must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime.”⁵⁸ While Article 9(3) applies only to “persons awaiting trial on criminal charges, that is, after the defendant has been charged . . . a similar requirement prior to charging results from the prohibition of arbitrary detention in [ICCPR Article 9(1)].”⁵⁹

Law No. 1060, however, does not require any finding that detention is reasonable and necessary because, e.g., the person is a flight risk or is likely to interfere with evidence or commit additional crimes. Rather, it merely requires the court, in ordering investigative detention, to consider factors unrelated to the necessity or reasonableness of detention, such as

⁵⁴ International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, at Art. 9(1) [hereinafter ICCPR].

⁵⁵ CONSTITUTION OF THE REPUBLIC OF NICARAGUA, *supra* note 48, Art. 33.

⁵⁶ *Comunicado 011-2021*, *supra* note 43; *see also* Norma Gutierrez, *Nicaragua: Amendment to Code of Criminal Procedure Extends Pretrial Preventive Detention Period*, LIBRARY OF CONGRESS, Mar. 11, 2021, *available at* <https://www.loc.gov/law/foreign-news/article/nicaragua-amendment-to-code-of-criminal-procedure-extends-pretrial-preventive-detention-period/>; *see also* Ley de Reforma y Adición a la Ley No. 406, Código Procesal Penal de la República de Nicaragua, No. 1060, Feb. 5, 2021, at Art. 2, *available at* [http://legislacion.asamblea.gob.ni/Normaweb.nsf/164aa15ba012e567062568a2005b564b/49c912ed7dde58ce062586760053c890?OpenDocument&Highlight=2, Penal \[hereinafter Law No. 1060\] \(adding Article 253 bis to the Code of Criminal Procedure\) \[in Spanish\].](http://legislacion.asamblea.gob.ni/Normaweb.nsf/164aa15ba012e567062568a2005b564b/49c912ed7dde58ce062586760053c890?OpenDocument&Highlight=2, Penal [hereinafter Law No. 1060] (adding Article 253 bis to the Code of Criminal Procedure) [in Spanish].)

⁵⁷ *Nicaragua Judge Orders Opposition Figure Jailed for 90 Days*, WASHINGTON POST, June 7, 2021, *available at* https://www.washingtonpost.com/world/nicaragua-judge-orders-opposition-figure-jailed-for-90-days/2021/06/07/3dd15ce4-c7cd-11eb-8708-64991f2acf28_story.html and *IACHR and UN Human Rights Categorically Condemn the Criminal Prosecution of Presidential Pre-Candidates and Urge the State of Nicaragua to Immediately Release Them*, OHCHR REGIONAL OFFICE FOR CENTRAL AMERICA, June 9, 2021, *available at* <http://www.oacnudh.org/iachr-and-un-human-rights-categorically-condemn-the-criminal-prosecution-of-presidential-pre-candidates-and-urge-the-state-of-nicaragua-to-immediately-release-them/>.

⁵⁸ *General Comment No. 35 on Article 9: Liberty and Security of Person*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/35, Dec. 16, 2014, at ¶ 38.

⁵⁹ *Id.*

the seriousness of the facts; the complexity of the investigation; the number of those affected, accused, or the alleged actions; whether the alleged crimes relate to organized crime; whether the investigation concerns crimes of social relevance and national significance; and any other information or evidence that helps to substantiate the origin of the request.⁶⁰ This falls far short of the individualized determination for investigative detention required under the ICCPR.

