



**International  
Human Rights  
Instruments**

Distr.  
GENERAL

HRI/CORE/NIC/2008  
2 October 2008

ENGLISH  
Original: SPANISH

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**CORE DOCUMENT FORMING PART OF THE REPORTS  
OF STATES PARTIES**

**NICARAGUA<sup>\*,\*\*</sup>**

[2 June 2007]

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\* This document contains information transmitted by the State Party. It was not formally edited before being sent to the United Nations translation services.

\*\* The annexes may be consulted in the secretariat archives.

## PREAMBLE

The Government of Reconciliation and National Unity, aware of the importance of promoting the protection of the human rights of all the inhabitants of Nicaragua and the world, and in accordance with its recent election as a State Member of the Human Rights Council for the period 2007-2010, herewith submits to the various treaty bodies of the United Nations system the common core document and the 13 overdue periodic reports: four on the International Covenant on Civil and Political Rights (3<sup>rd</sup> to 6<sup>th</sup> reports), five on the International Convention on the Elimination of All Forms of Racial Discrimination (10<sup>th</sup> to 14<sup>th</sup> reports), three on the International Covenant on Economic, Social and Cultural Rights (2<sup>nd</sup> to 4<sup>th</sup> reports) and the initial report on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Although it is true that previous governments made efforts to bring the State of Nicaragua up-to-date with respect to its obligation to submit periodic reports to the Committees, it was not until the Government of Reconciliation and National Unity undertook to conduct an awareness-raising campaign among the various actors involved in the process that the huge task was accomplished.

We now have an Inter-Agency Committee on Human Rights (CIDH) committed to the task of continuously monitoring the effective application of the provisions concerning the protection of human rights contained in the national legislation and the international agreements signed.

The interest of our Government goes beyond the international obligation to submit reports; the intention is to strengthen the human rights agenda and transform it into a mainstream element of public policy, thereby triggering changes at the heart of the governmental and non-governmental institutions themselves, with special emphasis on public participation.

We are endeavouring to develop efficient mechanisms for following up and effectively applying the national and international human rights legislation, with special emphasis on vulnerable and minority groups.

## EXECUTIVE SUMMARY

### A. General information concerning the State of Nicaragua

Surface area:	130,373.40 km <sup>2</sup>
Population:	5,142,098
Population density:	42.7 per km <sup>2</sup>
Urban population:	44.1%
Life expectancy:	72.89 years
Maternal mortality:	86.47
Infant mortality:	22 deaths per 1,000 births
Fertility rate:	2.76 children per woman
Indigenous population:	8.6%

Persons per household:	4.9
Households headed by women:	28%
Gini coefficient:	0.56
Per capita GDP:	US\$ 971.20

The proportion of persons living below the poverty line is 46%, while 15% live below the minimum level of dietary consumption, that is to say, in extreme poverty.

Among children under the age of five, 10% present with general malnutrition or are underweight while 20% present with chronic malnutrition.

The illiteracy rate is 20.5% and enrolment in an educational institution, among persons aged between 6 and 29, is 51.7%.

The rate of labour force participation in the population aged 10 and over is estimated at more than 52% and the unemployment rate is 5.2%. However, about 64% of the population in full-time work are employed in the informal sector.

Nicaragua is a secular State, the majority religion being Catholicism.

### **B. Protection and Promotion of Human Rights**

During recent decades, one of the most significant advances made by the State of Nicaragua in promoting and protecting human rights has been the adaptation of its legal frameworks to comply with international human rights norms.

At national level, Nicaragua has a legal framework for the protection of human rights that respects the principles of non-discrimination and equality of all citizens, men and women. Most of the rights mentioned in the various human rights instruments are protected in the Political Constitution of Nicaragua and other specific laws developed during the course of this period.

As the supreme law of the Republic, the Political Constitution (Art. 46) guarantees respect for the human rights set forth in the Universal Declaration of Human Rights and other international instruments ratified by the State.

The system for the protection of human rights in Nicaragua is based on the legislation that led to the establishment of the institutions that oversee the implementation of the provisions contained in these laws, such as the Office of the Procurator for the Defence of Human Rights (PDDH).

The PDDH was established as a State entity responsible for the protection and promotion of human rights, in the same way as the Offices of the Special Procurators for Children and Young Persons, Women, the Indigenous Peoples and Ethnic Communities, Disability, Persons in Custody, and Public Participation.

Moreover, institutions and agencies have been set up to guarantee the application of the rights of these minority groups. These include: the National Council for the Comprehensive Care of Children and Young Persons (CONAPINA), the Nicaraguan Institute for Women (INIM),

the Nicaraguan Commission on AIDS (CONISIDA), and the Ministry of the Family (MIFAMILIA).

It should be noted that the rights of the Communities of the Atlantic Coast are amply protected in the Nicaraguan Political Constitution and other specific laws such as the Autonomy Statute of the Autonomous Regions of the Atlantic Coast and the Act on the Communal Property Regime of the Indigenous Peoples and Ethnic Communities of the Atlantic Coast of Nicaragua.

With regard to the administration of justice, the modernization process of recent years represents a significant advance. A considerable effort has been made to establish legislative and administrative norms for the protection of human rights, such as the Judiciary Organization Act, the Judicial Profession Act, the Public Prosecutor's Office Organization Act, the Children and Young Persons Code and the Code of Criminal Procedure, which have made possible the transition from an inquisitorial system of justice to models that provide greater safeguards, such as the accusatorial system, which gives more weight to respect for the fundamental rights of the victim and the accused.

The Public Defender's Office has been set up to defend, at the State's expense, persons unable to arrange for their own defence, while the Office of the Procurator General has been separated from the Public Prosecutor's Office in order to keep the administration of the interests of the State apart from the administration of the interests of society or the direct victims.

All this exemplifies the efforts Nicaragua has been making to ensure an appropriate environment for the full enjoyment and exercise of human rights in the country. However, it is recognized that much remains to be done, especially in order progressively to guarantee the enjoyment of the economic and social rights whose absence is causing the Nicaraguan population so much distress.

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## I. INTRODUCTION

1. Nicaragua is a society which in the course of its history has suffered repeated foreign intervention in its domestic political affairs, and this has often led to conflicts that have weakened its economy. In addition to this, natural disasters have from time to time played havoc with the lives of the Nicaraguan people.

2. The market economy and the austerity measures imposed by international financial institutions take no account of the poor and the needy. Thus, Nicaragua counts as one of the poorest countries in Latin America, with high levels of inequality and marginalization of vulnerable groups. This is the reality that the Government of Reconciliation and National Unity is trying to roll back, through a solemn commitment to the eradication of poverty, one of the human rights most seriously infringed in Nicaragua being the right to a decent life.

3. The campaign against poverty and extreme poverty is one of the main pillars of the government plan for the next five years and is based on various initiatives aimed at combating hunger, establishing free public education and free access to health care, and promoting employment for all Nicaraguans.

4. Indeed, as this document shows, in the process of recognizing, promoting and respecting the human rights and fundamental freedoms of all its citizens Nicaragua has improved its legal and administrative framework, by developing institutions that ensure compliance with national and international human rights provisions, with emphasis on the more vulnerable groups, such as children and young persons, women, indigenous peoples, disabled persons and migrants.

5. Nevertheless, we acknowledge the overriding need to continue strengthening the human rights agenda in Nicaragua. To achieve this goal, we are counting on the support of the international community which, through its cooperation, has helped to build domestic capacity in the promotion and protection of human rights.

6. The Government of Reconciliation and National Unity of Nicaragua reiterates its firm commitment to the effective promotion and protection of all human rights, within a framework of international cooperation and solidarity. Our recent election as a State Member of the Human Rights Council is providing us with an opportunity to exercise leadership by making an active contribution to the work of that body, in order to ensure, for all, the full enjoyment of every form of human rights, civil, political, economic, social and cultural, including the right to development.

7. Our work begins at home and therefore, in fulfilment of the international obligations assumed under each of the international agreements signed, we are submitting to the various Committees of the United Nations treaty bodies the common core document that forms an integral part of the reports on the implementation of the human rights treaties to which Nicaragua is a State Party.

8. Nicaragua is a State Member of the seven main human rights instruments: the International Convention on Civil and Political Rights (CCPR), the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the International Covenant on Economic, Social and Cultural Rights (CESCR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT), the Convention on the Rights

of the Child (CRC) and the International Convention on the Protection of the Rights of All Migrant Workers and Their Families (CMW). Moreover, the country has ratified the first Optional Protocol to the CCPR, has signed the second, and is a State Member of the two Optional Protocols to the CRC. At the beginning of the present administration Nicaragua acceded to the CAT-OP.

9. The State of Nicaragua had fallen considerably behind in fulfilling its obligation to report periodically on the implementation of the provisions of these treaties. Nevertheless, thanks to the cooperation of the Kingdom of Denmark, the reporting process has been institutionalized through the creation of the International Conventions Monitoring Unit (USCI) in the Ministry of Foreign Affairs and the Inter-Agency Committee on Human Rights (CIDH) composed of representatives of government departments and civil society.

10. The ultimate purpose of this permanent inter-agency coordination mechanism, apart from promoting human rights norms, is to institute monitoring of the international treaties and recommendations of the respective United Nations treaty bodies as a basis for the formulation of public development policies, especially for marginalized and vulnerable groups.

11. In connection with the arduous task of bringing the reports up to date, special mention should be made of the valuable collaboration between the public authorities and the civil society representatives who participated in the process, as well as the technical assistance provided by the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme (UNDP), which through its national human rights-related capacity building project, contributed to the establishment of the institutional framework and to the training of the members of the USCI team and the CIDH.

12. The present common core document is structured in accordance with the latest Harmonized Guidelines on reporting to the international human rights treaty bodies prepared by the Inter-Committee Technical Working Group established by the Fifth Inter-Committee Meeting and the Eighteenth Meeting of Persons Chairing the Human Rights Treaty Bodies (document HRI/MC/2006/3 and Corr. 1).

13. It contains a chapter presenting general information about the State, including its demographic characteristics and constitutional, political and legal structure; the general framework for the protection and promotion of human rights, with account for international norms and the national legal framework; the framework for the promotion of human rights at the national level; and the reporting process in Nicaragua. There is also a chapter describing the progress made by the State with respect to non-discrimination, equality and effective remedies.

14. Finally, the report includes a closing chapter in which the weaknesses of the national human rights protection system are acknowledged and the intention of the State to overcome these weaknesses, with the aid of the international community, is reaffirmed.

## II. GENERAL INFORMATION ABOUT THE STATE

### A. Demographic, economic, social and cultural characteristics of the State

#### 1. Historical background

15. Nicaragua's history can be divided into three main periods: the pre-Hispanic period, the period of the Conquest and colonialism, and the independent and modern period.

16. The **pre-Hispanic period** extends from the early migrations, which reached Central America about 20,000 years ago, to the Spanish Conquest. The territory of Nicaragua was inhabited by various peoples. For example, the Pacific zone was home to the Maribios or Sutiavas, the Mangles or Chorotegas and the Nahuas or Nicaraguas, while the Atlantic zone was settled by the Sumos or Sumus, Miskitus and Ramas.

17. **Conquest and colonialism:** Admiral Christopher Columbus discovered Nicaragua on his fourth and final voyage, on 12 September 1502. In 1523, the Spanish Conquest began with the arrival of Captain Gil González de Avila on the Rivas isthmus, where he met the local ruler Nicarao. At the end of 1524, Francisco Hernández de Cordoba completed the conquest of the region and founded the cities of León and Granada. Nicaragua then formed part of the Spanish Empire, within the Captaincy General of Guatemala, until 1821, the year in which the independence of Central America was declared.

18. The history of Nicaragua's Caribbean coast followed a different course. In 1625, the English arrived and declared it a British Protectorate. This gave rise to rivalry between Spain and England.

19. Various groups of Africans, survivors of wrecked slave-ships, also landed on the Caribbean coast and established a new ethnic group, the Garifunas. All this explains the ethnic and cultural diversity of Nicaragua, with its indigenous, European and African populations.

20. **Nicaragua in the independent and modern period:** Nicaragua became an independent State in 1838, after separating from Mexico and later from the Federation of United Provinces of Central America.

21. During the first half of the 19th century there were frequent civil wars between the elites of León and Granada for control of the State and positions of power, which did nothing to foster institutional progress or economic development.

22. From 1854 to 1856, the National War was waged against William Walker, a North American adventurer who, in command of a group of mercenaries, proclaimed himself President of Nicaragua. In order to win this war, Nicaragua relied on the support of the Central American armies.

23. The National War was followed by 30 years of conservatism, regarded as a period of stability and orderly democratic succession, during which Nicaragua's economy grew, thanks to its exports of coffee, and the first infrastructure, including roads, railways and telegraph lines, was built.

24. From 1893 to 1909, the country lived under the liberal regime of General José Santos Zelaya. During this period a series of changes was made in every aspect of national life; much



work was done on development and the economic infrastructure; Mosquitia was reincorporated; and the separation of Church and State was proclaimed. Moreover, a Political Constitution that determined Nicaragua's institutional structure was enacted.

25. The year 1912 witnessed the first intervention by the United States. The second intervention came in 1926 within the context of the Constitutionalist War between the countries liberal and conservative leaders. In 1927, General Augusto C. Sandino began a campaign against foreign interventionism.

26. In 1933, the occupation of Nicaragua ended, and Sandino undertook to lay down his arms in return for an agreement between liberals and conservatives to maintain by all means Nicaragua's sovereignty and political and economic independence.

27. General Anastasio Somoza García, commander of the National Guard, was proclaimed President of the Republic in 1937. This marked the beginning of a political and military dictatorship that lasted until 1979, when the Sandinista National Liberation Front, resuming the struggle of General Sandino, assumed power after a people's revolution and the National Reconstruction Government Council was established, paving the way for a new national institutional order.

28. In 1984, the first elections were held and Daniel Ortega Saavedra was elected President of Nicaragua. His term of office was characterized by the centralization of the State and state management of the economy. During this period the coverage of the educational and health system was improved and broadened, agrarian reform was begun, and a national literacy campaign, which reduced illiteracy levels from 50% to 12.6%, was conducted.

29. On 25 February 1990, Mrs. Violeta Barrios Viuda de Chamorro, representing the National Opposition Union (UNO), was elected President of Nicaragua. Mrs. Chamorro is the only woman in the history of the country to have been elected to the highest executive office. During her term of office national reconciliation was achieved between the different forces and a process of demobilization and disarmament of the opposition forces, accompanied by a significant reduction in the foreign debt, was completed.

30. The presidential elections of 1996, in which 23 parties and alliances participated, resulted in Dr. Arnoldo Alemán Lacayo, representing the Constitutionalist Liberal Party, being elected President.

31. In the 2001 elections, Enrique Bolaños Geyer was elected President of the Republic.

32. In the 2006 elections, which were characterized by broad public participation and the transparency of the process, Comandante Daniel Ortega Saavedra, representing the Sandinista National Liberation Front and the *Nicaragua Triunfa* (Nicaragua will Triumph) coalition, was elected President of the Republic.

33. On 10 January 2007, President Ortega took office and the Government of Unity and National Reconciliation was installed, with the reduction of poverty, the promotion and protection of human rights, the elimination of corruption, and the promotion of the rights of the indigenous peoples and the ethnic Africans of the Atlantic Coast among its main objectives.

## **2. The land**

34. Nicaragua is situated in the middle of the Central American isthmus which, like a narrow bridge, links the two large continental masses of North and South America, while separating the Pacific Ocean from the Caribbean Sea. It is located in the Northern Tropical Zone between Ecuador and the Tropic of Cancer in the Northern Hemisphere and, like the other countries of America, lies in the Western Hemisphere.

35. The national territory of the Republic of Nicaragua shares borders with the Republics of Honduras, Costa Rica, El Salvador, Colombia (the maritime boundary in the Caribbean Sea between Nicaragua and Colombia is the continental centre line between the continental shelf and the exclusive economic zone of the two countries, in accordance with the principle of equity and the relevant circumstances recognized by general international law) and Jamaica. It includes the adjacent islands, keys, reefs and banks, the soil and subsoil, the territorial waters, the exclusive economic zone, the continental platforms and the airspace.<sup>1</sup>

36. The Republic of Nicaragua only recognizes international obligations on its territory that have been freely agreed and are consistent with the Political Constitution of the Republic of Nicaragua and with the norms of international law. Moreover, it does not accept treaties signed by other countries to which Nicaragua is not a contracting party.<sup>2</sup>

37. Nicaragua has a territorial area of 130,373.40 square kilometres. There are two large inland lakes: Xolotlán or Lake Managua with an area of 1,100 square kilometres and Lago Cocibolca, known as Lake Nicaragua, which measures 8,264 square kilometres.

38. The country possesses a variety of ecosystems with mountains, forests, rivers and volcanic lakes and abundant fauna and flora. Some of the volcanoes of the Maribios chain on the Pacific side, such as Santiago and Cerro Negro, are still active. In the central region the Cordillera Isabelia is a mountainous zone with a predominantly cloud forest climate. The Caribbean region retains its tropical rain forests, which extend from the river Coco in the north to the river San Juan, the right bank of the lower reaches of this river forming the frontier with the Republic of Costa Rica.

39. Nicaragua has a system of protected areas equivalent in size to 18% of the national territory; eight ecological parks; 44 private forest reserves; and eight RAMSAR sites.<sup>3</sup>

## **3. Demographic aspects<sup>4</sup>**

40. Nicaragua has a population of more than 5 million.<sup>5</sup> The inter-census growth rates for the second half of the 20<sup>th</sup> century are much higher than those for the first half because of the high

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<sup>1</sup> Cf. Art.10 of the Political Constitution of Nicaragua and the Maritime Areas of Nicaragua Act (Act 420).

<sup>2</sup> INETER.

<sup>3</sup> Wetlands of international importance.

<sup>4</sup> Data provided by the Nicaraguan Statistics and Census Institute.

natural rate of increase of the population. Nevertheless, the results of the last census reveal a significant decline in the growth dynamics in recent years, observable in the inter-census growth rates which fell from 3.5% in the period 1971-1995 to 1.7% between 1995 and 2005. However, the rate is still one of the highest in Latin America.

41. The population is predominantly urban (55.8% as compared with 44.1% for the rural population). The population density is 42.7 per square kilometre.

**Table 1. Population, growth rate, density, dependency ratio and masculinity ratio**

CENSUS	Inter-census period (years)	Total population	Growth rate (%)	Population density (per km <sup>2</sup> )	Dependency ratio	Masculinity ratio
1971		1,877,952		15.6	104	96.1
	24		3.5			
1995		4,357,099		36.2	95	97.3
	10		1.7			
2005		5,142,098		42.7	72	97.2

*Source:* National population censuses and INETER.

42. The population is predominantly female, with a masculinity ratio of 97.2 men to every 100 women. According to the results of the population censuses, the age-composition of the population is beginning to reflect the latest fall in fertility, although the percentage under 15 years of age is still high (37.3%). Thus, Nicaragua is a country with a population structure which, though still very youthful, is beginning to feel the relative weight of the proportion of persons of working age (58.4%).

43. This change in structure is confirmed by the dependency ratio which has fallen from 104 persons of dependent age per 100 persons of working age to 72 per 100.

