

## NICARAGUA

### CEDAW A/44/38 (1989)

169. The Committee considered the initial report of Nicaragua (CEDAW/C/5/Add.55) at its 137<sup>th</sup> and 139<sup>th</sup> meetings, on 23 and 24 February 1989 (CEDAW/C/SR.137 and 139).

170. The representative from Nicaragua, in introducing the report, said that it should be considered in conjunction with the information in her introductory statement. The report before the Committee had subsequently been updated but that version had not arrived. Her introductory statement described the historical background of women's role in Nicaragua throughout its changing history and presented an analytical and critical review of the constitutional laws and practices of Nicaragua in the context of the Convention. The representative stressed the rights guaranteed in the Constitution and the contradictions that existed in the Civil, Penal and Labour Codes in force in the country.

171. The representative stated that the situation of women was synonymous with the history of Nicaragua and its struggle for freedom. In their fight for emancipation, women had not only tried to liberate themselves, but had also tried to change the social, political and economic structure of Nicaraguan society. The revolution of July 1979 had placed them in a new context, presenting new perspectives for their emancipation. The representative emphasized the difficulties that women faced in connection with the various developments that the country had been exposed to and the problems the war had caused in delaying the full emancipation of women.

172. The Committee noted its appreciation of the report and the comprehensive statement made by the representative of Nicaragua, as well as its clear identification of issues. The Committee expressed the hope that the Government would find further ways of continuing to improve the status of women through a speedy revision of the provisions in the Civil, Penal and Labour Codes that were not in full consonance with the Nicaraguan Constitution. It was asked to what extent women and women's organizations were seeking to have those Codes revised.

173. The Committee noted that there was a clear difference in the report between the existing legislation and the de facto situation. Noting that the report stated that any inconsistency between the articles of the Convention and administrative or legal regulations could be brought before a judge, a member of the Committee requested details of the major reform that would be necessary to remove such an inconsistency and asked whether the Government was in a position to implement such a reform. Another member asked if any timetable had been established for such a new reform.

174. A clarification was requested of the inconsistencies found in the report in connection with article 129 of the Penal Code, especially concerning abduction and rape. It was asked whether any efforts were being made to reform those obsolete and discriminatory laws.

175. Regarding any inconsistency between the Civil Code and the Constitution, a member of the Committee raised the issue of whether, as the representative had implied in her introductory

statement, women's groups could really have any influence on a judge's interpretation of the law when dealing with matters relating to the family and the roles of men and women within the family.

176. An observation was made that, in many countries, the rate of progress made by women in wartime was more rapid than afterwards. A question was raised concerning the number and influence of non-governmental organizations and other large women's organizations in the country, the extent of women's participation in the city councils (cabildos) and the number of women who occupied high professional posts in the army.

177. More information was requested by members of the Committee on women's movements in Nicaragua and how they co-operated with each other and on whether the Government helped them financially.

178. It was asked whether the Nicaraguan law provided for the prosecution of the male clients of prostitutes and whether there were programmes aimed at changing the attitudes of men towards prostitution and the exploitation of women. It was also asked whether anything was being done to provide training for alternative jobs for prostitutes and to deal with the problem of AIDS.

179. The Committee asked whether there were any women judges in the higher courts and what percentage of the high-level posts in Nicaragua were occupied by women.

180. Noting that the illiteracy rate had fallen from 50.3 per cent to 12.9 per cent, it was asked whether literacy training was confined to reading and writing or whether there were also remedial or supplementary educational programmes. A member of the Committee requested clarification of the percentage of women enrolled in various sectors of education.

181. The Committee sought clarification of the types of employment to which women were restricted, and the legal remedies that existed in the case of sex discrimination in employment in the public and private sectors.

182. Further information was requested on the reasons for forbidding advertisements for milk products in the mass media.

183. A member of the Committee inquired whether special day-care services, refuges and health services were available to protect children and communities from the deleterious effects of the war and to improve the health of the family.

184. Information was requested on any measures that had been taken to prevent or reduce the abuse of young girls and women, including domestic violence, sexual assault, alcoholism and drug abuse, and on the care of the victims of those social ills.

185. It was asked whether women who were being trained as health workers were encouraged to emphasize the need for good hygiene habits, clean drinking water and sanitation.

186. The Committee asked about the results of sex education campaigns and whether any statistics were available on their benefit to teenagers. It also asked what the youngest permissible age for

motherhood was.

187. A member asked whether all women had a right to family planning services, and whether they were sponsored by the Government. It was asked whether the provision governing the right to life gave preference to the life of the foetus rather than to that of the mother. It was also asked whether there were any programmes to reduce the high rate of infant mortality and to improve access to supplies of clean water.

188. A member of the Committee asked for information on the process of agrarian reform and whether there were employment opportunities for women in rural areas. She also wanted to know the reasons for the increased movement of women to urban areas, especially since the report had stated that women in rural areas had played an important role. Another member of the Committee asked what had been done to encourage more women to cultivate the land and what particular measures had been taken for the benefit of women belonging to ethnic minorities. A question was asked about the impact of the war on women in rural areas and how women were coping with the disruption to their lives.