D. Dr. Chamorro Is Being Held Without Access to Counsel or Family

Under Article 14(3)(b) of the ICCPR, everyone has the right, “[i]n the determination of any criminal charge against him,” to “communicate with counsel of his own choosing.”⁶¹ The Human Rights Committee has explained that counsel must be provided to detainees in criminal cases “from the outset of their detention.”⁶² The UN Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court similarly states that detainees “have the right to legal assistance by counsel of their choice . . . immediately after the moment of apprehension.”⁶³ Detainees also have the related right, protected by ICCPR Article 9(4), “to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention,”⁶⁴ which can only be effectively exercised when a person has access to legal assistance of their own choosing from the moment of arrest.⁶⁵

Detainees also have the right to have access to their family. The Body of Principles states that “communication of the detained or imprisoned person with the outside world, and in particular his family . . . shall not be denied for more than a matter of days.”⁶⁶ It further provides that a “detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world.”⁶⁷ The UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) similarly asserts: “Prisoners shall be allowed . . . to communicate with their family and friends at regular intervals,” including “[b]y receiving visits.”⁶⁸

Nicaraguan law provides similar rights. Article 34(4) of the Constitution protects the right “[t]o have one’s . . . defense guaranteed from the very initiation of the legal process and to have the time and means adequate to one’s defense.”⁶⁹ The Code of Criminal Procedure further requires that all detainees be allowed to communicate with a lawyer or family members within

⁶⁰ Law No. 1060, *supra* note 56, at Art. 2.

⁶¹ ICCPR, *supra* note 54, at Art. 14(3)(b).

⁶² *General Comment No. 35*, *supra* note 58, at ¶ 35.

⁶³ REPORT OF THE WORKING GROUP ON ARBITRARY DETENTION, U.N. GENERAL ASSEMBLY, 30th Sess., U.N. Doc. A/HRC/30/37, July 6, 2015, at ¶ 12, *available at* <https://undocs.org/A/HRC/30/37> (emphasis added).

⁶⁴ ICCPR, *supra* note 54, at Art. 9(4).

⁶⁵ *Iskander Yerimbetov v. Kazakhstan*, Opinion No. 67/2018, U.N. Doc. A/HRC/WGAD/2018/67, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Nov. 20, 2018, at ¶ 72.

⁶⁶ Body of Principles, *supra* note 45, at Principle 15.

⁶⁷ *Id.*, at Principle 19.

⁶⁸ United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), G.A. Res. 70/175, U.N. Doc. A/RES/70/175, *adopted* Dec. 17, 2015, at Rule 58(1), *available at* <https://undocs.org/A/RES/70/175>.

⁶⁹ CONSTITUTION OF THE REPUBLIC OF NICARAGUA, *supra* note 48, Art. 34(4).

three hours of arrest⁷⁰ and allows an accused to be defended by a lawyer of their own choosing.⁷¹ Law No. 1060 – under which Dr. Chamorro was ordered detained for 90 days – specifically provides that “[t]he accused, *legal counsel*, and the Public Ministry must be present at [the detention] hearing.”⁷²

As of the filing of this Urgent Appeal, Dr. Chamorro has not had any contact from his family whatsoever. In fact, as discussed, Nicaraguan authorities have not even directly told the family where he is being held. Nor has Dr. Chamorro had any contact with his lawyer, even though his lawyer tried to find and visit him. Although Law No. 1060 requires legal counsel to be present at any detention hearing under it, Dr. Chamorro’s lawyer was not even given notice of the secret detention hearing on June 10, 2021. Furthermore, Dr. Chamorro now does not currently have defense counsel, as his lawyer has been missing since the morning of June 11.

E. Nicaragua Has Violated Dr. Chamorro’s Right to the Presumption of Innocence

Article 14(2) of the ICCPR guarantees the right to the presumption of innocence.⁷³ This right imposes on the prosecution the burden to prove the charge, and requires that the accused has the benefit of doubt.⁷⁴ The Human Rights Committee has explained that media coverage that affirms the accused’s guilt, or portrays the accused in a way that undermines the presumption of innocence, must be avoided.⁷⁵ The UN Working Group on Arbitrary Detention has also reaffirmed this interpretation, finding a violation of the presumption of innocence in *Aguilar v. Bolivia*, where the Government used the detainee’s arrest to further official propaganda.⁷⁶ Nicaragua’s Constitution also protects the right to the presumption of innocence.⁷⁷