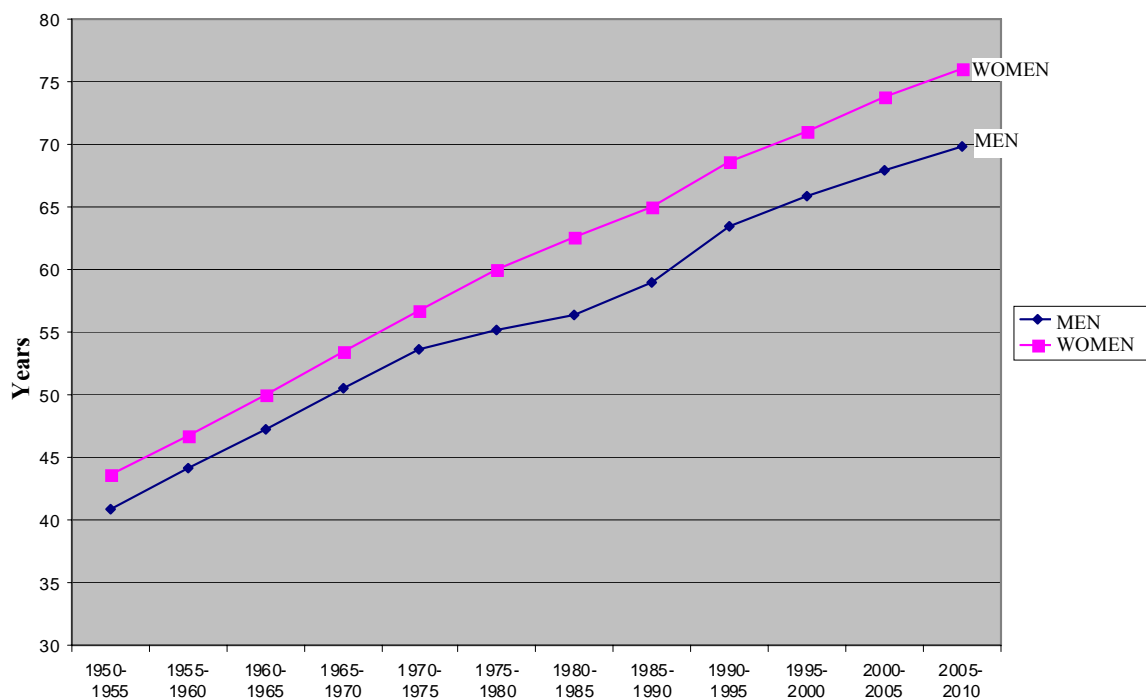
44. The present size of the population, its growth and its composition by sex and age reflect what happened in the country during the last century. The eighties marked the beginning of a striking decline in mortality. Life expectancy rose from 42.28 years in the first half of the fifties to 72.89 in the present five-year period, according to the latest population projections and estimates (2006). This is mainly due to the decline in mortality during the first years of life, under the influence of the urbanization of society, education and the changes, economic, social and in health, that have taken place in recent years.

45. Other influential developments have been the introduction of vaccines against preventable childhood diseases and the treatment of more prevalent ailments such as diarrhoea and respiratory disease, together with the increase in the proportion of the population receiving a formal education. Thus, infant mortality has fallen from 90 deaths per 1,000 live births (1975-1980) to 22 in the present five-year period.

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<sup>5</sup> According to the latest (2005) population and housing census the total population of Nicaragua is 5,142,098.

**Evolution of life expectancy, by gender**



46. The gap representing the difference in mortality between men and women has widened as female mortality during the fertile years has fallen and deaths from chronic-degenerative diseases have increased.

**Table 2. Life expectancy, infant mortality and global fertility rate**

Five-year period	Life expectancy (years)	Infant mortality (per 1,000)	Global fertility rate (children per woman)
70-75	55.22	97.9	6.79
75-80	57.59	90.1	6.35
80-85	59.46	79.8	5.85
85-90	62.17	65.0	5.00
90-95	66.05	48.0	4.50
95-00	68.41	33.6	3.60
00-05	70.82	26.4	3.00
05-10	72.89	21.5	2.76

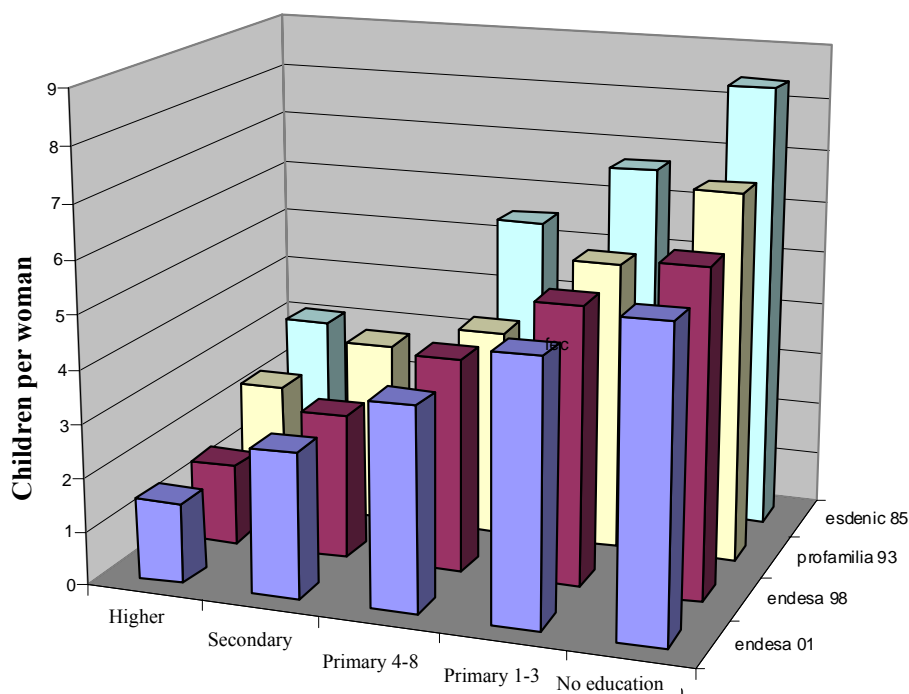
Source: CELADE-INEC: Population Estimates and Projections, Revision 2006.

47. In the recent past, Nicaragua has been characterized as a country with high fertility and high mortality. Fertility has begun to fall appreciably, as in other Latin American countries. The widespread use of contraceptives has made possible a decline more rapid than that observed in Europe. The demographic and health survey of 2001 indicated that 46% of women of

childbearing age use birth control methods, and the percentage rises to 69% if they are married or in a union.

48. Although the fertility level has fallen for the population as a whole, the decline becomes more significant as the level of education rises. This is apparent from the results of the various surveys carried out in the country since the mid-eighties, as reflected in the following chart. In Nicaragua, as in many other countries, there can be no questioning the influence of education on demographic behaviour.

**Evolution of the global fertility rate by education as shown by the surveys**



49. Migration, as one of the variables affecting population growth, has had an important influence on the trend in national growth rates. Since the second half of the 20<sup>th</sup> century, the country has experienced an increasing flow which intensified in the eighties, for political reasons, and after that, for economic reasons, up to the present. In the last 30 years the net migration rate has more than doubled.

50. Currently, Nicaraguans are still emigrating, mainly to Costa Rica and the United States. In view of the geographical location of the country of destination and the ease of movement, many risk taking their children and relations, and in some cases the entire household may emigrate.

51. This mass emigration has had both favourable and unfavourable consequences for the country since, on the one hand, it has resulted in a flow of remittances which, according to some estimates, is making a major contribution to GDP – although in general terms it has not had a

marked impact on the national economy – while, on the other hand, it has led to a certain disintegration of the Nicaraguan family.

#### **4. Social, economic and cultural aspects**

52. According to the statistical data,<sup>6</sup> only 4.7% of the population state that their mother tongue is a language other than Spanish. At the same time, 8.6% say that they belong to an indigenous community or an ethnic group. Nevertheless, it should be noted that 11% of those who claim to be of indigenous or ethnic origin do not know to which group they belong, and if those of obscure origin are included this figure increases to 15% of the total, which points up the need to raise the awareness of society in general and revitalize their identity.

53. Most widely distributed are the Miskito (27.2%), the people of mixed descent of the Caribbean coast (25.3%), the Chorotega-Nahua-Mange (10.4%), the Creole or Kriol (4.5%), the Xiu-Sutiava (4.5%), the Cacaopera-Matagalpa (3.4%), the Naho-Nicarao (2.5%) and the Mayangna-Sumu (2.2%).

54. As distinct from the population as a whole, these populations are mainly rural (56.8%) with behaviour that differs according to the indigenous people or ethnic community concerned. The Creole population has a pronounced urban presence (90.5%), followed by the Xiu-Sutiava (80.4%) and the Garífuna and Ulva (62% each).

55. As regards the size of the Nicaraguan household, the average is 4.9 persons per household, which is somewhat smaller than the figure of 5.3 per household recorded in 2001.<sup>7</sup> However, for households that are poor and particularly for those that live in extreme poverty this average rises (to 6.7 and 7.4, respectively).

56. The proportion of people living below the poverty line is 46%, while 15% live below the minimum level of dietary consumption (or in extreme poverty).

57. Although 28% of total households are headed by women, there is not a greater concentration of women heading poorer households, as found elsewhere.

58. Three components account for 80% of household consumption in Nicaragua: food, housing and personal services. In general, 48% of consumption is concentrated on food, 7% on housing, 6% on health and as much again on education. Clearly, the share of food consumption is very considerable and increases with the degree of poverty. This is, in part, a reflection of the widespread lack of means but also of inequalities in income distribution. Between 1998 and 2001 the non-poor increased their income whereas the poor groups did not. This suggests that the growth benefited those with higher incomes, which could explain the value of the Gini coefficient, which stood at 0.56 in 2001.

59. An important indicator reflecting family living conditions, especially at the calorie intake level, is the proportion of children under five with malnutrition. Slightly less than 10% are

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<sup>6</sup> Eighth Population and Fourth Housing Census (2005).

<sup>7</sup> According to the Standard of Living Measurement Survey (2001).

generally undernourished or underweight, but 20% have chronic malnutrition (stunted growth), which is almost irreversible in children more than three years old.<sup>8</sup>

60. The nutritional state of preschool children affects the educational situation in a sort of vicious circle. The population aged 10 and over has an illiteracy rate of 20.5%<sup>9</sup> and enrolment at an educational institution for those aged between 6 and 29 is 51.7%,<sup>10</sup> a figure which indicates progress as compared with previous years but still leaves room for improvement.

61. The rate of participation of the population aged 10 and over in the labour force is estimated at more than 52% and the unemployment rate at 5.2%. More than seven out of every ten workers are employed in agriculture, forestry or fishing, in the manufacturing industry or in community or personal services. The agriculture, forestry and fishing sector accounts for 29%. It should be noted that around 64% of the population in full-time work is employed in the informal sector.<sup>11</sup>

62. Workers have the right to form trade unions. In 2005, there were 39,357 workers registered with trade unions and 665 executive councils.

63. As regards religion, since 1995 there have been considerable changes in the figures for the religious faiths to which people say they belong. Over a period of ten years, the Catholic religion declined by 14 percentage points (from 72.9% in 1995 to 58.5% in 2005). For their part, the Evangelicals increased by about 7 percentage points, from 15.1% in 1995 to 21% in 2005. The Moravians maintained a steady presence and there was an increase in the number of persons claiming not to belong to any religious faith (15.7%).

64. Gross national income per capita rose from US\$ 728.42 in 2002 to US\$ 946.37 in 2006.<sup>12</sup> Real gross domestic product (GDP) was estimated at C\$ 28,087.50 million in 2002, rising to C\$ 32,651.20 million in 2006. Current per capita GDP is calculated at US\$ 971.20.

65. Domestic government debt amounts to US\$ 1,266.90. At the same time, Nicaragua has reduced its external debt, from US\$ 6,372.75 in 2002 to US\$ 4,400.20 in 2006.

66. The consumer price index is estimated at 160.86 dollars.

67. Generally speaking, in recent years the figures for social expenditures as a proportion of GDP and total public expenditure have shown an increase.

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<sup>8</sup> Data from the 2001 Demography and Health Survey.

<sup>9</sup> Cf. the section on "Equality of rights in education and training".

<sup>10</sup> INEC, 2005 Census.

<sup>11</sup> According to the 2006 Employment Survey.

<sup>12</sup> Data provided by the Central Bank of Nicaragua. The 2006 data are projections revised in November 2006.

ITEM	2002	2003	2004	2005
<b>Social expenditures as a proportion of GDP</b>	8.5	10.2	10.3	11.1
Housing and community services	0.7	0.9	1.4	1.8
Health	3.1	3.49	3.18	3.43
Education	4.0	4.7	4.3	4.9
Social services and welfare	0.6	1.0	1.2	1.0
Recreational and cultural services	0.1	0.1	0.1	0.1
<b>Social expenditures as a proportion of total public expenditure</b>	37.1	35.5	41.2	43
Housing and community services	3.2	3.1	5.7	7.1
Health	13.3	12.2	12.8	13.3
Education	17.5	16.4	17.4	18.2
Social services and welfare	2.7	3.5	4.8	3.9
Recreational and cultural services	0.4	0.3	0.5	0.5

68. International assistance as a proportion of GDP amounts to 9.0%, of which 4.7% relates to loans and 4.3% to grants. The figure for international assistance expressed as a proportion of the budget is 32.7%, of which 17.0% relates to loans and 15.8% to grants.

## **B. Constitutional, political and legal structure of the State**

### **1. Political organization**

69. The Political Constitution<sup>13</sup> stipulates that Nicaragua is an independent, free, sovereign, unitary and indivisible State. It is a participatory and representative democratic Republic and is constituted as a social State governed by the rule of law.

70. The organs of government are the legislative, executive, judicial and electoral powers which are independent but work harmoniously together, being subordinate only to the supreme interests of the nation and the provisions of the Constitution of the Republic.

71. Executive power is exercised by the President of the Republic who is Head of State, Head of Government and Supreme Commander of the national defence and security forces. The president is elected for a five-year term. The Vice-President of the Republic performs the functions specified in the Political Constitution and those delegated by the President of the Republic, directly or by law.

72. Legislative power is exercised by the National Assembly by delegation and popular mandate. The National Assembly is composed of 90 deputies with their respective alternates

<sup>13</sup> Art. 6.



elected by universal, equal, direct, free and secret suffrage under the system of proportional representation. The ex-President of the Republic and the ex-Vice-President elected for the immediately previous term also form part of the National Assembly as titular and alternate deputies, respectively. Deputies are also elected for a five-year term.

73. The judicial power is composed of the courts of justice established by the Judiciary Organization Act (Act No. 260)<sup>14</sup>, namely, the district and local courts, the appellate courts and the Supreme Court of Justice (SCJ), the highest judicial authority. The SCJ is composed of 16 judges elected by the National Assembly from short-lists proposed by the President of the Republic and by deputies of the National Assembly, in consultation with the relevant civil associations. The judges of the SCJ elect their President by majority vote from amongst their own number.<sup>15</sup>

74. The judicial power receives 4% of the general budget of the Republic.

75. The judicial profession is regulated by the Judicial Profession Act (Act No. 501).<sup>16</sup>

76. The electoral power is exclusively responsible for the organization, management and oversight of elections, plebiscites and referenda. It is composed of the Supreme Electoral Council, which consists of seven titular judges and three alternates elected by the National Assembly and other subordinate electoral bodies. The members of the Supreme Electoral Council elect their President and Vice-President from amongst their own number.

77. For administrative purposes the territory of Nicaragua is divided into departments, autonomous regions of the Atlantic Coast and municipalities, the basic unit for the administrative division of the country. Nicaragua has 153 municipalities grouped in 15 departments and 2 autonomous regions. The city of Managua is the capital of the Republic and the seat of the State powers.

78. The Constitution provides for the following supervisory agencies: the Office of the Comptroller-General of the Republic, the Public Prosecutor's Office, the Office of the Procurator for the Defence of Human Rights (or Ombudsman), and the Office of the Superintendent of Banks.

## **2. Registration and supervision of non-governmental organizations**

79. The registration and supervision of NGOs in Nicaragua is governed by Act No. 147, the General Non-Profit Legal Persons Act of 19 March 1992.<sup>17</sup> This act governs the establishment, authorization, operation and liquidation of Nicaraguan civil and religious associations.

80. Legal personality is granted and annulled by Decree of the National Assembly.

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<sup>14</sup> Approved on 7 July 1998 and published in *La Gaceta* No. 137 of 23 July 1998.

<sup>15</sup> For further details see section 3 on the Administration of Justice.

<sup>16</sup> Approved on 14 October 2004 and published in *La Gaceta* Nos. 9, 10 and 11 of 13, 14 and 17 January 2005.

<sup>17</sup> Published in *La Gaceta* No. 102 of 29 May 1992.

81. To have legal personality granted the following procedure must be followed:
- (a) Submit an application to the Secretariat of the National Assembly, enclosing the articles of association which must, among other requirements, indicate the purposes of the Association and the importance and consequences of its existence for the civil or religious life of the country;
  - (b) If the application is approved, the Decree granting legal personality must be published in *La Gaceta* (Official Journal);
  - (c) Following publication, the interested party has a period of 15 days within which to apply to the Department for the Registration of Non-Profit Legal Persons of the Ministry of the Interior;
  - (d) If the organizations meet the requirements of the Act, the Department for the Registration and Supervision of Associations will issue a certificate of legality in order that they may exercise their rights and contract obligations in accordance with their purposes and objectives.
82. Associations with legal personality granted abroad that decide to carry out or are carrying out activities in Nicaragua must submit the corresponding documents to the Department for the Registration and Supervision of Associations of the Ministry of the Interior, for authorization.
83. Foreign legal persons operating in the country under an international treaty, convention, agreement or protocol are governed by its provisions.
84. The National Assembly may decide to annul the legal personality of an association, after consulting the Ministry of the Interior, in the following circumstances: if it has been used for committing wrongful acts; for contravening public policy; for reducing the number of members of the association below the minimum fixed by law; for carrying out activities inconsistent with the purposes for which the association was established; for preventing the exercise of supervision and surveillance by the Department for the Registration and Supervision of Associations, or when so agreed by its governing body, in accordance with its articles.
85. There are currently 3,990 non-profit entities enrolled in the Register of the Ministry of the Interior.<sup>18</sup>

### **3. Administration of justice**

86. In Nicaragua, the courts of justice form a unitary system whose highest authority is the Supreme Court of Justice. Jurisdictional competence for judging cases and executing judgments belongs exclusively to the judicial power.
87. Military tribunals try only strictly military offences, without prejudice to judicial proceedings and appeals to the Supreme Court of Justice.

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<sup>18</sup> Department for the Registration and Supervision of Associations, Ministry of the Interior. Associations enrolled on 5 March 2007.

88. As previously mentioned, the judicial power is composed of the Supreme Court of Justice, the appellate courts, the district courts and the local courts. The Supreme Court of Justice consists of four specialized chambers: criminal, civil, constitutional and administrative. It has national jurisdiction and sits at the top of the judicial pyramid.

89. There are nine appeal courts, one in each of the country's jurisdictional territories. Each appeal court is made up of not less than five judges and is divided into at least two chambers which hear civil, labour and criminal cases. In the country as a whole there are 21 such chambers.