189. A member of the Committee asked about the extent to which men were ready to share parental responsibilities and domestic tasks.

190. A question was raised on how the new legal provisions were implemented in the case of women who were abused within the family and children who were ill-treated.

191. A member of the Committee requested information on how marriage could be dissolved by mutual consent and unilaterally, and whether that meant that the partners could abandon the relationship without provision for complying with their responsibilities towards each other and their children. Information was requested on the disposition of property acquired during marriage, as well as details of the inheritance laws for women and children. Information was also requested on de facto unions, and their effect on the laws governing alimony, the distribution of property and inheritance, as well as on the status of children born out of wedlock.

192. The Committee asked for information on how the provisions for wives and children were enforced in the event of divorce, and what the rates for divorce and common-law marriage were.

193. In replying to the questions on the Constitution, the review of related codes and the position of the Government regarding such changes, the representative of Nicaragua replied that the main task has been the elaboration of the Constitution. The codes would be updated in accordance with the provisions of the Constitution. As the Constitution had already been adopted, it would be used as a guide for the amendment of the codes as required by law. Already, a study on the new Labour Code was being prepared. The representative said that the fact that some references to women in the Penal Code could be considered discriminatory would be borne in mind because the Constitution had enshrined the principle of equality of all persons before the law.

194. The representative informed the Committee that women had participated actively in the preparation of the Constitution in two phases. The first phase had consisted of the collection of information at national and international levels, including the opinions of diverse political

organizations and other relevant associations and the second phase had consisted of the preparation of the first draft of the Constitution incorporating all the information that had been gathered. Women had also participated in the national consultation on the draft Constitution and had organized city councils (cabildos) to obtain the opinion of women.

195. Regarding the request for information on the rape and abuse of women, the representative replied that the Penal Code provided for a sentence of between 6 and 12 years particularly when the rape was considered to have been extremely cruel. An amendment of that rule was under consideration. She said that refuges or shelters for abused women existed in three regions of the country, which provided such women with counselling and psychological support.

196. Regarding the comment that had been made on the tendency, in times of peace, for the progress achieved by women during wartime to slow down, the representative stated that she shared that opinion. Women themselves were aware of that tendency and were trying to raise the general awareness of the work they did, of women's subordinate position and of the need for women to organize themselves to balance the unequal position of women and men. She referred to the active role that women had played during wartime, which had made women question their traditional roles and see the need to change their lives in accordance with reality. Training for leaders and technicians was being provided and day-care centres were being established.

197. In reply to questions about whether the positive measures that had been taken were on account of pressure applied by women, and whether the Convention would be used as a tool for introducing more programmes, the representative replied that the Nicaraguan Women's Institute would have to assume the responsibility for developing a programme to publicize the Convention. She added that it would be important to make all parliamentarians and members of the cabinet and judges of the Supreme Court of Justice and other relevant institutions aware of the Convention.

198. Regarding the situation of Indian women, who constituted a minority group, the representative said that there was a law that granted them autonomy. Accordingly, they were able to elect their own authorities and were free to decide on the administration of their own natural resources. They also had the right to regulate the ownership of their land. They were allowed to live in accordance with their own traditions and to preserve their art, language and culture.

199. Regarding the role of television and radio in influencing attitudes towards women, particularly in informing them of the progressive law, the representative said that a programme existed that was aimed at increasing women's knowledge of their rights. Furthermore, CONAPRO broadcast a women's programme that covered three regions of the country.

200. The representative stated the Constitution prohibited prostitution. Only the procurer and the owner of a brothel were prosecuted, however. There was no provision to prosecute the male clients of prostitutes. She said that a major campaign on AIDS had been undertaken to prevent the spread of the disease, and a special programme for the media was under way to educate people about the dangers of AIDS, particularly for high-risk groups such as prostitutes and homosexuals. Only 14 cases of AIDS had been reported.

201. Regarding the percentage of women appointed to the High Court and involved in politics, the

representative said that 28 per cent of the judges of the Supreme Court of Justice, 24 per cent of the members of the ruling party and 43 per cent of the members of regional committees were women. There were, however, no women in the national directorate of the party.

202. As regards illiteracy, the representative stated that there was a national campaign of volunteers to reduce illiteracy from 50 to 12 per cent. During a six-month period, 80,000 persons had participated, 60 per cent of whom were women. That programme had been followed up by an educational programme for adults. In reply to a question on the data on education presented in the report (CEDAW/C/5/Add.55), the representative stated that they referred to the distribution of students registered in the different levels of the educational system. The majority of the students were registered in the primary- and secondary-school levels.

203. The representative said that one objective of education was to provide an integrated training of all persons. Consequently, there was no difference between the access of men and women to free education. The statistics supplied indicated the registration figures of students. In 1987, 54 per cent of the 903,500 students were women. In primary education, 52.25 per cent of the students were women. In the basic cycle of secondary education, 63 per cent of the students were women, in the diversified cycle of secondary education, 67 per cent of the students were women. Women accounted for 48 per cent of the students in adult education. She indicated, however, that differences according to sex were apparent in the choice of professional and technical careers.