On June 8, Vice President and first lady Rosario Murillo referred to the individuals being investigated – all opposition leaders and/or potential opposition presidential candidates – as “terrorists” and “criminals,” adding that: “They believe they’ll be forever unpunished, [but] justice arrives, late but it arrives in this Nicaragua that had been prospering and in reconciliation. How much we would have done with what this mountain of thieves stole, not just thieves but also terrorists, criminals.”⁷⁸ By affirming Dr. Chamorro’s guilt in such a blatant and public manner, this statement violated his right to presumption of innocence. And committing Dr. Chamorro to 90 days in judicial detention for the Government to further investigate the allegations against him is the practical equivalent to a sentencing, despite the fact he has not been convicted of any crime.

⁷⁰ Código Procesal Penal de la Republica de Nicaragua, No. 406, Nov. 13, 2001, at Art. 95.3, *available at* http://www.oas.org/juridico/spanish/mesicic3_nic_procesal.pdf [in Spanish].

⁷¹ *Id.*, at Art. 95.10.

⁷² Law No. 1060, *supra* note 56 (emphasis added).

⁷³ ICCPR, *supra* note 54, at Art. 14(2).

⁷⁴ *General Comment No. 32*, *supra* note 47, at ¶ 30.

⁷⁵ *Id.*

⁷⁶ *Aguilar v. Bolivia*, Opinion No. 12/2005, U.N. Doc. E/CN.4/2006/7/Add.1, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* May 26, 2005, at ¶¶ 9–10.

⁷⁷ CONSTITUTION OF THE REPUBLIC OF NICARAGUA, *supra* note 48, Art. 34(1).

⁷⁸ *Nicaragua Arrests Potential Challengers to President Daniel Ortega*, NBC NEWS, June 9, 2021, *available at* <https://www.nbcnews.com/news/latino/nicaragua-arrests-potential-challengers-president-daniel-ortega-rcna1154>.

F. Nicaragua Has Violated Dr. Chamorro’s Right to a Public Hearing

Article 14(1) of the ICCPR enshrines the right to a “fair and *public* hearing” in all criminal proceedings.⁷⁹ The Human Rights Committee has explained that “[t]he publicity of hearings ensures the transparency of proceedings and thus provides an important safeguard for the interest of the individual and of society at large.”⁸⁰ A court can exclude the public only in “exceptional circumstances” for a limited set of purposes.⁸¹ Nicaragua’s Constitution similarly requires that “[t]he judicial process must be oral and public” and the public’s access can be restricted only for “moral and public order reasons.”⁸²

As mentioned above, on June 10, 2021, in a secret hearing that was not open to the public or the media, a court ordered that Dr. Chamorro be detained for 90 days under Law No. 1060 (nor is it currently known whether Dr. Chamorro himself was even present at the hearing). The government has provided no explanation for why the hearing was held in secret; this represents a serious violation of Dr. Chamorro’s right to a public hearing.

VI. CONCLUSION

Nicaragua’s investigation and detention of Dr. Chamorro represents a severe violation of his right to an independent and impartial judiciary. Given the long-standing persecution he has faced from the regime, the current climate of political repression, executive control of the judiciary, and the court’s demonstrated willingness to ignore the requirements of Nicaraguan and international law, it appears inevitable that this violation will continue.

We respectfully reiterate our request that, in accordance with your working methods, you investigate the situation and immediately reach out to the Government of Nicaragua, imploring it to uphold its obligations under the ICCPR.

Sincerely,

Jared Genser
International Counsel to Juan Sebastián Chamorro

Brian Tronic
International Counsel to Juan Sebastián Chamorro

⁷⁹ ICCPR, *supra* note 54, at Art. 14(1) (emphasis added).

⁸⁰ *General Comment No. 32*, *supra* note 47, at ¶ 28.

⁸¹ *Id.*, at ¶ 29.

⁸² CONSTITUTION OF THE REPUBLIC OF NICARAGUA, *supra* note 48, Art. 34.