90. The State has 334 lower courts, including 122 district courts and 197 local courts. These courts deal with criminal, civil and labour cases, including, in particular, matters relating to reformed property and family law. The only court competent to hear administrative disputes is the Administrative Chamber of the Supreme Court.<sup>19</sup>

91. Between 2000 and 2007, the number of courts of first instance increased from 226 to 334. This increase was particularly significant with respect to the exclusively criminal courts of first instance, the number of which rose from 47 to 139.<sup>20</sup>

92. In civil matters, the number of specialized courts increased from 39 in 2000 to 61 in 2007.

93. The number of specialized labour courts increased from three in 2000 to five in 2007.

94. The courts of sole or combined jurisdiction increased from 141 (in 2000) to 153 (in 2003) but decreased to 127 in 2007. This does not mean that these courts disappeared but that they were converted into specialized criminal or civil courts. Thus, the decrease (10%) in their number was mirrored by an increase in the number of specialized courts.

95. Considering that at the end of 2005 the population of Nicaragua was estimated at 5,483,447, there was one court for every 16,417 inhabitants, i.e., 5.81 courts for every 100,000 inhabitants, which is a low average index for Latin America.

#### **Courts of first instance, both district and local**

##### **Number of courts per 100,000 inhabitants by territorial jurisdiction**

Central	9.8
Las Segovias	7.3
Sur	7.2
Oriente	6.8
RAAN	6.0
RAAS	5.5

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<sup>19</sup> In accordance with the operative part of the Administrative Litigation Act.

<sup>20</sup> This includes the creation or conversion of hearing, trial and execution courts made necessary by the entry into force of the Code of Criminal Procedure (CCP) and the special juvenile courts.

Occidente	5.3
Norte	4.9
Managua	3.6
<b>National average</b>	<b>5.81</b>

*Source:* SCJ - Information and Planning Directorate.

96. Clearly, the supply of judicial services is unequally distributed, the Central jurisdictional territory having 9.8 judges per 100,000 inhabitants whereas Managua, at the other extreme, has only 3.6.

97. In line with these data, the projections for the growth of judicial business envisage the balancing of these ratios and great efforts are being made to improve the supply.

98. On the other hand, the judicial system should be assessed not only on the basis of the number of judges but also in terms of its operational efficiency. To some extent, the low judges per capita ratios can explain the excessive work load on the courts, although there are undoubtedly other aggravating factors such as malicious proceedings, inappropriate incentives to litigation, and the infrequent use of alternative dispute settlement mechanisms.

99. Other related, more disaggregated data on the supply of judicial services based on the population by territorial jurisdiction can be expressed in terms of the population/judge ratio. In Nicaragua there is, on average, one district judge for every 40,921 people and one local judge for every 29,640 people. There are, however, some inequalities in the averages. For example, the area of the country with the best supply of services in terms of district judges is Carazo, in the Oriental region, with 16,103 people per judge, whereas Managua is the worst supplied with 62,742 people per judge.

**Table 3. Supply of judicial services nationwide: district judges**

No.	Jurisdictional territory	Department	District judges	Population	Supply ratio inhab/district judge
1	Atlántico Norte	RAAN	9	249,716	27 746
2	Atlántico Sur	RAAS		382,079	34 734
3	Norte	Matagalpa	8	484,902	60,612
		Jinotega	5	297,270	59,454
4	Las Segovias	Madriz	4	133,250	33,312
		Nueva Segovia	4	211,233	52,808
		Estelí	5	215,384	43,076
5	Central	Río San Juan	3	95,546	31,848
		Boaco	5	168,590	33,718
		Chontales	7	182,019	26,002
6	Occidental	Chinandega	9	441,308	49,034
		León	9	389,628	43,292
7	Sur	Rivas	5	166,938	33,387
		Granada	5	190,604	38,120

No.	Jurisdictional territory	Department	District judges	Population	Supply ratio inhab/district judge
8	Oriental	Carazo	11	177,142	16,103
		Masaya	4	317,499	79,374
9	Managua	Managua	30	1,380,339	46,011
<b>Total</b>	<b>134</b>			<b>5,483,447</b>	<b>40,921</b>

*Source:* Estimates and calculations of the Socio-Demographic Statistics Directorate, based on INEC-CELADE.

Unpublished document. "Nicaragua: Population Estimates and Projections 1950-2050". September 1999. <http://www.inec.gob.ni/compendio/pdf/inec214.pdf>.

100. With regard to the specialized courts, judicial services are in best supply in the field of criminal law. Out of the 319 existing single-judge courts 41.06% deal with criminal matters, whereas only 61 (19.12%) deal with civil and labour cases. There are 127 non-specialized courts that hear all kinds of cases (civil, criminal and labour) and these account for 39.81% of the total.

101. The country's civil judges have residuary jurisdiction, i.e., they can try all cases relating to other specialties, apart from criminal cases. This is because the family specialization is still being implemented and there are only five labour courts in the entire country. There are no commercial or mercantile courts or courts of an agrarian nature. Thus, the civil courts are those most involved in settling disputes of different kinds. The single-judge local courts also see every type of case.

102. For settling property disputes, particularly those resulting from agrarian and urban reform, there are five property arbitrators (1.5% of the total number of judges sitting alone) who perform this function exclusively.

### *Crime statistics*<sup>21</sup>

103. With an average of 2,343 crimes per 100,000 inhabitants Nicaragua is one of the countries with the lowest crime rates in Central America.

104. The homicide rate has fluctuated over the last ten years. In 1997 there were 15 homicides per 100,000 inhabitants, the lowest average was in 2000 (9/100,000), while in 2006 there were 14 homicides per 100,000.

105. The number of detainees per 100,000 inhabitants has varied very little, rising from 771 in 1997 to 790 in 2006.

106. At national level, the number of sexual offences increased from 3,120 in 1997 to 4,076 in 2006. The offences that fall within this category are: rape, attempted rape, statutory rape, incest, attempted incest, abduction, indecent assault, and sexual harassment.

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<sup>21</sup> Provided by the National Police.

### ***Office of the Public Defender***

107. Legal aid is another responsibility of the Judiciary. It is designed to contribute to the realization of a social and democratic State governed by the rule of law and hence to the democratization of the country, personal equality, due process and the right of defence, by providing free legal services to those who lack the means to pay the fees of an attorney.

108. In recent years the Office of the Public Defender has expanded considerably, no doubt as a result of the reform of criminal procedure. In 1999 there were barely a dozen public defenders, whereas today there are 136; although this is still not enough, these figures bear witness to the efforts being made by the State to provide this service of fundamental importance for access to justice.

109. The difficulties confronting the Office of the Public Defender can be expressed in terms of geographical coverage and the above-mentioned shortage of public defenders. To be more precise, the Office is present in only 45 of the country's 153 municipalities. In these municipalities 3,186,096 people (58.1% of the population) are concentrated. For its part, the Office concentrates on providing assistance in criminal cases, to which 88.4% of its current human resources are allocated.

110. To compensate for the shortage of public defenders the system makes supplementary use of ex officio defenders, these being private advocates to whom the function is entrusted. Although this system does not work perfectly, it is a convenient way of making up for the shortfall in public provision.

### ***District juvenile criminal courts***

111. The juvenile courts were established following the adoption of the Children and Young Persons Code, as an essential means of dealing juridically with offences involving this segment of the population.

112. The Children and Young Persons Code had its origins in the Convention on the Rights of the Child, which entered into force in 1989. The National Assembly passed Act 287, known as the Children and Young Persons Code, in 1992. The first juvenile court was set up in Managua in November 1998. There are now 15 district criminal courts for juveniles in the country.

### ***Public Prosecutor's Office***

113. As already noted, during the last ten years the State of the Republic of Nicaragua has been immersed in the process of change required to make way for the globalization of penal reform that has been going on in Central and South America, by switching from inquisitorial procedures to models offering greater guarantees, such as the accusatorial system, pure or mixed, which give precedence to respect for the fundamental rights of the victim and the accused and the safeguards of due process.

114. The accusatorial model also creates a system of checks and balances that can be applied to the different parties involved in investigating, prosecuting and judging the case, with the ultimate aim of institutionalizing the passage to the transparent, rapid and thorough administration of justice.

115. On the basis of these regional guidelines and principles, the State of Nicaragua is beginning to take the first steps forward, with the modernization of the legislation governing various institutions and the establishment of new institutions, as leading players in the criminal procedure reform process.

116. Thus, as part of the democratization of Nicaragua's criminal justice system, on 17 October 2000, the Public Prosecutor's Office was established with the passage of Act No. 346, the Public Prosecutor's Office Organization Act, whose Article 1 reads:

“The Public Prosecutor's Office shall be established as an independent institution with organizational, functional and administrative autonomy and responsibility for conducting prosecutions and representing the interests of society and the victims of crime in criminal proceedings, through the Attorney-General of the Republic. It shall be subordinate only to the Political Constitution of the Republic and the law.”

117. Likewise, Act 346 established that the function of exercising the public right of action in defence of society against crime should be complemented by the implementation of the accusatorial system.

118. On 13 November 2001, the National Assembly passed Act No. 406, the Code of Criminal Procedure of the Republic of Nicaragua, which entered into force on 24 December 2002, endowing Nicaragua with an accusatorial criminal justice system, in accordance with the Political Constitution and the human rights for which it provides,<sup>22</sup> and thus establishing, with the new procedural code, new players with precisely defined functions and roles for monitoring the legality of the investigation, prosecution and judgment phases.

119. The Code of Criminal Procedure, as envisaged by the Organization Act, complements the functions of the Public Prosecutor's Office, stipulating in its article 88 that the exercise of the public right of action must show the utmost respect for the rights and safeguards enshrined in the Political Constitution and the international human rights treaties and conventions ratified by Nicaragua, as well as those established in the Code itself.

120. In exercising the accusatorial right of action, the Public prosecutor's Office performs investigative and prosecutorial functions which, in conjunction with those performed by the National Police, are intended to clarify the facts in criminal proceedings so as to ensure strict compliance with the objectives of the criminal prosecution.

121. Therefore, using the powers conferred by the Organization Act and the Code of Criminal Procedure, the Public Prosecutor's Office legally coordinates the investigations carried out by the National Police in order, once they are complete, to determine whether or not to exercise the right of public action. Moreover, it decides on the application, where appropriate, of the manifestations of the principle of discretionary prosecution (principle of opportunity) established in the Code of Criminal Procedure, in accordance with the framework of constitutional safeguards applicable prior to and during the trial.

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<sup>22</sup> See Art. 46 of the Political Constitution of Nicaragua.

122. With regard to the budget allocated to the Public Prosecutor's Office, it should be noted that it is not yet appropriate to its actual needs and growth requirements. Nevertheless, despite scarce human and financial resources, thanks to efficient management the Office has been able to ensure the human rights of the citizens who daily request its services.

**Table 4. Cases registered with the Public Prosecutor's Office**

Item	2003	2004	2005	2006
Complaints and reports received from the National Police	16,869	20,277	43,115	46,893
Complaints received in the Public Prosecutor's Office	1,632	1,471	3,824	3,544
<b>Total cases registered</b>	<b>18,501</b>	<b>21,748</b>	<b>46,939</b>	<b>50,437</b>
Dismissals, lack of evidence and pro tempore	2,265	7,231	2,610	3,014
Lack of evidence	0	0	8,988	9,314
Pro tempore	0	0	796	411
Returned to the NP for investigation	896	1,673	2,989	5,088
Number of charges	5,308	6,154	15,141	17,977
Pending in the Public Prosecutor's Office	7,759	1,684	8,476	7,106
Passed on to Children and Young Persons	1,544	3,887	2,891	3,254
Passed on to Local Judge	463	884	0	0
Prior mediation	266	223	4,635	3,801
Waiver of right to public action	0	12	17	24
Minor offences	0	0	396	448
<b>Total cases</b>	<b>18,501</b>	<b>21,748</b>	<b>46,939</b>	<b>50,437</b>

123. It should be noted that the Public Prosecutor's Office, as guarantor of human rights and the professionalization of its human resources, has provided all its officials and employees with training appropriate to their functions. This practice has become a basic ingredient of institutional development.

124. Moreover, in order to strengthen inter-agency ties and exchange experience on subjects of common interest, the Public Prosecutor's Office has established coordination with the Nicaraguan Army, the National Police and other institutions connected with the exercise of its functions, which has made it possible to improve the work of the prosecutors in those areas where there are operators of the criminal justice system. Manuals on the application of the Code of Criminal Procedure have been prepared, together with instructions with regard to, among



other things, domestic and sexual violence. Coordination with the Rural Judicial Facilitators<sup>23</sup> has been strengthened and this has made it possible to promote alternative solutions in rural areas in cases relating to land ownership, the environment and minor offences.

125. There is currently a network of Rural Judicial Officials composed of 627 officials, 127 (20%) of whom are women. They are present in 68 municipalities, more especially in poor areas and areas of extreme poverty. This means that 45% of the national territory is now covered.<sup>24</sup>

126. At the same time, with a view to specializing its human resources, the Public Prosecutor's Office decided to strengthen and equip the following specialized units:

127. **Special Intellectual Property Unit.** Established in 2002 to deal with industrial property and copyright and related rights offences.

128. **Organized Crime Unit.** Established at the end of 2004 to deal with the offences of drug smuggling, money laundering, immigrant trafficking, trafficking in persons, arms trafficking and vehicle theft. This Unit acts in direct coordination with the specialized units of the National Police.

129. **Special Gender Violence Unit.** Set up in June 2006 to deal with the offences of domestic and sexual violence.

130. **Special Children and Young Persons Unit.** This Unit is competent to deal with adolescent offenders who have committed offences under special law, such as the Children and Young Persons Code.

131. **Special Anti-Corruption Unit.** Established by Order 712 of 22 May 2006. Its objective is to exercise the right of public action against all offences committed by civil servants or public employees established in Law No. 419, the Criminal Code Reform and Supplements Act.<sup>25</sup>

132. **Special Appeal, Cassation and Review Unit.** Has national coverage and handles all types of appeal, both for the city of Managua and in cassation and review at national level.

133. **Nonpayment of Maintenance Unit.** Established in May 2005, to ensure the application of the criminal law in cases of deliberate failure to provide maintenance by the obligor, in accordance with a civil judgment. This Unit is sponsored by the Spanish Agency for International Cooperation.

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<sup>23</sup> The Programme of Access to Justice in Rural Areas, known as the Rural Judicial Facilitators Programme, arose out of the signing of a cooperation agreement between the Organization of American States and the Supreme Court of Justice in 2003.

<sup>24</sup> Guía Informativa del Poder Judicial de Nicaragua.

<sup>25</sup> Published in *La Gaceta* (Official Journal) No. 121 of 28 June 2002.

134. **Unit Specializing in Offences Against the Environment and Natural Resources.** Established on 5 June 2006 for the purpose of responding to the new challenges faced by the nation in the area of environmental crime as expressed in:

- (a) The entry into force of the Offences Against the Environment Act, Act 559 of 20 May 2006;
- (b) The possible enactment of a new Criminal Code with a chapter on environmental offences.

135. Moreover, this Unit will be responsible for formulating, harmonizing and drafting environmental criminal prosecution policies. It will also take on the inter-agency coordination with civil society necessary to meet these challenges.

136. All the specialized units have begun substantive operations in central headquarters, with two prosecutors and the necessary technical teams, to handle requests for proceedings in the city of Managua and advise the assistant prosecutors appointed in the departmental and regional branches of the Public Prosecutor's Office.

137. With regard to legal certainty, the Public Prosecutor's Office has taken a series of administrative measures to ensure respect for the human rights of the parties in criminal proceedings, the most relevant being:

#### ***Circulars***

138. **Circular No. FG-001-03 on investigative acts that impair fundamental rights.** Issued for the purpose of maintaining a balance between the effectiveness of criminal prosecution and the fundamental safeguards and rights of the accused, by ensuring the rule of the Constitution and applicable ordinary law during trial.

139. **Circular No. 01-2004 on domestic violence.** The aim is to provide priority treatment for the domestic violence offences that afflict society and are often concealed in the statistics for injuries, rape, homicide, indecent assault, abortion and death threats.

140. **Circular No. 02-2004 on the resolution of conclusive acts.** Issued for the purpose of strengthening the legal analysis of all cases in the course of investigation to expedite their processing. To regulate the accumulation of cases involving investigated persons at liberty which for lack of prosecutors it was impossible to try and decide with the promptness with which the Public Prosecutor's Office aims to serve the interests of the society it represents.

141. **Circular No. 04-2004. Functional and operational directive concerning less serious offences.** Document issued in consideration of the fact that the procedure for less serious offences was similar to that established by law for a serious offence.

142. **Circular No. 01-2005 on non-payment of maintenance.** To make the prosecution of this type of offence more effective, intended for specialized prosecutors who will be responsible for the legal supervision of the investigation and prosecution of this behaviour, together with the application of the principle of discretionary prosecution, where appropriate.

## Instructions

143. **Instruction No. FG-001-2003 on the intervention of the prosecutor in applications for the adoption, modification or revocation of precautionary measures.** It is especially in these scenarios, as in all others in which individual rights and safeguards are curtailed, that the prosecutor must perform his vital function of respecting and causing to be respected the fundamental rights established in the Constitution. The prosecutor ensures that precautionary measures are adopted, modified or revoked in accordance with the procedures laid down in procedural law.

144. **Instruction No. FG-02-2003 on the *Acuerdo* (agreement) in criminal procedure.** Intended to encourage the uniform interpretation by the prosecutors of the Public Prosecutor's Office of articles 61 and 62 of the Code of Criminal Procedure relating to the regulation of the *Acuerdo* as one of the chief manifestations of the principle of discretionary prosecution in the new Nicaraguan criminal procedure.

### *Office of the Attorney-General*

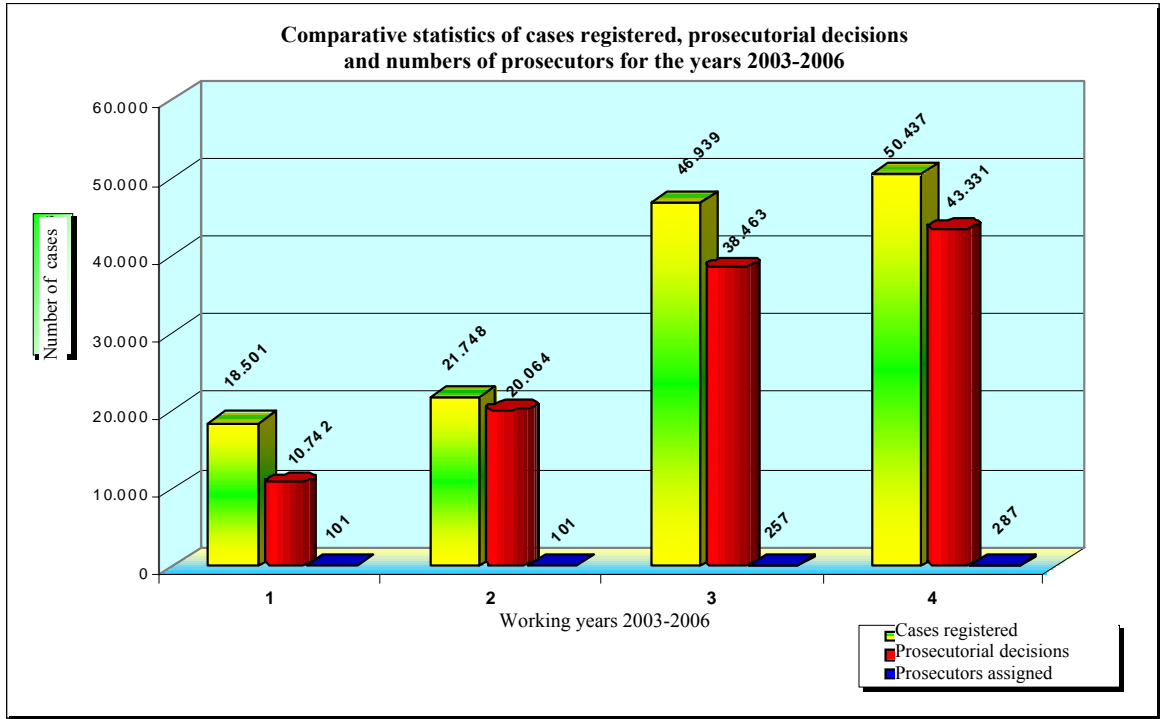
145. This Office, a functionally independent part of the executive power, is responsible for legally representing the interests of the State of Nicaragua. It also has specific advisory and consultative functions with respect to the organs and the entities within the organs of the executive power.<sup>26</sup>

146. Where human rights are concerned, according to its Organization Act, the Office must "be informed of the decisions of the Procurator for the Defence of Human Rights and provide the organs of the State with the advice necessary for their due observance".<sup>27</sup>

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<sup>26</sup> Art. 1 of the Office of the Attorney-General Organization Act. *La Gaceta* No. 244 of 24 December 2001.