204. Regarding the request for more information on the participation of women in income-generating activities and recourse to legal action in cases of discrimination, the representative referred to the statistical data attached to her presentation, which would be included in the updated report. As for additional data on employment in the public and private sectors, she said that the data would be sent to the Secretariat later.

205. With regard to family planning, the representative stated that the Government was promoting a programme on family planning through the health centres and providing education on the use of contraceptives. She said that women had access to those centres but had no knowledge of contraception. She indicated that the programme had also been carried out through the print and electronic media. She said that vaccination campaigns had been undertaken to reduce infant mortality; no statistics were available, however, but they would be supplied later.

206. In reply to a question about the reasons for prohibiting advertisements for milk, the representative replied that a misunderstanding had arisen because she had meant that breast-feeding was to be promoted rather than the use of milk substitutes.

207. Regarding the impact of the war on women in the rural areas, the representative stated that it had tended to lead to the feminization of the rural sector since women constituted the bulk of the labour force. It had also led to the establishment of co-operatives among the workers and had meant that women had had to consolidate the roles they were called upon to play in those difficult circumstances.

208. In connection with agrarian reform and co-operative programmes, the representative said that a good legal framework existed for the implementation of co-operative programmes. Women,

however, were still relegated to a subsidiary role and she attributed that to the influence of the traditional role of women and the authority of men within the co-operatives and that of the husband at home. She indicated that some difficulties arose when the title to the land was granted to the husband, following a dissolution of marriage, and the wife was left without land. Consideration was being given to that problem and additional information would be supplied in the updated report.

209. In connection with the request for clarification of the obligation for men and women to share housework, and the extent to which men were willing to share it, the representative said that the law on the relations between mother, father and children had established an obligation that domestic responsibilities should be shared although it was difficult to enforce it. The majority of men were not prepared to lose the privilege of coming home to rest, and women resented that situation, which was the reason why the legal provisions had been introduced. The existence of such a provision only enhanced the need to enact a new law for a new society.

210. Regarding the maltreatment of children, the representative indicated that, in general, everyone tended to protect children. There was a specific Central Trusteeship of Minors. A parent who maltreated a child might lose the rights to patria potestad, and other persons guilty of the maltreatment of children were deemed to have committed a crime.

211. Regarding the information requested on the unilateral dissolution of marriage, the representative said that a law outlined the procedures and requirements for such dissolution, specifically providing for the guardianship of the children, maintenance and distribution of the property.

212. The parent who became the guardian of the children had the right to keep the house if it had been acquired during the marriage. The subject of de facto marriages would be discussed in 1989 within the women's movement. De facto union was not regulated but the social security provisions recognized such unions by granting social security to the orphans and widows of such unions. She stated that during the previous three years, there had been a high incidence of divorce.

## **CEDAW A/48/38 (1993)**

359. The Committee considered the second and third periodic reports of Nicaragua (CEDAW/C/13/Add.20 and CEDAW/C/NIC/3) at its 219<sup>th</sup> meeting, on 26 January (see CEDAW/C/SR.219).

360. The Committee noted that the political changes and economic conditions in recent years had affected progress in Nicaragua. It noted that, apart from playing an active role in the tragic and drawn-out conflict, Nicaraguan women had contributed considerably to their country in making important social advances as a result of their awareness of their duties and rights as one of the basic constituents of their society.

361. The Committee observed that the second and third periodic reports submitted by Nicaragua were not as systematically presented as would have been desirable and, in some instances, involved contradictions. It suggested that future reports adhere more closely to the general guidelines regarding the form and content of reports received from State parties under article 18 of the Convention (CEDAW/C/7) and to the general recommendations of the Committee.

362. Before replying to questions, the representative of Nicaragua said that both reports reflected the history of the country, which had involved political events that had had a strong impact on the status of Nicaraguan women. Whereas the second periodic report portrayed the legal situation and the participation of women in all walks of life as a result of the war, the third periodic report presented the actual situation and showed the efforts made and the political will to work on the elimination of the causes that had given rise to discrimination against women.

### Questions related to specific articles

#### Articles 1, 2, 3 and 4

363. Asked about the Constitution of Nicaragua that had been promulgated in 1987 and that had been inspired by a new social order, the representative said that it was still in force and had been neither repealed nor amended.

364. Regarding the questions whether the Government Office for Women, established in 1982, still existed and what its functions were, the representative explained that that Office had been reorganized and transformed into the Nicaraguan Institute for Women (INIM) in 1987. Its main functions were to participate actively in defining and revising government policies and to coordinate with all governmental institutions in order to ensure that they took into account the status of women; to disseminate data on the participation of women in economic development so as to make the Government and society aware of the real situation of women; to promote the participation of women in Government-sponsored projects; to obtain external financing for the strengthening of INIM and the promotion of its programmes; to initiate the revision of laws concerning the status of women; to launch and monitor technical training programmes that should take into account gender perspectives; to participate in national and international conferences dealing with women's issues; and to promote sources of income and employment for unemployed women. Currently, INIM

received allocations from the national budget and from cooperating agencies.