<sup>27</sup> Art. 2.7 of the Office of the Attorney-General Organization Act.



### III. FRAMEWORK FOR THE PROMOTION OF HUMAN RIGHTS AT THE NATIONAL LEVEL

#### A. Acceptance of international human rights norms

##### 1. Ratification of main international human rights instruments

147. See table below.

Multilateral treaties	Place and date	Date of signature	Date of deposit	Comments
International Covenant on Economic, Social and Cultural Rights	New York, USA 16 December 1966	Nicaragua was not an original signatory	12 March 1980 (accession)	<i>Approval and accession: Decree J.G.R.N. No. 255, published in La Gaceta No. 25 of 30 January 1980, page 234.</i> <i>Text: Published in La Gaceta No. 65 of 17 March 1980, page 698.</i> Article 46 of the Political Constitution of Nicaragua recognizes its full force and effect. Law No. 201 promotes the teaching of human rights and the Political Constitution ( <i>La Gaceta</i> No. 179 of 26 September 1995).
International Covenant on Civil and Political Rights	New York, USA 16 December 1966	Nicaragua was not an original signatory	12 March 1980 (accession)	<i>Approval and accession: Decree J.G.R.N. No. 255, published in La Gaceta No. 25 of 30 January 1980, page 234.</i> <i>Article 46 of the Political Constitution of Nicaragua recognizes its full force and effect.</i> <i>Nicaragua notified the UN General Secretariat of the suspension of its obligations under this International Covenant, pursuant to its Article 4(3), for declarations of a state of emergency: 04/06/80; 14/02/82; 08/06/82; 14/12/82; 01/08/84; 22/08/84; 13/11/85; 30/01/87; 13/05/87; 08/02/88; 20/05/93; and 13/08/93.</i>
International Convention on the Elimination of all Forms of Racial Discrimination	New York, USA 7 March 1966	Nicaragua was not an original signatory	15 February 1978 (accession)	<i>Approved by Executive Order No. 15 of 19 September 1977 and by Resolution of Congress No. 63 of 26 November 1977.</i> <i>Ratified by Decree No. 17 of 3 December 1977.</i>
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	New York, USA, 18 December 1979	17 July 1980	27 October 1981 (ratification)	<i>Approval and ratification: Decree No. 789, published in La Gaceta No. 91 of 25 August 1981. Page 1770. Text published in La Gaceta No. 258 of 13 November 1981. Page 3174.</i>
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	New York, USA, 10 December 1984	15 April 1985	5 July 2005 (ratification)	<i>Approval: Decree A.N. No. 4216, published in La Gaceta No. 92 of 13/05/05</i> <i>Ratification: Decree No. 30-2005, published in La Gaceta No. 110 of 8 June 2005.</i>

<b>Multilateral treaties</b>	<b>Place and date</b>	<b>Date of signature</b>	<b>Date of deposit</b>	<b>Comments</b>
Convention on the Rights of the Child	New York, USA 20 November 1989	6 February 1990	5 October 1990 (ratification)	<i>Approval: Decree A.N. No. 324. La Gaceta No. 180 of 20 September 1990. Page 1847.</i> <i>Ratification: Decree No. 4. La Gaceta No. 199 of 17 October 1990, page 2007.</i> Article 71 of the Political Constitution of Nicaragua recognizes its full force and effect.
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	New York, USA 18 December 1990		26 October 2005 (accession)	<i>Accession: Decree No. 107-2004. La Gaceta No. 191 of 1 October 2004.</i> <i>Approval of Accession: Decree A.N. No. 4336. La Gaceta No. 136 of 14 July 2005.</i> Nicaragua entered a reservation on depositing its instrument of accession.
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	New York, USA 25 May 2000		17 March 2005 (ratification)	<i>Accession: Decree No. 37-2002, published in La Gaceta No. 82 of 6 May 2002, Page 3077.</i>
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	New York, USA 25 May 2000	Nicaragua was not an original signatory	2 December 2004 (accession)	<i>Accession: Decree No. 37-2002, published in La Gaceta No. 82 of 6 May 2002, Page 3077.</i>
Optional Protocol to the International Covenant on Civil and Political Rights	New York, USA 16 December 1966	Nicaragua was not an original signatory	12 March 1980 (accession)	<i>Approval and accession: Decree J.G.R.N. No. 255, published in La Gaceta No. 25 of 30 January 1980, page 234.</i>
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty	New York, USA 15 December 1989	Nicaragua signed on 21 February 1990		Will be ratified shortly.
Amendment to Article 43 (2) on the Convention on the Rights of the Child	New York, USA 12 December 1995		Accepted by Nicaragua on 23 January 2003	<i>Decree A.N. No. 2431. Approved 21 December 1995 by the UN General Assembly, published in La Gaceta No. 238 of 14 December 1999.</i>
Optional Protocol to the Convention against Torture and Other Cruel, and Inhuman or Degrading Treatment or Punishment to	New York, USA 18 December 2002	Nicaragua acceded on 14 March 2007		

## 2. Ratification of other United Nations human rights and related treaties

148. See the table below.

Multilateral treaties	Place and date	Date of signature	Date of deposit	Comments
Convention on the Prevention and Punishment of the Crime of Genocide	New York, USA 9 December 1948.	Nicaragua did not participate in its signature.	29 January 1952 (accession).	<i>Approval of accession, published in La Gaceta No. 242 of 14 November 1950, Page 2301.</i>
Slavery Convention	Geneva, Switzerland 25 September 1926, amended in 1955		3 October 1927 (ratification or final accession).	
Convention relating to the Status of Refugees	New York, USA 28 July 1951.	Nicaragua was not an original signatory.	28 March 1980 (accession)	<i>Accession: Decree No. 297, published in La Gaceta No. 39 of 15 February 1980, Page 379. Text: Gacetas No. 69, 70, 71, 72 of 21, 22, 24 and 25 March 1980, respectively.</i>
Protocol relating to the Status of Refugees	New York, USA 31 January 1967.	Nicaragua was not an original signatory.	28 March 1980 (accession).	<i>Accession: Decree No. 297, published in La Gaceta No. 39 of 15 February 1980, Page 379. Text: Gacetas No. 69, 70, 71, 72 of 21, 22, 24 and 25 March 1980, respectively.</i>
United Nations Convention against Transnational Organized Crime	New York, USA 15 November 2000.	Nicaragua signed on 14 December 2000	9 September 2002 (ratification)	Adopted in NY by Resolution A/RES/55/25, opened to signature in the Palazzi di Giustizia in Palermo, Italy, 12 to 15 December 2000 and in UN Headquarters in New York until 12 December 2002. Approval: Decree A.N. No.3246. <i>La Gaceta</i> No.38 of 25 February 2002. Page No. 1225. Ratification: Decree 62-2002. <i>La Gaceta</i> No.121 of 28 June 2002. Page 4453. Nicaragua declared that the measures necessary to harmonize the Convention with its national legislation would be the result of a process of revision of its criminal law which was now in progress and would continue in the future. However, the State of Nicaragua reserved the right, at the time of depositing its instrument of ratification of this Convention, to invoke, in accordance with the general principles of international law, Article 19 of the Vienna Convention on the Law of Treaties of 23 May 1969 (concerning the right to enter reservations).
Protocol to Prevent, Suppress and Punish Trafficking in	New York, USA 15 November 2000.	Nicaragua was not an original signatory.	12 October 2004 (accession)	117 States Signatories and 95 States Parties. Accession: Decree 11-2004. <i>La Gaceta</i> No. 38 of 24 February 2004.

Multilateral treaties	Place and date	Date of signature	Date of deposit	Comments
Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime				Page 946. Approval of Accession: Decree A.N. No. 3925. <i>La Gaceta</i> No. 134 of 9 July 2004. Page 3523.
Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime	New York, USA, 15 November 2000.	Nicaragua was not an original signatory.	15 February 2006 (accession)	112 States Signatories and 85 States Parties. Accession: Decree 66-2004. <i>La Gaceta</i> No. 134 of 9 July 2004. Page 3525. Approval of Accession: Decree A.N. No. 4376. <i>La Gaceta</i> No. 214 of 4 November 2005.

### 3. Ratification of other relevant international conventions

#### (a) Conventions of the International Labour Organization

149. Nicaragua has ratified a total of 59 ILO Conventions, of which 54 are in force and 5 have been denounced.<sup>28</sup>

ILO Convention	Place and date	Ratification	Date of registration with ILO
Hours of Work (Industry) Convention (No. 1)	1 <sup>st</sup> Meeting of the International Labour Conference, 1919	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Unemployment Convention (No. 2)	1 <sup>st</sup> Meeting of the International Labour Conference, 1919	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Maternity Protection Convention (No. 3) <sup>29</sup>	1 <sup>st</sup> Meeting of the International Labour Conference, 1919	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934

<sup>28</sup> Minimum Age (Industry) Convention, 1919 (No. 5), denounced on 2/11/1981; Minimum Age (Sea) Convention, 1920 (No. 7), denounced on 2/11/1981; Minimum Age (Agriculture) Convention, 1921 (No. 10), denounced on 2/11/1981 and Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), denounced on 2/11/1981. All these conventions were automatically denounced by virtue of the ratification of the Minimum Age Convention (No. 138), applied generally and not by particular sectors. The Night Work (Bakeries) Convention, 1925 (No. 20), denounced on 19/09/50, was registered as direct denunciation.

<sup>29</sup> Revised by the Maternity Protection Convention (No. 103) and later by Convention No. 183.



<b>ILO Convention</b>	<b>Place and date</b>	<b>Ratification</b>	<b>Date of registration with ILO</b>
Night Work (Women) Convention (No. 4) <sup>30</sup>	1 <sup>st</sup> Meeting of the International Labour Conference, 1919	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Night Work of Young Persons (Industry) Convention (No. 6)	1 <sup>st</sup> Meeting of the International Labour Conference, 1919	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Unemployment Indemnity (Shipwreck) Convention (No. 8)	2 <sup>nd</sup> Meeting of the International Labour Conference, 1920	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Placing of Seamen Convention (No. 9) <sup>31</sup>	2 <sup>nd</sup> Meeting of the International Labour Conference, 1920	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
In light of Association (Agriculture) Convention (No. 11)	3 <sup>rd</sup> Meeting of the International Labour Conference, 1921	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Workmen's Compensation (Agriculture) Convention (No. 12) <sup>32</sup>	3 <sup>rd</sup> Meeting of the International Labour Conference, 1921	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
White Lead (Painting) Convention (No. 13)	3 <sup>rd</sup> Meeting of the International Labour Conference, 1921	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Weekly Rest (Industry) Convention (No. 14)	3 <sup>rd</sup> Meeting of the International Labour Conference, 1921	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Medical Examination of Young Persons (Sea) Convention (No. 16)	3 <sup>rd</sup> Meeting of the International Labour Conference, 1921	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Workmen's Compensation (Accidents) Convention (No. 17) <sup>33</sup>	7 <sup>th</sup> Meeting of the International Labour Conference, 1925	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Workmen's Compensation (Occupational Diseases) Convention (No. 18) <sup>34</sup>	7 <sup>th</sup> Meeting of the International Labour Conference, 1925	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Equality of Treatment (Accident Compensation) Convention (No. 19)	7 <sup>th</sup> Meeting of the International Labour Conference, 1925	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934

<sup>30</sup> Followed by the revising Night Work (Women) Convention (No. 89) and the Night Work Convention (No. 171).

<sup>31</sup> Revised by the Recruitment and Placement of Seafarers Convention (No. 179).

<sup>32</sup> Revised by the Employment Injury Benefits Convention (No. 121).

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<b>ILO Convention</b>	<b>Place and date</b>	<b>Ratification</b>	<b>Date of registration with ILO</b>
Inspection of Emigrants Convention (No. 21)	8 <sup>th</sup> Meeting of the International Labour Conference, 1926	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Seamen's Articles of Agreement Convention (No. 22)	9 <sup>th</sup> Meeting of the International Labour Conference, 1926	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Repatriation of Seamen Convention (No. 23) <sup>35</sup>	9 <sup>th</sup> Meeting of the International Labour Conference, 1926	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Sickness Insurance (Industry) Convention (No. 24) <sup>36</sup>	10 <sup>th</sup> Meeting of the International Labour Conference, 1927	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Sickness Insurance (Agriculture) Convention (No. 25) <sup>37</sup>	10 <sup>th</sup> Meeting of the International Labour Conference, 1927	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Minimum Wage-Fixing Machinery Convention (No. 26)	11 <sup>th</sup> Meeting of the International Labour Conference, 1928	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Marking of Weight (Packages Transported by Vessels) Convention in a (No. 27)	12 <sup>th</sup> Meeting of the International Labour Conference, 1929	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Protection against Accidents (Dockers) Convention (No. 28) <sup>38</sup>	12 <sup>th</sup> Meeting of the International Labour Conference, 1929	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Forced Labour Convention (No. 29)	14 <sup>th</sup> Meeting of the International Labour Conference, 1930	Gaceta Diario Oficial No. 206, of 13 September 1934	12 October 1934
Hours of Work (Commerce and Offices) Convention (No. 30)	14 <sup>th</sup> Meeting of the International Labour Conference, 1930	Gaceta Diario Oficial No. 206, of 13 September 1934	12 April 1934
Underground Work (Women) Convention (No. 45)	19 <sup>th</sup> Meeting of the International Labour Conference, 1935	Gaceta Diario Oficial No. 202, of 10 September 1975	1 March 1976
Convention concerning Statistics of Wages and Hours of Work (No. 63) <sup>39</sup>	24 <sup>th</sup> Meeting of the International Labour Conference, 1938	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981

<sup>35</sup> Revised by the Repatriation of Seafarers Convention (No. 166).

<sup>36</sup> Revised by the Medical Care and Sickness Benefits Convention (No. 130).

<sup>37</sup> Ibid.

<sup>38</sup> Revised by the Occupational Safety and Health (Dock Work) Convention (No. 152).

<sup>39</sup> Revised by the Labour Statistics Convention (No. 160).

<b>ILO Convention</b>	<b>Place and date</b>	<b>Ratification</b>	<b>Date of registration with ILO</b>
Medical Examination of Young Persons (Industry) Convention (No. 77)	29 <sup>th</sup> Meeting of the International Labour Conference, 1946	Gaceta Diario Oficial No. 202, of 10 September 1975.	1 March 1976
Medical Examination of Young Persons should (Non-Industrial Occupations) Convention (No. 78)	29 <sup>th</sup> Meeting of the International Labour Conference, 1946	Gaceta Diario Oficial No. 202, of 10 September 1975.	1 March 1976
Freedom of Association and Protection of the Right to Organize Convention (No. 87)	31 <sup>st</sup> Meeting of the International Labour Conference, 1948	Gaceta Diario Oficial No. 202, of 5 September 1967.	31 October 1967
Employment Service Convention (No. 88)	31 <sup>st</sup> Meeting of the International Labour Conference, 1948	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Protection of Wages Convention (No. 95)	32 <sup>nd</sup> Meeting of the International Labour Conference, 1949	Gaceta Diario Oficial No. 202, of 10 September 1975.	1 March 1976
Right to Organize and Collective Bargaining Convention (No. 98)	32 <sup>nd</sup> Meeting of the International Labour Conference, 1949	Gaceta Diario Oficial No. 202, of 5 September 1967.	31 October 1967
Equal Remuneration Convention (No. 100)	34 <sup>th</sup> Meeting of the International Labour Conference, 1951	Gaceta Diario Oficial No. 202, of 5 September 1967.	31 October 1967
Abolition of Forced Labor Convention (No. 105)	40 <sup>th</sup> Meeting of the International Labour Conference, 1957.	Gaceta Diario Oficial No. 202, of 5 September 1967.	31 October 1967
Plantations Convention (No. 110) <sup>40</sup>	42 <sup>nd</sup> Meeting of the International Labour Conference, 1958	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Discrimination (Employment and Occupation) Convention (No. 111)	42 <sup>nd</sup> Meeting of the International Labour Conference, 1958	Gaceta Diario Oficial No. 202, of 5 September 1967.	31 October 1967
Radiation Protection Convention (No. 115)	44 <sup>th</sup> Meeting of the International Labour Conference, 1960	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Social Policy (Basic Aims and Standards) Convention (No. 117)	46 <sup>th</sup> Meeting of the International Labour Conference, 1962	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Guarding of Machinery Convention (No. 119)	47 <sup>th</sup> Meeting of the International Labour Conference, 1963	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Employment Policy Convention (No. 122)	48 <sup>th</sup> Meeting of the International Labour Conference, 1964	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Maximum Weight Convention (No. 127)	51 <sup>st</sup> Meeting of the International Labour Conference, 1967	Gaceta Diario Oficial No. 202, of 10 September 1975 Gaceta Diario Oficial No. 79, of 2 April 1976	1 March 1976

<sup>40</sup> Convention supplemented by the Protocol of 1982.