365. Asked for further information on what had been termed in the third periodic report a “reactivation” of INIM in November 1990, the representative explained that INIM had had to start from scratch because neither the former documentation centre of over 2,500 volumes, research findings about Nicaraguan women, the computer centre, archives and documents about projects and the administration of INIM nor the vehicles could be located. INIM had been brought back to life only through the Government’s efforts and the support of neighbouring States.

366. Asked whether the Centre for the Guardianship of Minors was still in existence, the representative said that it had been converted into an institution with additional responsibilities within the Nicaraguan Institute for Social Security and Welfare. It provided legal assistance and care to minors, the family and the community, it dealt with the legal requirements for adoption, marital conflicts, the right of guardianship for children and maintenance payments, and it gave legal advice to women in need.

367. Regarding the former Family Guidance and Protection Office of that Institute, which had been dealing with the legal, social and psychological problems of women, the representative said that its legal functions had been transferred to the Legal Petition Office for Minors and the Family (Dirección de Instancia Legal del Menor y la Familia). Its psycho-social functions had been transferred to the Office for Centres and Zones (Dirección de Centros y Zonales), with the same hierarchical structure as the former Office for Family Orientation and Protection.

368. With regard to the Women’s Legal Office, an organ of the Luisa Amanda Espinoza Association of Nicaraguan Women, the representative said that it was a women’s organization with the political orientation of the Frente Sandinista. She said that currently, the Government supported mainly development projects in favour of, and at the request of, women.

369. Asked for further information on the planned establishment of a statistical information system disaggregated by gender and age group as well as by other characteristics, the representative stated that INIM was currently working on the establishment of such a nationwide network. Furthermore, a census of households, covering population, housing and farming, disaggregated by gender, was being planned.

370. An additional comment was made by a member to the effect that the Convention on the Elimination of All Forms of Discrimination against Women had not been mentioned among the legal instruments on which the unrestricted respect for human rights was based, and yet the Convention was recognized in the country’s Constitution. She asked whether discrimination as specified in the Convention was actually forbidden by the Constitution.

371. Bearing in mind that the adjustment programme had led to a reduction of the deficit from 20 per cent to 7 per cent of GNP, as mentioned in the third periodic report, which had resulted in a decline of the living conditions of women and children, a member asked whether thought had been given earlier to the social dimension of the structural adjustment programmes, in order to reduce their negative effects, and what kind of emergency measures had been adopted to absorb those effects.



## Article 5

372. Regarding the question whether the decree of 1979 prohibiting the publication or use of representations of women as sexual commercial objects still existed, the representative said that the law had been put into force in 1979 and had been abolished in 1990.

373. Regarding the measures taken to overcome all forms of gender-based violence and a request for detailed reports on the nature and extent of the problem of violence against women, the representative stated that the President had established the Commission on Violence against Women in 1992. The Commission coordinated its activities for setting up centres for female victims of violence with the Institute for Social Security and Welfare. A centre offering psychological counselling for young female victims of sexual violence had already been established. The Commission was also organizing, together with the police, seminars for dealing with female victims of violence.

## Article 6

374. In reply to several questions related to prostitution, the representative stated that prostitution was not legal in Nicaragua. Incitement to prostitution was punishable by three to six years' imprisonment and, if the perpetrator was married to, or lived in a de facto union with the victim, by up to 10 years' imprisonment. The incidence of prostitution was increasing as a result of the economic situation in Nicaragua. The State was not taking any specific measures on behalf of prostitutes, but efforts were being made to integrate them into vocational training. They could also undergo monthly gynaecological examinations in a health centre.

375. Asked about the measures taken by the Government to protect prostitutes from HIV/AIDS, the representative said that education campaigns were being carried out through the mass media and other forms of publicity.

## Article 7

376. Although 15 of the 92 representatives in the National Assembly were women, only one woman held a senior position in the legislature. The representative said that the Electoral Law did not call for a specific percentage of women on the election lists. There was only one woman among the seven judges sitting in the Supreme Court of Justice, and only one woman among the five judges who made up the Supreme Electoral Council.

377. Asked about the number of women represented on the Council of Ministers, the representative said that there were two, the Health Minister and the Vice-Minister of Finance. She said that women were represented on many other bodies of administrative authority, such as the Office of the Attorney. Furthermore, the Director of the Culture Institute and the Director and Deputy Director of INIM were also women. The proportion of women in the legal profession was about 20 per cent. In general, women were well represented among the advisers of persons holding political decision-making positions.

## Article 8

378. Asked how many women were representing Nicaragua in other countries and how many were employed in international organizations, and what their proportion in relation to men was, the representative said that there was one woman ambassador who was serving as ambassador in five countries concurrently.

#### Article 10

379. Questioned about the fact that women accounted for 51.6 per cent of all illiterate persons in Nicaragua and asked whether any literacy training programmes were targeted on women, the representative said that the adult education programmes were not specifically directed to women.

380. In answer to questions about special programmes to encourage education for women, the methods pursued by the Government to eliminate stereotyped concepts of the roles of men and women, and programmes to steer women in the direction of industrial education courses, in keeping with the requirements of the State, the representative said that the Government carried out training activities in non-traditional sectors through the National Technological Institute. That training had an impact on women because they became interested in seeking alternative employment. More and more women were looking for alternative education patterns, but the impact of those programmes would be felt only in the long term. Use was made of publicity campaigns on the radio to inform women of training opportunities. She said that at the end of 1992 it had been urged that an information centre for the training and employment of women should be created to carry out the vocational training of women through seminars for employers, teachers and people in general, and through publicity. The programme of the National Technological Institute had become part of a regional training programme involving eight Latin American countries.

381. In an additional comment, a member underlined the need for further improvement in the educational and cultural levels of women, saying that, in spite of the Government's efforts, the country's goals had still not been attained.

#### Article 11

382. Asked about the effect on women of the changes introduced since 1990 in the approach to the economy, the representative explained that the impact had been greatest on women heads of household. As they were less educated and had insufficient training to qualify them for higher paid jobs, they had access only to low paid jobs, which had led to an increase in the number of persons living in poverty.

383. Concerning questions on the actual rate of unemployment in Nicaragua and the proportion of women that were unemployed, the representative replied that currently 51 per cent of the economically active population was unemployed.

384. Regarding the participation of women in the economically active population, the representative confirmed that the figure of 34 per cent, given in the third periodic report, was correct.

385. Asked for the reasons for the decrease in the economically active female population in the rural sector, the representative said that many of the persons who had made up the rural population had

emigrated to urban areas because of the almost 10 years of war and because of natural disasters. In urban areas, women mostly tried to find jobs in the informal sector and in domestic employment. No information was given on measures taken to correct the situation.

386. While the representative did not indicate the current percentage of women working in the informal sector, she enumerated various economic assistance programmes for women employed in the informal sector, such as financing programmes for small and medium-sized businesses and programmes of communal banks for financing the productive and commercial activities of women head of household who had no access to credit and lived in extreme poverty.

387. In response to a question on the outcome of a ruling by the International Court of Justice at The Hague under which Nicaragua should be compensated for the losses that it had suffered as a result of indirect aggression and whether, if it had been, any of the money was being used to improve the situation of women in Nicaragua, the representative said that no such ruling had been made and consequently no indemnity had been paid.

388. Asked about the kind of assistance given to women heads of household, the representative said that the Government was encouraging a promotion and training programme through INIM, in coordination with several ministries and the Institute for Social Security and Welfare, which consisted in literacy campaigns and training activities in traditional and non-traditional jobs in order to facilitate access to income-generating credit. The latter organization was also establishing day-care centres to offer security to children and to facilitate women's integration into the labour force.

389. In additional comments, further information was requested on women in the informal sector, including statistical data and details about their working conditions; job-creation measures for women; and the situation of working mothers, since not enough day-care centres were available and women did not have adequate access to labour-saving technology.

## Article 12

390. Asked about the plans of the Government to adopt a general policy for the protection of maternity, reproductive health, and occupational health and safety, the representative said that the right to health of all citizens was covered by article 59 of the Constitution. Through the Institute for Social Security and Welfare, the Government was trying to decentralize the health services and to provide social assistance to all workers.

391. Regarding the question whether the Government was carrying out any programme of education and assistance to deal with the problem of abortion, which was referred to as the third most common cause of death among mothers, the representative explained that the Government was a member of the regional commission for combatting maternal death and it acted through the Ministry of Health and various subcommissions. The reduction of maternal death was one of the priorities of the Ministry of Health within the framework of its programme for mothers covering the time of pregnancy and the first years of infancy.

392. In additional comments, concern was expressed about the high incidence of death related to abortion and the question was reiterated as to what kind of family planning and assistance measures

the Government was carrying out. Members also asked whether the Government had approached governmental and non-governmental organizations to assist the country in alleviating its food shortage that affected mostly women and children.

#### Article 14

393. In response to a question, the representative said that, according to the statistics of 1990, women accounted for 40 per cent of the agricultural wage-earning workforce.

394. Asked about programmes of assistance for rural working women, the representative mentioned the programme “Women, environment and development”, which promoted the participation of rural women in the country’s development. It was an integral programme that was aimed at the practical and strategical necessities of rural women, including access to credit, self-esteem and legal literacy.

395. Regarding the data in the second periodic report on the proportion of rural women who were heads of households, the representative said that no more contemporary data were available, but it could be assumed that the proportion had increased because many women had become widows or orphans as a result of the war.

396. Referring to assistance programmes for rural women workers, the representative said that the Government was trying to promote the extension of education, health, training and medical services through municipal governments.

#### Article 15

397. Replying to the question whether women still did not have full legal capacity because as stated in the second periodic report, they were equated, in terms of legal capacity, with children and disabled persons and required legal representation in most cases, the representative said that articles 27 and 48 of the Constitution gave women equality before the law with men.