ILO Convention	Place and date	Ratification	Date of registration with ILO
Minimum Wage Fixing Convention (No. 131)	54 <sup>th</sup> Meeting of the International Labour Conference, 1970	Gaceta Diario Oficial No. 202, of 10 September 1975	1 March 1976
Workers' Representatives Convention (No. 135)	56 <sup>th</sup> Meeting of the International Labour Conference, 1971	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Benzene Convention (No. 136)	56 <sup>th</sup> Meeting of the International Labour Conference, 1971	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Dock Work Convention (No. 137)	58 <sup>th</sup> Meeting of the International Labour Conference, 1973	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Minimum Age Convention (No. 138)	58 <sup>th</sup> Meeting of the International Labour Conference, 1973	Gaceta Diario Oficial No. 111, of 23 May 1981	2 November 1981
Occupational Cancer Convention (No. 139)	59 <sup>th</sup> Meeting of the International Labour Conference, 1974	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Paid Educational Leave Convention (No. 140)	59 <sup>th</sup> Meeting of the International Labour Conference, 1974	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Rural Workers' Organizations Convention (No. 141)	60 <sup>th</sup> Meeting of the International Labour Conference, 1975	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Human Resources Development Convention (No. 142)	60 <sup>th</sup> Meeting of the International Labour Conference, 1975	Gaceta Diario Oficial No. 79, of 2 April 1976	4 November 1977
Tripartite Consultation (International Labour Standards) Convention (No. 144)	61 <sup>st</sup> Meeting of the International Labour Conference, 1976	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
Seafarers' Annual Leave with Pay Convention (No. 146)	62 <sup>nd</sup> Meeting of the International Labour Conference, 1976	Gaceta Diario Oficial No. 111, of 23 May 1981	1 October 1981
List Forms of Child Labour Convention (No. 182)	87 <sup>th</sup> Meeting of the International Labour Conference, 1999	Gaceta Diario Oficial No. 171, of 8 September 2000	6 November 2000

**(b) Conventions of the United Nations Educational, Scientific and Cultural Organization**

150. See the table below.

Multilateral treaties	Place and date	Date of signature	Date of deposit	Comments
Convention against Discrimination in Education	New York, USA 15 December 1960	Nicaragua did not participate in its signing	29 January 1952 (accession)	<i>Published in La Gaceta No. 242 of 21 September 1981.</i>

**(c) Geneva Conventions and other treaties on international humanitarian law**

151. See the table below.

<b>Multilateral treaties</b>	<b>Place and date</b>	<b>Date of signature</b>	<b>Date of deposit</b>	<b>Comments</b>
Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Convention I)	Diplomatic Conference of Geneva, Switzerland, 12 August 1949	12 August 1949		<i>Approval: Decree No. 4 of 26 April 1952. Published in La Gaceta No. 195 of 26 August 1952</i>
Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Convention II)	Diplomatic Conference of Geneva, Switzerland, 12 August 1949	12 August 1949		<i>Approval: Decree No. 4 of 26 April 1952. Published in La Gaceta No. 195 of 26 August 1952</i>
Geneva Convention relative to the Treatment of Prisoners of War (Convention III)	Diplomatic Conference of Geneva, Switzerland, 12 August 1949	12 August 1949		<i>Approval: Decree No. 4 of 26 April 1952. Published in La Gaceta No. 195 of 26 August 1952</i>
Geneva Convention relative to the Protection of Civilian Persons in Time of War (Convention IV)	Diplomatic Conference of Geneva, Switzerland, 12 August 1949	12 August 1949		<i>Approval: Decree No. 4 of 26 April 1952. Published in La Gaceta No. 195 of 26 August 1952</i>
Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)	Diplomatic Conference of Geneva, Switzerland, of 1974-1977			<i>Ratification: Decree No. 25-1999 Published in La Gaceta No. 53 of 17 March 1999</i>
Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)	Diplomatic Conference of Geneva, Switzerland, of 1974-1977			<i>Ratification: Decree No. 25-1999 Published in La Gaceta No. 53 of 17 March 1999</i>
Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	Ottawa, Oslo, 18 September 1997			<i>Approval: Executive Decree No. 63-1998 Published in La Gaceta No. 190 of 9 October 1998</i>

#### 4. Ratification of regional human rights conventions

152. See the table below.

Inter-American treaties	Place and date of adoption	Date of signature by Nicaragua	Date of deposit of instrument	Comments
<b>OAS CHARTER</b>				
<i>Charter of the Organization of American States (OAS).</i>	Bogota, Colombia 30 April 1948	30 April 1948	26 July 1956	Charter of the OAS: <i>La Gaceta</i> No. 170 of 17 August 1950. Page 1614
<i>Cartagena Protocol of Amendment to the Charter of the Organization of American States.</i>	Cartagena de Indias, Colombia	5 December 1985	16 November 1988	Approval: Decree A. N. No. 36: <i>La Gaceta</i> No. 225 of 25 November 1988. Page 1392.
<i>Washington Protocol of Amendment to the Charter of the Organization of American States</i>	Washington, D.C., USA 14 December 1992	14 December 1992	30 May 1995	Approval: Decree No. 948: <i>Gaceta</i> No. 68 of 6 April 1995. Page 133. Ratification: Decree No. 16-95: <i>Gaceta</i> No. 90 of 17 May 1995. Page 1633.
<i>Managua Protocol of Amendment to the Charter of the Organization of American States</i>	Managua, Nicaragua 10 June 1993	10 June 1993	30 May 1995	Approval: Decree No. 950. <i>Gaceta</i> No. 68 of 6 April 1995. Page 1134. Ratification: Decree No. 15-95: <i>Gaceta</i> No. 90 of 17 May 1995. Page 1633.
<i>Buenos Aires Protocol of Amendment to the Charter of the Organization of American States</i>	Buenos Aires, Argentina 27 February 1967	27 February 1967	23 September 1968	Text: <i>Gaceta</i> No. 178 of 7 August 1968. Page 2337. Approval: <i>Gaceta</i> No. 111 of 20 May 1968. Page 1505. Ratification: <i>Gaceta</i> No. 210 of 13 September 1968. Page 2738.
Agreement on Privileges and Immunities of the Organization of American States (OAS)	Washington, D.C, USA 15 May 1949	Nicaragua was not an original signatory	25 January 1961 (accession)	Approval: <i>Gaceta</i> No. 230 of 30 October 1950. Page 2161. Ratification: <i>Gaceta</i> No. 256 of 9 November 1960. Page 2377.
<b>HUMAN RIGHTS</b>				
American Convention on Human Rights (Pact of San José)	San José, Costa Rica 22 November 1969	22 November 1969	25 September 1979	Approval and ratification: Decree No. 174 of the J.G.R.N. <i>Gaceta</i> No. 67 of 26 November 1979. <i>Article 46 of the Political Constitution of Nicaragua recognizes its full force and effect.</i> <i>On 12 February 1991, the Government of Nicaragua presented at the General Secretariat of the OAS, an</i>

Inter-American treaties	Place and date of adoption	Date of signature by Nicaragua	Date of deposit of instrument	Comments
				<p><i>instrument dated 15 January 1991, by which the Government of Nicaragua declared:</i></p> <p><i>I. The Government of Nicaragua recognizes as binding as of right with no special convention the competence of the Inter-American Court of Human Rights in all cases involving interpretation and application of the Inter-American Convention on Human Rights, "Pact of San Jose, Costa Rica," by virtue of Article 62(1) thereof.</i></p> <p><i>II. The foregoing notwithstanding, the Government of Nicaragua states for the record that its acceptance of the competence of the Inter-American Court of Human Rights is given for an indefinite period, is general in character and grounded in reciprocity, and is subject to the reservation that this recognition of competence applies only to cases arising solely out of events subsequent to, and out of acts which began to be committed after, the date of deposit of this declaration with the Secretary General of the Organization of American States.</i></p> <p>Declaration of Nicaragua. Addendum to the Declaration of Nicaragua No. 49, published in <i>La Gaceta</i> No. 27 of 7 February 1991, a third paragraph to read as follows:</p> <p>III. <i>"The Government of Nicaragua declares that it recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed a violation of a human right set forth in the Convention, as provided in Article 45 thereof."</i></p> <p><i>Gaceta</i> No. 22 of 31 January 2006. Page No. 656.</p>
<i>Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador)</i>	San Salvador, El Salvador 17 November 1988	17 November 1988	<i>Nicaragua has not ratified</i>	
<i>Additional Protocol to the American Convention on Human Rights to Abolish the Death Penalty</i>	Asunción, Paraguay 8 June 1990	30 August 1990	9 November 1999	Approval: Decree A.N. No. 2080. <i>La Gaceta</i> No. 216 of 12 November 1998. Page 9450. Ratification. Decree No. 43-99. <i>La Gaceta</i> No. 68 of

Inter-American treaties	Place and date of adoption	Date of signature by Nicaragua	Date of deposit of instrument	Comments
				14 April 1999. Page 1614.
Inter-American Convention to Prevent and Punish Torture.	Cartagena de Indias, Colombia 9 December 1985	29 September 1987	<i>Nicaragua has not ratified</i>	
Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities	Guatemala City, Guatemala 7 June 1999	8 June 1999	25 November 2002	Approval: Decree A.N. No. 3091. <i>La Gaceta</i> No. 211 of 7 November 2001. Page 6116. Ratification. Decree 60-2002. <i>Gaceta</i> No. 121 of 28 June 2002. Page 4453.
Inter-American Convention on Forced Disappearance of Persons	Belem do Pará, Brazil 9 June 1994	10 June 1994	<i>Nicaragua has not ratified</i>	The Explanatory Statement in favour of its ratification was prepared in June 2002.
Inter-American Convention on the Political Rights of Women	Bogota, Colombia 2 May 1948	Nicaragua signed on 24 April 1956	22 August 1956 (ratification)	Ratification: <i>La Gaceta</i> No. 128 of 9 June 1956. Page 1370. Text: <i>La Gaceta</i> No. 153 of 9 July 1956. Page 1641.
<b>WOMEN</b>				
Inter-American Convention on the Granting of Civil Rights to Women	Bogota, Colombia 2 May 1948	2 May 1948	22 August 1956	Ratification: <i>La Gaceta</i> No. 128 of 9 June 1956. Page 1370.
Inter-American Convention on the Political Rights of Women	Bogota, Colombia 2 May 1948	24 April 1956	22 August 1956	Ratification: <i>La Gaceta</i> No. 128 of 9 June 1956. Page 1370. Text: <i>La Gaceta</i> No. 153 of 9 July 1956. Page 1641.
Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belem do Pará)	Belem do Pará, Brazil 9 June 1994	9 June 1994	12 December 1995	Approval: Decree A.N. No. 1015. <i>La Gaceta</i> No. 179 of 26 September 1995. Page 3525. Ratification: Decree No. 52-95. <i>La Gaceta</i> No. 203 of 30 October 1995. Page 3985.
<b>CHILDREN</b>				
Inter-American Convention on the International Return of Children	Montevideo, Uruguay 15 July 1989	Nicaragua was not an original signatory	6 December 2004 (accession)	Accession: Decree 58-2002. <i>La Gaceta</i> No. 118 of 25 June 2002. Page 4361.
Inter-American Convention on International Traffic in Minors	Mexico City, D.F., Mexico 18 March 1994	Nicaragua was not an original signatory	18 November 2005 (accession)	Accession: Decree 106-2004. <i>La Gaceta</i> No. 191 of 1 October 2004. Page 5430. Approval of Accession: Decree A.N. No. 4345. <i>Gaceta</i> No. 159 of 17 August 2005. Page 5594.



<b>Inter-American treaties</b>	<b>Place and date of adoption</b>	<b>Date of signature by Nicaragua</b>	<b>Date of deposit of instrument</b>	<b>Comments</b>
Inter-American Convention on the International Return of Children	Montevideo, Uruguay 15 July 1989	Nicaragua was not an original signatory	6 December 2004 (accession)	<i>Accession: Decree 58-2002. La Gaceta No. 118 of 25 June 2002. Page 4361.</i>
Convention on International Traffic in Minors	Mexico City, D.F. Mexico 18 March 1994	Nicaragua was not an original signatory	18 November 2005 (accession)	<i>Accession: Decree 106-2004. La Gaceta No. 191 of 1 October 2004. Page 5430. Approval of Accession: Decree A.N. No. 4345. La Gaceta No. 159 of 17 August 2005. Page 5594.</i>
Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities	Washington, D.C., USA 14 November 1997	Nicaragua signed on 14 November 1997	9 November 1999 (ratification)	<i>Approval: Decree A.N. No. 3091. La Gaceta No. 211 of 7 November 2001. Page 6116. Ratification: Decree 60-2002. La Gaceta No. 121 of 28 June 2002. Page.4453.</i>

**B. Legal framework for the protection of human rights  
at the national level**

153. The Political Constitution of Nicaragua guarantees individuals equality before the law and the protection and enjoyment of their political rights without discrimination by reason of birth, nationality, political belief, race or gender. The State is obliged to remove any obstacles to the effective participation of Nicaraguan men and women in the political, economic and social life of the country.

154. According to Article 46 of the Political Constitution, every individual enjoys state protection and recognition of the rights inherent in the human person, the unrestricted observance, promotion and protection of human rights and full applicability of the rights set forth in the Universal Declaration of Human Rights, in the American Declaration of the Rights and Duties of Man, in the International Covenant on Economic, Social and Cultural Rights, in the International Covenant on Civil and Political Rights and in the American Convention on Human Rights of the Organization of American States, as well as in the Convention on the Rights of the Child (Constitution, Art. 71).

155. Thus, the rights mentioned in the various human rights instruments are, for the most part, protected in the Political Constitution of Nicaragua and other specific laws developed in the course of this period.

156. In order to guarantee these fundamental rights of the Nicaraguan citizen, our Political Constitution classifies and catalogues the rights and obligations established in its Title IV as follows:

- (a) Chapter I. Individual rights;
- (b) Chapter II. Political rights;
- (c) Chapter III. Social rights;
- (d) Chapter IV. Family rights;
- (e) Chapter V. Labour rights;
- (f) Chapter VI. Autonomy of the Communities of the Atlantic Coast.

157. It should be noted that the rights of the Communities of the Atlantic Coast are a new element in the constitutions of Latin America. The Nicaraguan Constitution is the first to recognize that the peoples of these communities are an inseparable part of the State, as well as recognizing their autonomy on the basis of their origins and ancestral customs.

158. The legal consequence of the establishment of human rights in the Political Constitution of Nicaragua is that the rights set forth therein are highly protected. As the Constitution is supreme among the laws of the Republic, they must be respected by the State and every citizen is guaranteed the right of petition to request their restitution in the event of a violation or act of omission on the part of the State or some other citizen.

159. The Constitution includes a series of legal principles that guarantee the rights of individuals, among them: the principle of legality, the principle of presumption of innocence, petition, respect for human dignity, and the principle of proportionality.

160. As already mentioned, the protection of the human rights established in the Constitution is supplemented by a series of laws and regulations which have been developed for the purpose of ensuring that those rights are respected, namely:

161. **Individual rights:**

- (a) Criminal Code;
  - (b) Code of Criminal Procedure;
  - (c) Civil Code;
  - (d) Code of Civil Procedure;
  - (e) Children and Young Persons Code;
  - (f) Amparo Act (which contains habeas corpus, administrative *amparo* and the remedy of unconstitutionality);
  - (g) Extradition Act;
  - (h) Migration and Alien Affairs Act;
  - (i) National Prison Service Act;
  - (j) Act Establishing the Office of the Procurator for the Defence of Human Rights;
  - (k) National Police Act;
  - (l) Equal Rights and Opportunities Act (Bill);
- etc.

162. **Political rights:**

- (a) Electoral Act;
- (b) Municipalities Act;
- (c) Children and Young Persons Code;
- (d) Autonomous Regions of the Atlantic Coast of Nicaragua Act.

163. **Social rights:**

- (a) Care of Persons with Different Capabilities Act;
- (b) General Education Act;
- (c) General Health Act;
- (d) General Environment and Natural Resources Act;
- (e) Forestry Regulations;
- (f) Social Security Act;
- (g) Property Act;
- (h) Agrarian Reform Act;
- (i) Participation in Education Act;

(j) Communications Media Act.

164. ***Family rights:***

- (a) Establishing Child Protection Centres;
- (b) Maintenance Act;
- (c) Regulation of Mother-Father-Child Relations Act;
- (d) Children and Young Persons Code;
- (e) Act Approving Unilateral Divorce;
- (f) General Health Act (with reference to human reproduction);
- (g) Act Comprehensive Protection for Minors Act.

165. ***Labour rights:***

- (a) Labour Code;
- (b) Minimum Wage Act (under study for approval);
- (c) Code of Civil Procedure;
- (d) Treaties and Conventions signed by the State with the ILO;
- (e) Teaching Profession Act;
- (f) Child Labour Act (bill);
- (g) Civil Service and Administrative Profession Act.

166. ***Rights of the Communities of the Atlantic Coast:***

- (a) Autonomy Statute of the two Regions of the Atlantic Coast of Nicaragua;
- (b) Forestry Regulations;
- (c) Laws on fishing;
- (d) Act on the Communal Property Regime of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and of the Rivers Bocay, Coco, Indio and Maiz (Act No. 445).

167. All the legislation referred to above and other related legislation not mentioned in this document is taken into account as the legal basis for the protection of human rights, together with the international conventions, treaties and other instruments to which the State of Nicaragua is a signatory. In addition, there is legislation of constitutional rank relating to various guarantees, such as individual liberty, the remedy of unconstitutionality, and the right of recourse to *amparo* against administrative decisions. These provisions are contained in Articles 187 to 189 of the Constitution in the chapter on Constitutional Supervision.

## **1. System for the protection of human rights in Nicaragua**

168. The system for the protection of human rights in Nicaragua has been built up on the basis of the legislation establishing the institutions which oversee the application of the provisions contained in these laws. The most important of these institutions are briefly described below.

### **(a) Office of the Procurator for the Defence of Human Rights (PDDH)**

169. The PDDH was established within the political context of the constitutional reforms of 1995.<sup>41</sup> Among other things, these reforms extended the powers of the National Assembly (the Legislature) in pursuit of a balance with the other branches of the State, especially the executive branch, one of these new powers being the appointment of a procurator for the Defence of Human Rights (or Ombudsman).

170. Later, in 1996, Act 212, the Office of the Procurator for the Defence of Human Rights Act, was passed.<sup>42</sup>

171. Thus, the PDDH was set up as an independent office, whose incumbents were not, for any reason, subordinate to any other authority and were subject only to the Political Constitution and the laws of the country.

172. The PDDH is responsible for promoting, defending and guarding the constitutional guarantees of citizens and their human rights as recognized in the Political Constitution, international treaties and other laws of the Republic, having been constituted as the supreme organ of the State with responsibility for the promotion of human rights, with special emphasis on vulnerable groups.

173. This concern for the vulnerable is reflected in the organizational structure of the PDDH, which is composed of a Procurator, a Deputy Procurator and special procurator's offices such as those for children and young persons, women, indigenous peoples and ethnic communities, and prisons. It also consists of four directorates: the Defence Directorate, the Promotion Directorate, the Administrative Directorate, and the Planning Directorate.

174. Its main functions are as follows:

- (a) To popularize the knowledge, observance and defence of human rights;
- (b) To make proposals to the Government for resolving situations in which human rights are being violated;
- (c) To deal with complaints from persons whose rights have allegedly been violated, while maintaining due confidentiality;

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<sup>41</sup> Act 192/95, published in *Nuevo Diario* of 4 July 1995, which reformed the Political Constitution of 1987.

<sup>42</sup> Published in *La Gaceta*, Diario Oficial, No. 7, Managua, Nicaragua, of Wednesday, 10 January 1996.

- (d) To offer people guidance concerning the procedures to be followed if they are not within its competence;
- (e) To mediate between the parties;
- (f) To protect and defend the rights of all;
- (g) To initiate investigations ex officio where human rights have clearly been violated;
- (h) To propose to the public authorities corrective measures or recommendations to ensure the cessation or suspension of acts that violate human rights.

175. Complaints must be submitted by the person concerned and indicate his or her full name and address and the nature of the complaint. The complaints may be made on ordinary paper, by letter, fax, e-mail, telephone, or verbally, in person or through a representative.