398. In an additional comment, a member pointed to a contradiction between law and practice in Nicaragua. She was concerned that while women participated in the political life of the country, they did not have full legal capacity and could not appear in court on their own behalf. When asked how women reacted to that situation, the representative replied that women were represented in all political institutions and, in the absence of appropriate written laws, women resolved their problems in a pragmatic way.

#### Article 16

399. Referring to observations made on Law No. 38 on the dissolution of marriage at the wish of one of the parties, a practice that gave rise to a series of injustices whose effects would be felt most by women and children, the representative said that the law had been promulgated in 1988. Although the law was still in force, some progress had been made in that it had been analysed; the population, mainly women, had been consulted and more Government support for the payment of maintenance had been required. She said that women had made most use of the law. Simultaneously, other laws had been put into force, such as the law on alimony.

400. Asked to clarify a presumed contradiction between the second and the third periodic reports regarding the treatment of pregnant women prisoners, the representative said that there was no contradiction between the two reports. It was correct to say that no special law protected pregnant women prisoners, and the statement concerning their special treatment referred to administrative measures to protect pregnant women prisoners because of the non-existence of a special law.

401. Regarding the concern expressed by members over the high incidence of early marriages and the high percentage of unregistered marriages, and questioned on the Government's view, the representative said that the Government did not promote early marriages. They were a fact of life on account of the natural conditions of the country with its numerous seismic events, its volcanoes and other natural disasters, and, most important of all, the early maturity gained from participation in the war.

402. An additional comment was made on the number of families where children lived with only their mother, a situation that was harmful for their upbringing. A member asked what the Government's view was.

403. Regarding the high divorce rate and questioned why most divorces were initiated by women, the representative replied that women had never shirked playing many roles. Although men continued to be the political decision makers, women took decisions behind the scenes. She said that women carried a sufficient part of the burden of income-earning and child care, that they were unwilling to support a spouse who did not contribute and accordingly they were willing to ask for a divorce rather than to continue supporting an unnecessarily dependent husband. In the same way as they carried out any kind of activity, they also asked for a divorce if necessary.

#### Concluding observations

404. Members commended Nicaragua for the fact that it had ratified the Convention without entering any reservations, for the timely preparation of its reports and their presentation to the Committee, and for the detailed replies to the questions. It was particularly impressive because the country had undergone so many changes and had suffered from a war, natural disasters and a trade embargo. It demonstrated the political will of the Government and its commitment to the women's cause. Tribute was paid to Nicaraguan women who had taken such an active part in all walks of life. Members commended the country's ratification of several other international conventions relevant to women's rights and they hoped that those international instruments would also be properly implemented. Concern was expressed, however, that neither of the reports had followed the Committee's general guidelines regarding the form and content of reports nor had they taken into account the Committee's general recommendations. Members said that a consideration of the Convention, article by article, would help the Government in overcoming some of its difficulties in promoting the status of women. An effective application of the provisions of the Convention would improve the situation of the entire society.

## **CEDAW A/56/38 (2001)**

277. The Committee considered the fourth and fifth periodic reports of Nicaragua (CEDAW/C/NIC/4 and CEDAW/C/NIC/5) at its 525th and 526th meetings, on 17 July 2001 (see CEDAW/C/SR.525 and 526).

### **(a) Introduction by the State party**

278. In introducing the reports, the representative of Nicaragua informed the Committee that they covered the period from 1991 to 1998, and described some important innovations during that time.

279. She informed the Committee that the Government had committed itself to the implementation of the Convention but several obstacles had impeded full implementation. Those included the persistence of stereotypical attitudes, in particular machismo, and the poverty that Nicaragua faced. The Government had implemented a reinforced strategy to reduce poverty and other programmes to improve the health and education of women, girls and boys. The law provided a general framework of human rights protection and the Constitution and the ley de amparo, which protected individuals against administrative abuse and provided for injunctions to stop administrative acts which could adversely affect the rights of citizens, ensured the implementation of those rights. A common agenda on women's priorities had been established, in collaboration with civil society and political parties. Draft revisions to the penal and family codes and penal procedures would remove discriminatory provisions, and the Constitution and the Civil Code included provisions on nationality. The Childhood and Adolescence Code, which had been approved in 1998, established that children were entitled to know their parents and to carry a name. The Commission for Women, Childhood, Youth and Family had presented a law of equal opportunity to the National Assembly for approval.

280. The Nicaraguan Institute for Women had been established as the national machinery with the mandate to define, formulate and promote public policies and develop strategies to ensure equal opportunities for men and women, including through action to improve female living conditions on the basis of equality, development and peace. The Ministry for the Family had also been created, and aimed to promote projects and programmes relating to families, girls and boys, and teenagers in situations of social risk. The promotion of women had also been included in the Ministry's activities with respect to domestic violence, which was addressed as a violation of the right to life and the right to security of person. A reduction in financial resources had, however, limited the impact of these projects and programmes.

281. The representative of Nicaragua indicated that, among the various policies that had been implemented by the Government to promote the advancement of women were the social policy, the national population policy, the citizen participation policy, the sex education policy and the equal opportunity policy. Other mechanisms to promote the dialogue between the Government and civil society had been implemented through the inter-institutional commissions. In addition, two positions, those of attorney for human rights and special attorney for children, youth and women, had been created.

282. The representative informed the Committee about the advancement of women in the educational sector and the positive results that had been achieved in terms of women's access to education at all levels, and high levels of attendance at schools and universities, to which the National Plan for Education (2001-2015) had contributed. Results were particularly significant in respect of girls in rural areas. The rate of illiteracy of women was lower than that of men, and women made up the majority of the student population. The National Institute of Technology, which was responsible for professional training, had created a specific unit to develop programmes to build the capacity of women in geographical areas with high levels of unemployment, as well as programmes for rural women, single mothers and teenagers at risk. Those programmes were aimed at the creation of microenterprises for women, providing them with access to credit at low interest rates, and ensuring that they were offered jobs in non-traditional sectors.

283. The representative of Nicaragua indicated that the life expectancy for women had increased but that maternal mortality was still a critical health problem. Measures that had been taken to address the problem included the establishment of specialized hospitals, where female staff offered disease-prevention and prenatal-monitoring services.

284. The representative admitted that women tended to be concentrated in low-paid sectors of employment. In rural areas, discrimination insofar as access to opportunities and productive resources and services was still significant. In 1997, the Inter-institutional Commission for Women and Rural Development had been created to promote the interests of rural women, and had subsequently implemented a project, entitled "Women and credit", to increase women's access to credit.

285. The representative pointed out that domestic violence affected a large number of women in Nicaragua. The Government had created offices for women and children, as a result of the cooperative effort by the Nicaraguan Institute for Women, the Women's Anti-violence Network, the secretariat of the National Plan to Prevent Domestic and Sexual Violence (2001-2006) and the National Commission on Violence against Women, Children and Young Persons to address the problem. The Penal Code had also been reformed to provide greater protection for victims. Trafficking in all its forms was also prohibited by article 40 of the Constitution.

286. In conclusion, the representative informed the Committee that the number of women in decision-making positions and in politics had increased significantly in recent years.

#### (b) Concluding comments of the Committee

##### Introduction

287. The Committee expresses appreciation to the Government of Nicaragua for its fourth and fifth periodic reports. The Committee notes, however, that the reports do not incorporate sufficient statistical data disaggregated by sex.

288. The Committee expresses appreciation for the information contained in the reports and the frankness with which the reports were prepared. It commends the Government on the comprehensive replies to the Committee's questions which sought to clarify the situation of women in Nicaragua,

and on the Government's sincere oral presentation of the reports.

### Positive aspects

289. The Committee welcomes the efforts made by the Government of Nicaragua to implement the Convention, as reflected in a range of laws, institutions, policies and programmes to address discrimination against women in Nicaragua. The Committee recognizes that the Nicaraguan Institute for Women was one of the first national machineries to be established in the region, in 1982. The Committee welcomes the Government's collaboration with civil society and other actors in reaching a common agenda on women's priorities.

290. The Committee commends the Government on the publication and dissemination of a handbook explaining the provisions of the Convention.

291. The Committee commends the Government on its efforts to include the teaching of human rights in kindergarten, primary, secondary and technical or vocational schools, and in military and police training academies, and on the integration of a gender perspective into the National Development Plan and school curricula and teacher training.

292. The Committee notes with appreciation the efforts made to combat violence against women, including the adoption of legislation against domestic violence (Act No. 230); the establishment of the National Commission on Violence against Women, Children and Young Persons; the National Plan for the Prevention of Domestic and Sexual Violence 2001-2006; and the coordination carried out with various sectors of society, including the national police force, in particular the women's police stations (comisarías), in combating gender violence.

### Factors and difficulties affecting the implementation of the Convention

293. The Committee notes that the high level of poverty in Nicaragua, aggravated by natural disasters, poses a serious obstacle to the implementation of the Convention and women's full enjoyment of their rights.

### Principal areas of concern and recommendations

294. The Committee expresses concern about the persistence of stereotypes concerning the role of women in the family and society, including the expectations of women's subordination to men expressed by some religious communities, and attitudes and behaviour driven by machismo in public and private life. The Committee is concerned that, notwithstanding the Government's recognition of the problem and its efforts to address the problem, including legislative change, such stereotypes continue to constitute an obstacle to the achievement of equality for women.

295. The Committee calls upon the Government to strengthen measures to change stereotypical attitudes about the roles and responsibilities of women and men, including awareness-raising and educational campaigns directed at both women and men, as well as the media, in order to achieve de facto equality between women and men. It also calls upon the Government to undertake an



assessment of the impact of its measures in order to identify shortcomings, and to adjust and improve these measures accordingly.

296. The Committee expresses concern at the high incidence of poverty among women, in particular rural women and households headed by women.

297. The Committee urges the Government to give priority attention to rural women and women heads of household, including in the allocation of budgetary resources, and to monitor research into their situation, with a view to developing effective policies and programmes to strengthen their socio-economic situation and ensuring that they receive needed services and support. The Committee emphasizes that social investment in women not only ensures their enjoyment of the human rights outlined in the Convention, but also constitutes one of the most effective means of combating poverty and promoting sustainable development.