176. It should be pointed out that all the services provided by the PDDH are free of charge for the person concerned and legal assistance is not necessary, without prejudice to the right of the person concerned to be assisted by a lawyer.

177. Moreover, it is very important to mention that no correspondence addressed to the PDDH from any detention centre, place of work or study, prison or military unit may be subjected to any kind of censorship.

178. The PDDH may intervene in all the organs of government, by virtue of its powers of supervision where human rights are concerned, acting with complete independence.<sup>43</sup>

179. In the light of the above, we can affirm that in Nicaragua the Office of the Procurator for the Defence of Human Rights is not a simple administrative agency invested with public powers, but a true organ of State based in the Constitution, which performs both the function of defending human rights and that of monitoring the public services, within the context of a democratic regime and respect for the rule of law.

180. Thus, the fundamental role of the PDDH is to assist in achieving a freer and juster society thereby making it possible to improve moral and political values through substantial efforts to foster human rights education and the protection, promotion and dissemination of human rights in the broadest sense, while encouraging the participation of all sectors of society.

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<sup>43</sup> Art. 1 of the Office of the Procurator for the Defence of Human Rights Act (Act No. 212) of 10 January 1996 reads as follows: "Article 1. The Office of the Procurator for the Defence of Human Rights is created as an independent agency with its own legal personality and functional and administrative autonomy...."

Moreover, Art. 2.2 reinforces its status among public entities by declaring: "In their activities, the Procurator and the Deputy Procurator for the Defence of Human Rights shall be independent and not subordinate to any authority, and their acts shall be subject only to the Constitution and the law."

181. With regard to the supervision and monitoring of government services, the PDDH may institute an investigative procedure which begins with a simple protest or complaint, whether by a citizen or social group or taken up *ex officio*.<sup>44</sup>

182. It should be mentioned that Act 212 is more advanced than most legislation governing the office of *Ombudsman* at the Latin American level, since it provides for special procurators to work alongside the Procurator and the Deputy Procurator.

**(b) Other institutions for the protection of human rights in Nicaragua**

183. In addition to the Office of the Procurator for the Defence of Human Rights, a series of institutions and agencies charged with protecting human rights have been established in connection with specific rights and minority groups. Thus:

184. The **National Council for the Comprehensive Care and Protection of Children and Young Persons (CONAPINA)** arose from a mandate set out in the Children and Young Persons Code,<sup>45</sup> as a governing body at the highest level with a mandate always to act in conformity with the principles of the best interests of the child, equality and non-discrimination, protection, comprehensive education and participation established in the Convention on the Rights of the Child and the Children and Young Persons Code.

185. This body has carried out a series of activities designed to strengthen the policies, plans and programmes that, in practice, guarantee the application of the Children and Young Persons Code and the doctrine of comprehensive protection in the public and private services working on behalf of children.

186. The **Nicaraguan Institute for Women (INIM)** was established as a result of the passage of Act No. 293 of 1987,<sup>46</sup> which stipulates that the purpose of the Institute is to provide coordination and technical support for the formulation, consolidation and expansion of the Government's global policy by creating the basis for eradicating all forms of oppression and discrimination directed at women. It also promotes the establishment of a new type of social and personal relations in order to achieve the full integration of women into the social life of the country and the solution of their specific problems, for example by campaigning against discriminatory ideas. It is helping to establish improved economic, social and organizational conditions so as to ensure that women enjoy effective equality of opportunity and are incorporated into the national process of economic, social and political transformation and development.

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<sup>44</sup> The procedure is described in Articles 24 to 45 of the establishing act and covers the processing of the complaint, the on-the-spot investigation and inspection, the kinds of determinations that can be made and their due notification and communication to the parties concerned and the public in general. However, from the administrative standpoint the whole investigative procedure constitutes a much more extensive process.

<sup>45</sup> Art. 62, Title II of Book II of the Children and Young Persons Code, implemented by Act No. 351.

<sup>46</sup> Act Establishing the Nicaraguan Institute for Women, Decree No. 293 of 22 December 1987, published in *La Gaceta* No. 277 of 29 December 1987.

187. The **Nicaraguan Commission on AIDS (CONISIDA)**, a body established by Act 238,<sup>47</sup> is composed of representatives and delegates of the country's public and private institutions and non-governmental organizations.

188. It should be noted that everything relating to the rights of the populations classified as “minorities” (migrants, internally displaced persons, indigenous peoples, refugees, etc.) is marked by the valuable work being done by the Nicaraguan and foreign civil society organizations providing Nicaragua's citizens with disinterested support in defence of their human rights.

### **Ministry of the Family (MIFAMILIA)**

189. The Ministry of the Family is a department set up in 1998 with responsibility for making comprehensive provision for the social protection of children who are vulnerable or at risk, in accordance with the mandate bestowed by the Executive Branch (Organization, Competence and Procedures) Act (Act 290).<sup>48</sup> It also supervises and monitors comprehensive care for families, especially the most vulnerable and those exposed to a high level of social risk.

190. In accordance with Article 92 of the Nicaraguan Children and Young Persons Code, this Ministry is responsible for supervising and monitoring all governmental and non-governmental organizations whose purpose is to protect children and young persons in homes, centres and villages under their care.

191. The Ministry of the Family also establishes norms and regulates and implements actions and programmes for the care and protection of vulnerable groups, with priority being given to families and children exposed to a high level of social risk and in extreme poverty. It provides special protection for children and young persons through protection centres, substitute homes, and maintenance, family placement and adoption procedures.

192. Within the context of prevention and care, the Ministry serves these populations in accordance with the comprehensive care model, as follows:

#### **1. Prevention**

193. The actions that take place within the context of prevention are carried out in the prioritized communities in coordination with the families, governmental and non-governmental organizations and civil society with a view to reducing the number of situations in which children and young persons are exposed to social risk, mainly by promoting the development of human capital, the strengthening of the family and community participation in the possible solutions for the most vulnerable population.

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<sup>47</sup> Promotion, Protection and Defence of Human Rights in the Face of AIDS Act. *La Gaceta* No. 191 of 9 October 1996.

<sup>48</sup> Published in *La Gaceta* No. 102 of 3 June 1998.



**In the area of prevention the following strategies are being developed:**

**(i) The psycho-social risk prevention model:**

194. This model is being implemented to promote prevention of the risks associated with drug use, commercial sexual exploitation, family and social relations, etc. Diagnostic studies of the psycho-social risks in each community are conducted and an action plan for promoting and strengthening the factors protective of children and families is drawn up. Moreover, community prevention networks are set up to participate on a voluntary basis in the preventive actions resulting from the model.

**(ii) Family counsellors:**

195. Family counsellors are selected by the local offices of the Ministry of the Family via the voluntary social work programme and the networks of community outreach workers who are given a training workshop to enable them to offer psycho-social counselling to the beneficiary population.

196. The family counsellors support the members of their community in seeking solutions to the problems associated with violence and serve as facilitators and guides for the population with respect to the services available and access to them. They work to promote a culture of non-violence and the peaceful settlement of disputes, within the framework of respect for human rights.

**(iii) Community outreach workers**

197. The community outreach workers network is being strengthened with the incorporation of ten community outreach workers in each of the 24 local offices of the Ministry of the Family to support the implementation of preventive actions in their communities.

**(iv) Youth clubs**

198. The clubs are engaged in three fields of activity: advice, library services and culture. They have areas set aside for recreation, culture and sports. Interest groups are formed and psychological and preventive health advice is available.

**(v) Schools for parents**

199. Parents are enrolled in these schools to promote changes in family dynamics. These changes strengthen ties and improve communication and integration for the purpose of promoting understanding of the causes and consequences of violence against women and children, preventing the abuse of power that leads to such violence and ensuring fair treatment for victims of violence.

**2. Comprehensive care**

200. The Ministry of the Family provides comprehensive care for children, young persons and families in situations of drug dependency, child labour, commercial sexual exploitation, disability at risk, and juvenile violence with a view to improving

psycho-social conditions, priority being given to action to strengthen the family and community participation in the development of the human capital of this population.

201. To ensure that comprehensive care functions properly, it is necessary to have defined procedures and measures as described below:

**(i) Identification and integration**

202. This procedure relies upon the support of the 24 local offices of the Ministry of the Family, which are responsible for visiting risk hotspots (traffic lights, markets, public places, bars, bus stops, border crossing points, etc.) for the purpose of raising awareness and identifying, selecting and referring individuals to governmental and non-governmental institutions for comprehensive care. Once this process is complete, an itemized assessment, a social report and a personal care plan are prepared and the next procedure is initiated.

**(ii) Implementation of the system of referral, counterreferral and follow-up of the beneficiary population**

**(a) Provision of health care:**

203. Consists in establishing mechanisms for coordination with the Ministry of Health and NGOs in order to provide primary health care, psycho-social care and rehabilitation for the beneficiary population.

204. In addition, the necessary steps are taken to establish a fund to pay for specialized examinations and buy medicines in those special cases that require an immediate response.

**(b) Integration into education, regular attendance and advancement**

205. This procedure involves liaison with the Ministry of Education, Culture and Sports for the integration of the beneficiary population into formal education; in addition, school packages (exercise books, pencils, school uniforms and shoes, satchels, etc.) are distributed.

**– Technical and vocational training:**

206. Comprises a comprehensive package of technical and vocational training that includes training content for both young persons and parents and guardians to prepare them for work in the agricultural sector, agro-industry, manufacturing and services, among other skilled trades in demand on the labour market. The training is delivered over a period of from six to twelve months each year.

207. The comprehensive package provides for economic support or a conditional transfer payment to cover transport costs, food, teaching materials, inputs, diplomas, etc.

– **Work placement**

208. Once the previous phase has ended, the inter-agency and intersectorial coordination procedure is implemented in order to help the trained parents and young persons to find work and thus improve their standard of living.

**(c) Integration into cultural, recreational and sporting activities**

209. Coordinated action is undertaken with the mayor's offices to ensure the integration of children and young persons into recreational and sporting activities. Moreover, sports equipment is supplied in order to promote and develop sport; resources for cultural and recreational activities are made available to mark Children's Week, among other events.

**Working with the family**

210. Consists in promoting parental responsibility, together with the instilling of new personal, family and social values. Moreover, work is done on the approach to violence within the family in order to build up a culture of non-violence that leads to a strengthening of family relations with a new understanding of the rights and duties of children and adolescents.

211. As far as social protection and special protection policies are concerned, the Ministry of the Family has been working on their formulation and design. The situation is currently as follows:

- (a) A responsible parenthood policy has been drawn up;
- (b) A preliminary draft law on parental responsibility is currently in the lobbying stage for approval in the National Assembly;
- (c) A national older persons policy document has been drawn up and an action plan, whose strategic outlines are being reviewed by the Technical Committee of the National Council for the Elderly (CNAM), is in the process of being formulated;
- (d) Other public institutions and the rest of the stakeholders are being consulted on the policy for the care of persons with different capabilities.

**(d) Resources available for the protection of human rights**

212. As already noted, in Nicaragua the Constitution is the fundamental charter of the Republic so that all other laws are directly subordinate to it.<sup>49</sup> Any other law that conflicts with the Constitution has no legal validity.

213. To ensure this supremacy, laws of constitutional rank, i.e. laws with which compliance is mandatory, are established in the Constitution itself, thereby making it possible to ensure the precedence of the Constitution over other laws approved by the nation (in this case by the Legislature). We refer specifically to the laws mentioned in

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<sup>49</sup> Art. 182 of the Political Constitution of Nicaragua.

Article 184 of the Constitution, namely, the Electoral Act, the Emergency Act and the Amparo Act.

214. It is important to note that, under Article 52 of the Constitution, citizens have the right to petition the public authorities.<sup>50</sup> Moreover, under the existing laws and regulations applicable in each particular case, these authorities are obliged to respond to such petitions.

215. Once a citizen has received the response of the administrative entity, he or she may take advantage of the Amparo Act (Act No. 49), which has existed since November 1988. This Act enables human rights to be protected, guarded and restored by bringing three types of action before different State courts, namely:

- (a) An action for unconstitutionality;
- (b) An *amparo* action;
- (c) Habeas corpus proceedings.

216. Where the protection of fundamental rights is concerned, **habeas corpus proceedings** can be brought on behalf of anyone whose personal liberty, physical integrity or security has been or is at risk of being violated. According to Act 49, the courts are responsible for making the Constitution prevail over any law or international treaty.

217. Habeas corpus proceedings may be brought before the court of appeal of the jurisdictional territory in which the citizen concerned lives, by any means he or she considers necessary (in writing, by telegram or orally), by anyone who considers that his or her rights or those of another may be being impaired.

218. When proceedings are brought, the court of appeal appoints an executing officer who will notify the institution against which the complaint of the person concerned is directed. Once the report of the authority thus notified has been received, the court will decide whether or not to issue a writ, which will be directly enforceable against the authority served.

219. **Appeals for unconstitutionality** can be brought against any law, decree-law or regulation that conflicts with the Constitution and are lodged with the authority that issued the law. Despite being lodged with the issuing authority, the appeal is heard by the Supreme Court of Justice in full session, with the participation of the Office of the Procurator-General. An appeal may be lodged 72 days after the entry into force of the law alleged to be unconstitutional. Subsequently, within two weeks of the appeal being lodged, the Supreme Court must rule on its admissibility. If the appeal is found to be admissible, a decision must be handed down within 70 days of the notification of admissibility.

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<sup>50</sup> Art. 52 of the Political Constitution of Nicaragua: "Citizens have the right, individually or collectively, to submit petitions, report irregularities and proffer constructive criticism to the branches of government or any authority, to obtain a prompt decision or response and to have the result communicated within the time limits established by law."

220. With regard to the **remedy of amparo**, it can be brought against any order, act or decision attributable to an action or omission on the part of a public official that jeopardizes rights or guarantees enshrined in the Constitution. This remedy may be brought before the Court of Appeal 30 days after notification of the decision that gave rise to the citizen's grievance, it being the Supreme Court of Justice that makes the final ruling in actions for flagrant administrative irregularity (where the Court of Appeal decides not to proceed with the case). The Supreme Court, as the highest court, decides on the merits, and if it orders the restitution of the rights violated, then the decision which led to the *amparo* proceedings is revoked.

221. Another remedy available to citizens who consider themselves to be victims of a violation of their human rights is to lodge a complaint with the Office of the Procurator for the Defence of Human Rights which, as already mentioned, not only oversees respect for human rights but must also watch over and monitor the activities of the public authorities.

222. Nevertheless, it is worth noting that these functions should be differentiated, in particular, from the adjudicatory function. By the very nature of its functions, the Office of the Procurator for the Defence of Human Rights conducts a non-adjudicatory investigation which should not be confused with that carried out by other authorities. The latter, as representatives of society in the administration of justice, bring charges and try to prove the criminal or civil liability of the accused.

223. The Procurator's investigation is aimed at verifying the violation of rights and the failure of the public authorities to perform their duties, generally known as abuse of authority or negligence in the exercise of authority, mainly for the purpose of protecting individuals, restoring their rights, bringing about the cessation of the arbitrary or negligent acts and obtaining redress or compensation, where appropriate. This does not prevent the Office of the Procurator for the Defence of Human Rights from demanding, in administrative matters, the institution of proceedings or the application of the appropriate measures; on the contrary, it is required to seek justice in the courts in those cases in which the violations of human rights or acts of abuse of authority may constitute an offence.

224. Thus, where there is evidence of an offence, the Ombudsman must interrupt his investigation and transfer the case to the Procurator-General's Office, under the continuing supervision of the PDDH. The same applies in a situation that gives rise to civil liabilities, that is, the case is returned to the party concerned for submission to the competent civil judge whose performance of his official duties remains, where necessary, under the supervision of the PDDH.

225. It should be emphasized that, although Act 212 is more modern than its counterparts in the other Latin American countries, there is a limitation on competence with respect to cases in the hands of the Judiciary. This limitation is described in Article 28 of Act 212 where it is stipulated that the institution cannot deal with cases pending in the courts, unless they are based on delay in the administration of justice.

### **3. Competence of the Inter-American Court of Human Rights in Nicaragua**

226. At the regional level, the State of Nicaragua has been a State Party to the American Convention on Human Rights since 25 September 1979 and on 12 February

1991 recognized the competence of the Inter-American Court of Human Rights in contentious proceedings. Article 68.1 of the Convention stipulates that:

“The States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties.”

227. Accordingly, States must ensure that the judgments of the Court are implemented internally.

228. The States Parties must therefore guarantee the implementation of the provisions of the Convention and their practical effect at the level of their domestic law. The principle applies not only to the substantive rules of the human rights treaties (i.e. those that contain provisions concerning protected rights) but also to the rules of court, such as those that relate to the enforcement of the Court’s judgments. These obligations must be interpreted and applied in such a way as to ensure that the guarantee is truly practical and effective, bearing in mind the special nature of the human rights treaties.

229. States Parties to the Convention that have recognized the binding competence of the Court have a duty to honour the obligations it establishes. This includes the duty of the State to inform the Court of the measures adopted to enforce the orders of the Court as contained in its judgments. Timely fulfilment of the State’s obligation to advise the Court how each aspect of its orders is being enforced is of fundamental importance for assessing progress with the enforcement of the judgment as a whole.

230. So far, Nicaragua has had only three cases adjudicated by the Inter-American Court of Human Rights in which the rights of the petitioners were found to have been violated, the latest being the case of the political group YATAMA, in a judgment delivered on 23 June 2005.

231. In addition to these three cases Nicaragua has had approximately 35 complaints before this court, many of which have been rejected by the Commission or been the subject of special proceedings in which the Inter-American Commission seeks an amicable settlement or orders precautionary measures, which must also be enforced by States on pain of representations at international level to the Organization of American States.

### **C. Framework for the promotion of human rights at the national level**

232. During the last 10 years Nicaragua has made great progress as far as the promotion of human rights is concerned, adopting measures ranging from the enactment of laws to the organization of awareness-raising campaigns for its civil servants and the public in general with a view to establishing a culture of understanding and observance of human rights at all levels of society.

233. The study of human rights and the Political Constitution of Nicaragua is compulsory in the basic and middle education subsystem, as required by the Act on the Promotion of Human Rights and the Teaching of the Political Constitution of the Republic of Nicaragua (Act No. 201),<sup>51</sup> whose aim is to ensure that citizens are familiar with their rights, liberties, duties and guarantees.

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<sup>51</sup> Published in *La Gaceta* No. 179 of 26 September 1995.

234. Article 4 of this Act makes it compulsory for schools and military and police leadership training centres to give their students a knowledge of the Political Constitution and human rights by means of appropriate programmes and texts, prepared in coordination with the Ministry of Education.

235. Moreover, according to Article 5, it is the responsibility of the Ministry of Education to develop programmes, teaching methods and progressive texts on the Political Constitution and human rights for study at the pre-school, primary, middle school and technical-vocational levels. In the Autonomous Regions, the programmes and texts must also be published in the languages and tongues of those Regions, in coordination with their educational authorities.

236. Since 1996, this content has been incorporated into primary and secondary education, which have been improved and enriched by curricular reform and teacher training.

237. One significant development has been the translation into Miskito, Mayagna and English of the Act on the Promotion, Protection and Defence of Human Rights in the Face of AIDS (Act 238). This Act, together with other related subject matter, has been disseminated through “traveling education” consisting of three facilitators who travel to educational centres in vehicles fitted out with audiovisual equipment, thus bringing education to the community in an innovative fashion through the use of nontraditional media and with an inclusive, participatory and flexible approach.