298. The Committee expresses concern at the custom, in particular in rural areas, of sexual abuse of young girls by older men. It notes that this violates the rights of girls to reproductive health, as well as other rights under the Convention.

299. The Committee urges the Government to introduce awareness-raising and penal measures to eliminate the sexual abuse of young girls.

300. The Committee expresses concern about the high infant and maternal mortality rates in Nicaragua. The Committee also expresses concern that the leading causes of mortality among women are cervical and breast cancer, and pregnancy-related problems, including post-partum haemorrhage and toxæmia. The Committee notes with concern a lack of information on abortions and on the incidence of related death or illness.

301. The Committee recommends that the Government make every effort to increase access to health-care facilities and medical assistance by trained personnel in all areas, including rural areas. The Committee also recommends the implementation of programmes to prevent cervical and breast cancer, and to ensure the availability of pregnancy-related medical care. The Committee requests the Government to include in its next report information on the number of abortions performed and related death and/or illness, within the general framework of health conditions of women.

302. The Committee expresses concern about the high fertility rate in Nicaragua.

303. The Committee calls upon the Government to improve its family planning and reproductive health policy and programmes, including the availability and accessibility of affordable modern contraceptive means to both women and men. It encourages the Government to promote educational programmes on reproductive rights and responsible sexual behaviour on the part of both women and men, in particular young people.

304. The Committee notes with concern the persistence of a high level of illiteracy among certain groups of women in Nicaragua.

305. The Committee encourages the Government to develop programmes specifically designed to

reduce female illiteracy.

306. The Committee expresses concern that women workers have been replaced by men in both the formal and informal sectors of the economy, that men's wages are three times greater than those of women and that the rates of unemployment and underemployment of women are high. It also expresses concern at the indirect discrimination against women because they have limited access to credit owing to their lack of collateral.

307. The Committee recommends that measures be taken to improve the status of working women, including the introduction of training programmes to promote the integration of women into the labour force and to diversify their participation; the establishment of childcare centres; improved access to credit, with special emphasis on rural women; and greater efforts to achieve equal pay for work of equal value.

308. While the Committee welcomes the Government's efforts to combat domestic violence, it expresses concern at the continuing extent of domestic violence against women in Nicaragua. The Committee stresses that, since violence against women is an infringement of human rights, it is the Government's responsibility to prevent such violence and to take measures to protect its victims.

309. The Committee calls upon the Government to take practical measures to follow up and monitor legislation, and to strengthen its policies and programmes addressing violence against women, including by assessing their effectiveness and adjusting them accordingly.

310. The Committee welcomes the establishment of the national machinery for women, the Nicaraguan Institute for Women, but is concerned at the lack of institutional support for the Institute and its dependence on international cooperation.

311. The Committee urges the Government to provide the Nicaraguan Institute for Women with the required finances, personnel and political decision-making capacity to enable it to influence effectively the promotion of gender equality in Nicaragua.

312. While the Committee welcomes the adoption of legislation to protect and promote women's human rights, including domestic violence legislation and the Equal Opportunities Law, the Committee expresses concern that discriminatory laws continue to exist and that there is no legislation dealing with education.

313. The Committee urges the Government to reform existing legislation and enact new legislation to protect the equal rights of women and men in regard to education. It recommends the speedy adoption of a non-discriminatory family code.

314. The Committee expresses concern about the lack of information in the reports on the migration of women and girls, women working in the maquiladora factories and free trade zones, older women and minority and indigenous women, prostitution, and trafficking of women and girls.

315. The Committee requests the Government to provide in its next report information on the migration of women and girls, including why the movements are occurring, the destination points,

and the extent to which these women and girls become vulnerable to sexual exploitation, including trafficking, prostitution and sex tourism; the situation of women working in the maquiladora factories and free trade zones, including the measures taken to ensure that their rights are protected; older women and minority and indigenous women, especially as regards their health, employment and educational status; prostitution, including the measures taken to protect women who are prostitutes and to reintegrate them into society, as well as the measures taken to counteract the root causes of prostitution; and the measures taken by the Government to combat trafficking, and the impact of such measures.

316. The Committee urges the Government to sign and ratify the Optional Protocol to the Convention and to deposit as soon as possible its instrument of acceptance of the amendment to article 20, paragraph 1, of the Convention, concerning the meeting time of the Committee.

317. The Committee requests the Government to respond to the concerns expressed in the present concluding comments in its next periodic report submitted under article 18 of the Convention. It urges the Government to improve the collection and analysis of statistical data, disaggregated by sex, age and minority or ethnic group, and to submit such data to the Committee in its next report. The Committee invites the Government to seek international cooperation in connection with the collection and analysis of such data.

318. The Committee requests the wide dissemination in Nicaragua of the present concluding comments in order to make the people of Nicaragua, in particular governmental administrators and politicians, aware of the steps that have been taken to ensure the de jure and de facto equality of women and of the further steps that are required in this regard. It requests the Government to continue to disseminate widely, in particular to women's and human rights organizations, the Convention and its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the results of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".