238. The Office of the Procurator for the Defence of Human Rights, with the aim of promoting the observance of human rights and developing education programmes for the whole of society, has begun negotiations with the State educational authorities to ensure the implementation of Act 201.

239. In 2001, promotional activities were carried out in conjunction with the various services of the Ministry of Education, Culture and Sports (MECD) and with the Ministries of Defence and the Interior. Since then, the following achievements have been recorded:

- (a) Teaching guides for teaching human rights in the second, third, fourth, fifth and sixth primary grades have been developed. This was made possible by financing provided by Save the Children and the coordinated efforts of the MECD and the PDDH;
- (b) Training has been provided for teachers and various grades of technical staff of the Ministry of Education to mark Political Constitution Day (first Monday in September), when the PDDH takes steps to verify the implementation of the measure. Moreover, it has been agreed that the celebration of this day should be included in the MECD’s academic calendar;
- (c) Coordination and monitoring relations have been established with the departmental and municipal offices of the MECD in León, Chinandega, San Marcos, Jinotepe, Masaya, Jinotega and Matagalpa;

- (d) A MECD-PDDH inter-agency plan for the implementation of formal and informal human rights education activities throughout the national education system has been drawn up.

240. This work is being carried out by the PDDH through its Promotion and Education Department on the premise that more spent on promotion and education means less spent on protection, it being stressed that this policy naturally implies a desire and readiness for change on the part of the public services, business, religious and party groups, etc.

241. The Promotion and Education Department has a Training Section, an Educational Materials Section (planning stage) and a Documentation Centre<sup>52</sup>; it has been involved in promotional and educational work both among civil society organizations (trade unions, NGOs, religious groups of different faiths, human rights outreach worker and activist networks) and among public service officials and employees, mainly within the judicial system, the state universities, the National Police and National Army academies, the Ministry of Education, Culture and Sports, local government, the Ministry of Labour, the National Universities Council, the Nicaraguan Social Security Institute, the Ministry of Health, the Ministry of the Environment and Natural Resources, etc.

242. The new dynamics can count on the participation of the special procurators based at central headquarters and those of the Caribbean Coast (RAAS, RAAN, Triángulo Minero), within their particular specializations and assigned territories.

243. It is also important to mention that the Government of Reconciliation and National Unity, deeply committed to the people of Nicaragua and their struggle to eradicate poverty, as one of its first steps undertook the task of ensuring that in Nicaragua education is free, in accordance with the provisions of its Political Constitution.<sup>53</sup>

244. In this connection, the PDDH has implemented a plan for monitoring the enrollment process at national level, creating **School Procurator** posts in order to support the work of the Ministry of Education in ensuring free education at primary level and in some secondary schools.

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<sup>52</sup> The centre has 486 titles corresponding to 816 volumes acquired by donation, purchase and inter-institutional exchange; 65 titles corresponding to 311 volumes to start up a basic library in each of PDDH's three local offices on the Caribbean Coast (Bluefields, Puerto Cabezas and Siuna); 190 documents processed and input into the Bibliographical Database (BIBLIO) and the Newspaper Database (HEM).

<sup>53</sup> Arts. 58 and 121 of the Political Constitution of Nicaragua read as follows: "Nicaraguans have the right to education and culture." "Access to education is free and equal for all Nicaraguans. Primary education is compulsory and free of charge in State schools. Secondary education is free of charge in State schools, without prejudice to any voluntary contributions which parents may make. No one may be excluded in any way from a State school for economic reasons. The indigenous peoples and the ethnic communities of the Atlantic Coast have the right in their region to intercultural education in their mother tongue, in accordance with the law."



## 1. Activities of the PDDH's Promotion and Education Department in 2006

245. In 2006, the PDDH's Promotion and Education Department organized 85 training workshops for outreach workers and public service officials and employees in various municipalities.

246. *Workshop topics* included: introduction to human rights, the Office of the Procurator for the Defence of Human Rights Act (Act 212); public participation; women's human rights; HIV/AIDS and human rights; political impact and public policy; the human rights of children and adolescents; the Political Constitution and human rights; the human rights of disabled persons; the rights of indigenous peoples and communities of African descent.

247. With regard to the *dissemination of human rights instruments*, the PDDH, with the support of donor organizations, has promoted the printing of human rights instruments for the general public. Thus, the Political Constitution and Act 212 have been translated into English and Miskito, together with posters on various human rights topics, thereby contributing to interculturalism.

248. In addition, the Nicaraguan Institute for Women (INIM), the Office of the Special Procurator for Women, and other State agencies and civil society organizations have published the full texts of, *inter alia*, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará), the Beijing Platform for Action and the National Plan for the Prevention of Domestic and Sexual Violence.<sup>54</sup> Where CEDAW is concerned, INIM printed approximately 4,000 copies.<sup>55</sup>

249. Promotional material was distributed in various of the country's departmental capitals and municipalities. This included educational material produced by the PDDH at approximately 45 Information Units (IU).

250. With regard to promotion in the media, it should be noted that, although Act 201 makes it compulsory to promote and observe human rights, the media do not have a policy on human rights or their promotion. Nevertheless, considerable efforts are being made to encourage a change of attitude. Thus, the PDDH has succeeded in placing material on various human rights promotion activities in more than 40 national media outlets.

251. Moreover, in the short and medium term, it is planned to develop the existing alliances with these sectors more broadly and systematically and also to establish new

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<sup>54</sup> The National Plan for the Prevention of Domestic and Sexual Violence (2001-2006) is an instrument of public policy whose purpose is to promote and guide actions to prevent and eradicate violence against women, children and adolescents. The Plan has its legal basis in Presidential Decree 116-2000 of 22 November 2000, which establishes the National Commission to Combat Violence Against Women, Children and Young Persons (INIM: VI<sup>th</sup> Report to CEDAW).

<sup>55</sup> Nicaraguan Institute for Women (INIM). Periodic Report (1999-2002) Nicaragua. Convention on the Elimination of All Forms of Discrimination against Women. Page 13.

ones with media owners, managers and journalists, private universities, private telephone, electricity and water companies and the future State regulators of these companies. This will make it possible to involve civil society in the promotion and dissemination activities of the Procurator's Office and thus, as stated above, help to raise public awareness of human rights.

252. The PDDH served 1,300 men and women users, domestic and foreign.

253. Participation in meetings of the Network of Woman and Child Documentation and Information Centres (RECIMUNI Network) has been encouraged. This has made possible the acquisition of updated bibliographical materials, greater institutional outreach for the PDDH and an up-to-date knowledge of the tasks of the institutions that make up the Network.

254. The PDDH's Documentation Centre formed part of the RECIMUNI Network's Bibliographical Bulletin 2000-2005 (issued to the 35 institutions participating in the Network and available on-line on the websites of 8 institutions).

**(a) Other achievements of the PDDH's Promotion and Education Department**

**Outreach worker network**

255. The Promotion Directorate has taken steps to organize civil society in relation to the various developing issues: women, children, disabled persons, indigenous peoples, communities of African descent, etc. Meetings have been held in the departmental capitals to explain the importance of forming an outreach worker network in each department, so that the organized population can promote and defend its rights.

256. Moreover, procedures have been developed for delivering training in the principal human rights subject areas. Altogether, 36 workshops have been held with the participation of a total of 483 members of the Voluntary Outreach Worker Network, 61% of which were represented by women.

257. The Voluntary Outreach Worker Network, with PDDH support, has established three human rights centres, in Corinto, Chinandega and León (Subtiaba), thereby helping to improve the delivery of the PDDH's services to the people.

258. The persons who make up the Voluntary Outreach Worker Network have been formally accredited to carry out their tasks, having the backing of the PDDH in their dealings with public service officials and employees.

**Traveling Defenders**

259. The PDDH has implemented a new method of defending human rights by creating the Traveling Defenders Office. This initiative is part of the strategy for bringing the PDDH closer to the organized population and improving the delivery of its services. It is designed to form a component of the Defence Directorate with responsibility for promoting, popularizing, advising on and protecting human rights in the various parts of the country in which there are no local PDDH offices.

260. By deploying specialized teams who are constantly traveling to the departmental capitals and municipalities the Traveling Defenders Office is promoting the

establishment of organized networks of individuals and civil society and State institutions involved with human rights in the regions. The first steps have been taken in the process of decentralizing the services offered by the PDDH with a view to achieving a freer and fairer society that will make it possible to develop better values.

261. An important aspect of the work of the Traveling Defenders Office is the establishment of coordination with the various social actors in the localities visited for the purpose of compiling a database of individuals, organizations and institutions involved in the promotion and protection of human rights; the creation of new working groups in the regions and participation in those that already exist; the creation of the physical conditions for facilitating the work of the traveling defender teams and the establishment of networks that make it possible to define and implement working mechanisms, agreements and commitments on the part of both the local actors and the PDDH.

262. In this connection, in all the municipalities visited in which traveling defender workshops were held, steps were taken in advance to establish coordination with the local authority, the government agencies with a presence in the region and human rights organizations; moreover, during the visit, in each locality a meeting or working session was held with the above-mentioned organizations and institutions.

263. Mention should also be made of the incorporation of the Office of the Procurator for the Defence of Human Rights as a member institution of the National Commission on AIDS (CONSIDA) and the Country Coordinating Mechanism (Global Fund).

#### **D. Reporting process at the national level**

264. The Ministry of Foreign Affairs (MINREX) is the institution responsible for formulating and implementing State foreign policy, as well as for negotiating and signing, by express delegation of the President of the Republic, those international legal instruments that Act No. 290, the Executive Branch (Organization, Competence and Procedures) Act, does not assign to the Ministry of Development, Industry and Trade or the Ministry of Finance and Public Credit.

265. Within this context, MINREX has taken on the task of preparing the periodic reports showing the measures adopted by the State of Nicaragua to apply the rights recognized in the principal human rights conventions and treaties, as well as the progress made with respect to the enjoyment of human rights in general.

266. Faced with a shortage of funds, MINREX has met with limitations in fulfilling some of its commitments, targets and strategic plans, such as the creation of a structure within the institution capable of following up the human rights obligations and commitments entered into by Nicaragua with the United Nations which fall within its competence.

267. At the time, there were 13 periodic reports overdue: four on the application of the International Covenant on Civil and Political Rights (ICCPR) (3<sup>rd</sup> to 6<sup>th</sup>), five relating to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (10<sup>th</sup> to 14<sup>th</sup>), three relating to the International Covenant on Economic, Social and Cultural Rights (ICESCR) (2<sup>nd</sup> to 4<sup>th</sup>) and the initial report on the application of the

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

268. Thanks to the generous cooperation of the Royal Embassy of Denmark, the Ministry of Foreign Affairs has created, within the Directorate General of International Organizations and Conferences, an International Human Rights Convention Follow-up Unit (USCI) for the purpose of ensuring that the obligations and commitments assumed by Nicaragua are followed up.

269. The reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child are prepared by the Nicaraguan Institute for Women (INIM) and the National Council for the Comprehensive Care and Protection of Children and Young Persons (CONAPINA), respectively.

270. The USCI began functioning in 2006. In July of that year, the Office of the United Nations High Commissioner for Human Rights sponsored a seminar-workshop on the preparation of reports for the supervisory bodies of the international human rights treaties, in which representatives of the principal institutions concerned participated.

271. The basis has been established for the Inter-Agency Committee on Human Rights (CIDH) composed of delegates from all the government institutions and representatives of civil society, whose main objective is to ensure the participation of all the sectors involved in implementing the provisions of the human rights treaties. The establishment of this Committee has facilitated the process of obtaining, checking and processing information from various State and civil society sources and has made possible the preparation of reports based on national consensus.<sup>56</sup>

272. The USCI coordinated the process of receipt of information by establishing a time limit for each of the ministries and organizations to submit a first version of the information required, in accordance with the provisions of the corresponding instrument relating to its area of activity.

273. Subsequently, working meetings were held with members of the CIDH and the USCI in order to clarify, elaborate and draft the parts of the report corresponding to each branch of the State and each ministry and organization.

274. The NGOs were requested, each within its own field, to supply the information at their disposal, together with their contributions and recommendations, so that they might be given due consideration in the reports being prepared.

275. An event was arranged to hand over the first drafts of the reports to the members of the Inter-Agency Committee on Human Rights (CIDH) and obtain their comments and observations. The event was presided over by the Deputy Minister for Foreign Affairs and the resident representative of the United Nations in Nicaragua, Mr. Alfredo Missair, who personally undertook to take the steps necessary to obtain the financial resources needed to strengthen the national human rights system. There was a question-and-answer session in the course of which participants expressed their views on the report preparation process.

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<sup>56</sup> See Annex 1. List of members of the Inter-Agency Committee on Human Rights (CIDH).

276. The event was well attended, with the participation of 85 delegates representing 45 institutions plus representatives of the NGOs, which corresponded to more than 90% of those invited.

#### **Creation of an Extranet website**

277. With the financial support of the United Nations system and the UN Development Programme, an *extranet* website has been successfully set up to facilitate communication and the exchange of information between the members of the Inter-Agency Committee on Human Rights, especially during the phase of consultation on the first drafts of the report.

278. The site can be accessed from the web page of the Ministry of Foreign Affairs [www.cancilleria.gob.ni](http://www.cancilleria.gob.ni) or directly at the address: [www.usci.cancilleria.gob.ni](http://www.usci.cancilleria.gob.ni).

279. The home page contains various folders in which it is possible to read a variety of information concerning the covenants and conventions being administered by the International Convention Follow-up Unit, such as the dates of adoption and ratification, the reports that have been submitted and those that are pending, the text of the agreements, etc.

280. During the report consultation period, a folder entitled “CONSULTATION”, which contained the first drafts of each report, was displayed. Access to this folder is restricted to authorized users, i.e. members of the CIDH, for the submission of comments.

281. These comments can be viewed by the other authorized users, which generates discussion and consensus on the information forming the subject of the consultation.

282. The extranet site is based on freeware known as Plone. This working tool will also enable us to develop new follow-up mechanisms for the preparation of periodic reports, such as the following-up of the final observations and comments of the review bodies, in order to encourage the establishment of a national framework that favours the promotion and protection of human rights.

283. Through this exercise, it is intended to generate public policies aimed at remedying existing weaknesses in the implementation of human rights, whether they be due to lack of resources or to ignorance of the rights themselves. Moreover, it is intended to raise awareness within each institution to ensure a continuous improvement in the observance of human rights.

#### **IV. INFORMATION ON NON-DISCRIMINATION AND EQUALITY AND EFFECTIVE REMEDIES**

284. As already stated, in recent decades, Nicaragua has made significant progress in establishing legislative and administrative measures to ensure the elimination of all forms of discrimination from the country. The implementation of this inherent right of the human being within our national legal environment is embodied at the highest existing legal level, in the Political Constitution of Nicaragua. Moreover, the many multilateral agreements that Nicaragua has ratified, thereby authorizing their effectiveness and applicability under its domestic legislation, serve as basic tools within

the existing legal framework for ensuring non-discrimination and equality between individual citizens.

285. As the supreme law of the land, the Constitution confers formal and substantive equality on all persons within the jurisdiction of the State, on the basis of the following articles:

Article 4. “The State shall promote and guarantee social and political improvements in order to achieve the common good, assuming the task of promoting the human development of each and every Nicaraguan, protecting them against every form of exploitation, discrimination and exclusion.”

Article 5. “... The State recognizes the existence of indigenous peoples who enjoy the rights and guarantees and share the obligations set forth in the Constitution and especially those to maintain and develop their identity and culture, to have their own forms of social organization and administer their local affairs, as well as to have communal forms of ownership of their lands and the enjoyment, use and possession thereof, all in accordance with the law....”

Article 8. “The Nicaraguan people are multi-ethnic in nature and an integral part of the Central American nation.”

Article 27. “All individuals are equal before the law and have the right to equal protection. There shall be no discrimination based on birth, nationality, political belief, race, gender, language, religion, opinion, origin, economic circumstances or social position. Foreigners have the same rights and duties as Nicaraguans, with the exception of political rights and those established by law; they may not intervene in the political affairs of the country.”

Article 29. “All persons have the right to freedom of conscience and thought and to profess, or not to profess, a religion. No one may be subjected to coercive measures which might impair these rights or be compelled to declare his or her creed, ideology or beliefs.”

Article 36. “All persons have the right to have their physical, psychological and moral integrity respected. No one shall be subjected to torture, procedures or punishments or to cruel, inhumane or degrading treatment. Violation of this right constitutes a crime and shall be punished by law.”

Article 46. “Within the national territory, all persons shall enjoy State protection and recognition of the rights inherent in the human person, as well as unrestricted respect for and promotion and protection of those human rights and the full effective exercise of the rights set forth in the Universal Declaration of Human Rights; in the American Declaration of the Rights and Duties of Man; in the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights of the United Nations; and in the American Convention on Human Rights of the Organization of American States”, as well as in the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination and other human rights treaties ratified by Nicaragua.

Article 48. “The unconditional equality of all Nicaraguans in the enjoyment of their political rights, in the exercise of those rights and in the fulfilment of their duties and responsibilities is established; there exists absolute equality between men and women.

The State is under the obligation to remove any actual obstacles to equality among Nicaraguans and their effective participation in the political, economic and social life of the country.”

Article 56. “The State will give special attention in all its programmes to the disabled and to the families of the fallen and war victims in general.”

Article 71. “... Childhood enjoys special protection and all the rights that its status may require, for which reason the Convention on the Rights of the Child has full force and effect in Nicaragua.”

Article 59. “Nicaraguans have an equal right to health. The State shall establish the basic conditions for its promotion, protection, recovery and restoration.”

Article 89. “The Communities of the Atlantic Coast are an inseparable part of the Nicaraguan people, and as such enjoy the same rights and have the same obligations.

The Communities of the Atlantic Coast have the right to preserve and develop their cultural identities within the national unity, to endow themselves with their own forms of social organization, and to administer their local affairs in accordance with their traditions.”

Article 91. “The State has an obligation to enact laws intended to promote actions to ensure that no Nicaraguan shall be subjected to discrimination for reasons of language, culture or origin.”

Article 121. “Access to education is free and equal for all Nicaraguans. Primary education is compulsory and free of charge in State schools. Secondary education is free of charge in State schools, without prejudice to any voluntary contributions which parents may make. No one may be excluded in any way from a State school for economic reasons. The indigenous peoples and the ethnic communities of the Atlantic Coast have the right in their region to intercultural education in their mother tongue, in accordance with the law.”

286. From the above it follows that Nicaragua has protected within its supreme law the fundamental principles for ensuring equality and non-discrimination inside its territory. This attests to the country’s interest in safeguarding human rights, through a reliable legal framework and in full development of its constitutional provisions and through modern legislation that is becoming ever more closely adjusted to the demands of its citizens.

**A. Appropriate measures for ensuring the full development and advancement of women**

287. As mentioned above, Act 212 on the Office of the Procurator for the Defence of Human Rights provides for the appointment of a Special Procurator for Women. So far, two Procurators have been appointed, for the periods 2002-2004 and 2005-2007. Their main activities have contributed to the development of empowerment processes and encouraged the practice of democracy and the transparency and compliance of the public institutions in the observance of human rights.

288. Article 74 of the Nicaraguan Constitution stipulates that:

“The State grants special protection to the process of human reproduction. Women shall have special protection during pregnancy and shall be granted maternity leave with pay and all appropriate social security benefits. No one may deny employment to women on grounds of pregnancy or dismiss them during pregnancy or the post-natal period, all in conformity with the law.”

289. The Labour Code protects the right of pregnant women to work and receive maternity benefits. It also stipulates that they shall be entitled to rest during the four weeks preceding childbirth and for eight weeks thereafter, or ten in the case of multiple births, and may not be dismissed except for good cause, as previously established by the Ministry of Labour.

290. The Nicaraguan Institute for Women (INIM), within the context of its mission, has continued carrying out actions to promote the advancement and development of women. Thus, it has coordinated the formulation of the **National Gender Equality Programme (PNEG)**, which was approved by Presidential Decree No. 36-2006, *La Gaceta* No. 139, published on 18 July 2006.

291. The aim of the PNEG is to advance gender equality between Nicaraguan men and women during the period 2006-2010. It has reached the stage of preparation of an action plan with the participation of State institutions and civil society.

292. One of the first measures to strengthen the national mechanism taken by the current Government of Reconciliation and National Unity, headed by President Daniel Ortega, was to restore INIM's autonomous status.

293. Moreover, to make the PNEG operational, INIM has initiated an organizational strategy based on the active participation of women at all levels, by establishing what will be the INIM Council for the Advancement of Women. This Council will have the participation of the other branches of government and all the country's women's organizations and movements. Its aim is to become an expression of consensus and a setting for decision-making on the policies to be followed by the Government of Reconciliation and National Unity in relation to the elimination of discrimination against women.

294. Through its training department, INIM has continued coordinating actions relating to awareness-raising and training processes for government officials. Moreover, it has supported various government institutions in these processes, which has paved the way for progress in mainstreaming the gender focus through the Inter-Agency



Commissions – Rural Women and the National Commission Against Violence – which bring together representatives of government departments and Commissions and have facilitated liaison and communication in order to promote fulfilment of the gender equity commitments through the sectoral ministries and principal State organs.

295. The “Zero Hunger” Programme, for which INIM is mainstreaming gender equity, is currently being implemented; the pilot programme will be rolled out in 20 of the poorest municipalities of northern Nicaragua during the first three months of 2007.

296. Other actions carried out by INIM include: the impact of the productive rural development subcommittee for the incorporation of the gender perspective in PRORURAL; the national and regional technical counterpart of the Regional Programme “Women’s Economic Agenda”; member of the Work and Employment Commission for reviewing government policies in the sector.

297. INIM is part of the Inter-Agency Gender Budget Team responsible for developing a methodological proposal for the inclusion of the gender perspective in public budgets.

298. The gender issue has been incorporated in the Local Economic Development and Food Security Project, its operational plans and operational regulations.

299. INIM has succeeded in strengthening inter-agency and multisectoral coordination based on the Executive Secretariat of the National Commission to Combat Violence against Women, Children and Young Persons, through the work of committees specializing in detection, sanctions, care and prevention composed of various institutions, universities and public authorities, and has provided government agencies with support for the Declaration on the Implementation of Gender Equity Policies and Action Plans.

300. The strengthening of the Inter-Agency Commissions, as organizational tools for reaching consensus between the State and civil society, has facilitated the formation of consultative bodies. In this connection, it is necessary to stress the work being done with non-governmental organizations such as the Network of Women against Violence and the Coordinating Committee for Non-Governmental Organizations Working with Children and Young People.

301. The National Police of Nicaragua, as part of its modernization process, is strengthening the incorporation of the gender focus in its institutional policies and practices as a core element and basic strategy of the programme. It is making the gender issue operative in all documents governing the planning, management and execution of police work. It has recently published a book entitled *A Story Worth Telling: Institutional Modernization with Gender Equity in the National Police of Nicaragua 1996-2005*. At the end of 2006, a woman was appointed First Commissioner, to run National Police Headquarters.

302. There is a National Decent Employment Policy with a gender focus,<sup>57</sup> designed to enable the Nicaraguan economy to maximize the supply and use of the nation’s human

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<sup>57</sup> Executive Decree 30-2006, *La Gaceta*, Diario Oficial, of 18 May 2006.

resources, by providing its men and women with decent work to achieve the national aspirations of living with dignity.

303. In the education sector, implementation of the National Education Plan 2001-2015 continues.

304. This Policy constitutes a frame of reference for the actions of the various government agencies and civil society organizations for planning and executing actions to confront the problem. The Policy is consistent with the recommendations that emerged from the first World Congress against Commercial Sexual Exploitation of Children, held in Stockholm in 1996.

305. Nicaragua has national laws and international commitments concerning the promotion of breastfeeding, such as, *inter alia*, the Breastfeeding (Promotion, Protection and Support) Act and the Regulations on the marketing of mother's milk substitutes.

306. Like other national and local government agencies and civil society organizations, INIM is continuing its efforts to run public campaigns concerning gender equality and equity, particularly as regards the prevention and eradication of violence against women and children.

307. The State and civil society organizations continue to distribute publications, posters and pamphlets. They have also promoted the production of radio and television programmes and plays to spread awareness of women's rights.

308. The Property Intendency, through the Land Administration Project (PRODEP), has played a very important role as regards changes in the methods of keeping property registers and the titling process. Gender work has been oriented towards modifications to formats and cadastral surveying; incorporating gender into the tools for data collection; training and awareness-raising for beneficiaries of titling and support for PRODEP, in gender awareness-raising workshops for the technical experts of the cadastral survey company teams so that the actions are viewed from a gender perspective, a process which has resulted in an increase in titling from 32% to 40% of women in the reformed sector in the various modalities: pooled, collective and individual.

### **B. Equality in political and public life at the national and international levels**

309. According to Article 49 of the Constitution, workers in the cities and countryside, women, young people, agricultural producers, artisans, professionals, technicians, intellectuals, artists, members of religious orders, the Communities of the Atlantic Coast and the population in general have the right to form organizations for the purpose of realizing their aspirations in accordance with their own interests, without discrimination, and to participate in the construction of a new society.

310. The Constitution goes on to state, in Article 50, that citizens have the right to participate on an equal footing in public affairs and in State management. The effective participation of the people, nationally and locally, shall be guaranteed by means of the law.

311. Article 51 stipulates that citizens have the right to be elected at periodic elections and to run for public office, subject to limitations specified in the Constitution. According to Article 55, citizens have the right to organize or join political parties for the purpose of participating in, exercising or competing for power.

312. Nicaragua has a Public Participation Policy and Act,<sup>58</sup> with the objective of promoting the full exercise of citizenship in the political, social, economic and cultural fields.

313. Since 1955, Nicaragua has guaranteed the civil right of women to exercise the vote via the ballot box and freely elect their leaders.

314. The political parties FSLN and PLC have established quotas for female participation. The former established a minimum participation quota of 30%, and 38.8% of the members of its Executive Committee are women. The latter established a quota of 40% for women and young people and has 20% of women on its national Executive Committee. The cabinet of President Daniel Ortega includes five women ministers and three women deputy ministers.

315. Among the five parties that participated in the elections of 5 November 2006, out of the 900 persons put forward 271 were women.

316. Out of the 90 seats to be filled in the elections for the National Assembly 20 are for “national” deputations and 70 are selected by the departments. As a result of the elections held on 5 November 2006, 17 women were elected as titular deputies and 19 as alternates.

317. The executive council of the National Assembly for the period 2007-2008 is composed of six men and one woman, who occupies the post of second secretary.

318. In Nicaragua there are more than 60 women’s organizations whose work includes the promotion and protection of women’s rights and which, at the same time, take action to incorporate their gender interests in their agendas.

319. At local level, 60% of municipal authorities are paying special attention to women or gender and children; moreover, there are women’s committees or gender groups that include representatives of various government agencies and civil society organizations, as well as various women’s organizations that promote and protect the rights and interests of women and the population in general. These organizations also provide assistance for the rural sector communities in order to make women more aware of their rights and enable them to participate in decision-making processes.

320. Participation at international level is governed by the Foreign Service Act. There is no specific mechanism or policy that includes or excludes women from the foreign service. Men and women can compete for diplomatic posts or permanent missions and consular offices.

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<sup>58</sup> Act No. 475, Public Participation Act, published in *La Gaceta*, Diario Oficial, No. 241 of 19 December 2003.

### **C. Equality of rights in education and training**

321. The Political Constitution<sup>59</sup> states that education is one single, democratic, creative and participatory process, which links theory with practice and manual with intellectual labour and promotes scientific research. It also provides for the participation of the family, the community and the people in education and guarantees the support of the communications media. Education is a function of the State which it cannot decline to perform. The national education system functions in an integrated fashion and in accordance with national plans. Its organization and functioning are determined by law.

322. Educational reform is giving rise to the incorporation of a new vision of education involving a movement away from passive education towards an active participatory system that promotes the integration of the students and student-teacher interaction for the purpose of exchanging information and working together.

323. The objectives and strategies of the National Education Plan (2001-2015) are oriented towards access to good-quality free and compulsory primary education up to the sixth grade, for all boys and girls, with priority for the poorest and those who belong to ethnic minorities; increasing the number of literate adults, particularly women, to 50% by 2015; increasing the internal and external resources for education while prioritizing formal and informal basic education, from initial education to the third year of secondary school; expanding technical education at all levels; and eliminating all forms of discrimination based on gender or social and economic circumstances.

324. Education is a means of helping to eradicate poverty, combat inequalities and improve the living standards and wellbeing of the population.

325. With reference to illiteracy, the Constitution states that adults shall enjoy opportunities to be educated and to develop skills through training programmes.

326. As already mentioned, in 2005 the illiteracy rate in the age group from 10 upwards was 20.5%. In gender terms, it was 20.7% for men and 20.3% for women. In terms of the urban and rural populations, the breakdown was as follows: in urban areas 11.1% (men 10.3%, women 11.7%); in rural areas 33.6% (men 38.2%, women 33.3%). In the age group from 15 upwards, illiteracy was approximately 22% for both men and women. For men it was 21.9% and for women 22.1%.

327. Amongst the urban population, for this same age group illiteracy was approximately 12.1% (men 11.1%, women 13%), while amongst the rural population there was 36.5% illiteracy (men 36.1%, women 33.9%). These data show that in Nicaragua, as distinct from the countries of Latin America, literacy teaching has reduced the gender gap and there is no marked difference between the illiteracy rate for women and that for men. In terms of where people live, the illiteracy rate is higher in rural than in urban areas.

328. As compared with men, the illiteracy rate is higher among women aged from 45 to 49, especially in rural areas, with one in every three being illiterate, which has repercussions for their health and birth control. On the other hand, more educated women living in urban areas have 2.6 children per woman.

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<sup>59</sup> Title VII on Education and Culture, Arts. 117, 118 and 119.

329. Amongst young people, 13% have not completed any academic level, 38.8% have some approved primary grade and 34.4% some secondary grade. Approximately 50% of the economically active population consists of under 24 year-olds who are openly unemployed or underemployed.

330. In 2003, approximately 800,000 boys and girls were not enrolled in the school system, while in 2005 the number of boys and girls of school age who had not entered the education system amounted to 500,000.

331. On 22 March 2006 the first General Education Act in the history of Nicaragua was passed. The Act states that the education system is composed of a formal education subsystem, an informal education subsystem and a technical education subsystem. It also gives legal status to the National Education Council (CNE).

#### **D. Equality in access to employment**

332. The legal framework relating to labour matters consists of a series of instruments that includes the Political Constitution, the international conventions of the ILO, the Labour Code and other ordinary legislation concerning labour relations, and administrative measures.

333. The Constitution establishes a series of labour rights including the right to work, equal pay for equal work, the unattachability of the minimum wage and social benefits, protection from occupational risks, an eight-hour working day, paid rest, holidays, a wage bonus, job stability, protection for pregnant women, the right to strike, and freedom of association.

334. In 1996, Nicaragua adopted a new Labour Code which replaced that of 1945. The new Code deals with the treatment of substantive rights and with judicial and administrative procedures.

335. The Ministry of Labour is responsible for formulating and executing labour policy. Moreover, it must evaluate the implementation of that policy by economic and social agents. Act No. 290 makes this Ministry responsible for overseeing the strict implementation of the labour legislation through an inspection system with national coverage.

336. In cases of violation of labour rights relating to the legally autonomous status of trade unions, pregnant women, breach of contract or dismissal for good cause a complaint may be filed with the Ministry's inspection service, the first administrative instance for labour dispute settlement. This service operates in the country's various departments.

337. In 2003, the Civil Service and Administrative Profession Act (Act 476), aimed at ensuring greater stability for men and women working in ministries and public institutions, was passed.

338. Domestic work has an impact on the national economy and is done mainly by women. Article 145 of the Labour Code defines female domestic service workers as those who provide a person or family with household services in their home on a regular

or continuous basis, without the service provided resulting in profit or business for the employer.

339. The inspection services cannot always cover everyone doing domestic work so that, in practice, there may be some difficulty in ensuring respect for their labour rights. A chapter of the Labour Code devoted to certain special kinds of labour, including domestic work, establishes the following safeguards:

- (a) The remuneration of the domestic service worker shall include, where appropriate: food and accommodation. For contribution payment purposes, this shall represent 50% of the money wage;
- (b) Domestic workers have the right to a minimum of 12 hours of complete rest, of which 8 must be at night and continuous. They also have the right to the weekly day of rest after every six days of interrupted work enjoyed by other workers under the labour legislation;
- (c) The employer must enroll the worker in the social security regime and in the event of failure to do so shall be held responsible, where appropriate.

340. At the same time, the Order fixing the minimum wage establishes a category for the domestic sector.

#### **E. Equality in access to health**

341. Article 59 of the Constitution and the Statute of Autonomy of the Atlantic Coast establish health as a universal right, the State being responsible for the provision of free health care and joint planning with the community. The Nicaraguan State has ratified the international norms on the rights of women and children relating to health.

342. Article 17 of the General Health Act (Act No. 423)<sup>60</sup> assigns to the Ministry of Health responsibility for taking measures and carrying out activities to promote a healthy diet and prevent malnutrition and specific micronutrient deficiencies, especially among children, pregnant women and older people. Article 32 defines the Programme of Comprehensive Care for Women, Children and Young Persons, with prenatal monitoring, care during childbirth and postnatal care, newborn care, early detection of cervical and breast cancer, etc.

343. The National Health Policy incorporates gender equity as a mainstream element, establishing fair and equitable treatment.

344. Among its priorities the Plan includes maternal mortality, contraception, HIV/AIDS, female cancer, and violence. As part of the strategies and interventions, networks are being made operational. It is intended to address the problems of domestic and sexual violence by conducting prevention campaigns and training health personnel to provide comprehensive care for victims; in addition to traditional measures, the implementation of the sexual and reproductive health strategy at national level is set out, with a gender and generational focus. The treatment of specifically male problems, such as prostate problems, is also proposed.

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<sup>60</sup> *La Gaceta* No. 91 of 17 May 2002.

345. The Five-Year Health Plan also stresses the importance of promoting breastfeeding. Its policies include proposals for promoting improvements in women's industrial health, including health care for those in reproductive work.

346. Public participation is being institutionalized through the operations of the National Health Council,<sup>61</sup> a national-level instrument for influencing the formulation, follow-up and monitoring of health policies. Although no bodies are envisaged for subnational levels, the Departmental Health Committees, Regional Councils and Municipal Committees liaise intermittently with the National Social and Economic Planning Council (CONPES).

347. With regard to nutrition, the Ministry of Health will adopt measures and carry out activities necessary to promote a healthy diet. Moreover, it will take action to prevent malnutrition and specific micronutrient deficiencies within the population in general, especially among children, pregnant women and older people.<sup>62</sup>

348. The Ministry of Health, as the department in charge of these services, has implemented the National Health Policy and the National Health Plan which include a gender focus and social participation as mainstream components and make reference to fair and equitable treatment, granting balanced recognition to the potential of both men and women and the distribution of power between individuals.

349. The National Health Policy 2004-2015 starts out from the idea that the promotion of health is an investment in human development which contributes directly to economic growth and poverty reduction, as a basic and necessary factor in the growth of employment, investment and the productivity of labour.<sup>63</sup>

350. The activities, services and products generated by the health sector are being developed on the basis of the criteria of equity (MINSAs), gender, quality and sustainability, in order to make them accessible to the population in general and especially the poor and those living in extreme poverty, as well as those groups that are more vulnerable by reason of their ethnic origin, hereditary and acquired conditions, emergency situations, etc.

351. MINSAs incorporates the gender focus in its activities, which include: specific rules for the care of victims of domestic violence (these are currently being updated), which are applied in all health units for purposes of identification and care. Within the subregional project "Reducing gender inequity in the health services" sponsored by OPS, a proposed Protocol on Caring for Victims of Sexual Violence has been developed for the purpose of strengthening the services provided for the public. This document is currently in process of being validated using a methodology applied in departmental capital health centres with the SILAIS of Esteli, Masaya and the Véllez Paiz Hospital of Managua.<sup>64</sup>

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<sup>61</sup> Contained in the General Health Act.

<sup>62</sup> Art. 17, General Health Act.

<sup>63</sup> National Health Policy, 2004-2015. Managua, May 2004.

<sup>64</sup> Report of the Women's Care Office. MINSAs, 2005.

352. Five hospitals have been established as “sentinel sites” in which all those in care after having suffered some sort of violence are registered (Hospitals of Jinotega, León, Carazo, Vélez Paiz, and Lenin Fonseca). At present, MINSA is maintaining, through SIMINSA, official registers of persons who have received care after falling victim to domestic violence.

353. According to MINSA’s statistical system, between 1987 and December 2003 1,231 cases of HIV/AIDS were registered and of these 894 cases were in men and 307 in women.<sup>65</sup> The incidence of HIV is 4.12, that is, the risk of infection with this disease is four per 100,000 inhabitants. The rapidity with which the disease is spreading in the country is remarkable, since five years ago the risk of catching it was 1.34 per 100,000.

354. With respect to sexually transmitted diseases (STD), there is a high level of underregistration due to the new care strategy promoted by the National Syndrome Care Programme. In 2003, a total of 4,603 cases of STD was recorded, which corresponds to a rate of 84 per 100,000 inhabitants, as compared with the years 1999 to 2001 when the incidence rates were above 100 per 100,000.

355. The State of Nicaragua, together with civil society and persons living with the virus, has developed a number of instruments for confronting the HIV/AIDS epidemic:

- (a) Health Policies, which give guidance on STD care and prevention and the integrated approach to these diseases for HIV/AIDS prevention purposes;
- (b) The formulation of the legal framework contained in Act 238 and its regulations;
- (c) The establishment of the Nicaraguan Commission on AIDS (CONISIDA);
- (d) The National Strategic Plan to Combat STD/HIV/AIDS.

#### **F. Equality before the law**

356. The above-mentioned Article 27 of the Constitution enshrines the equality of all Nicaraguans before the law. Nicaragua has ratified the International Covenant on Civil and Political Rights and its Optional Protocol, as well as the American Convention on Human Rights, in which equality before the law is also recognized.

357. The civil courts are responsible for hearing and settling disputes relating to property, persons and the family, together with disputes of a commercial nature. They are at the heart of the administration of justice because of the large proportion of civil cases received by the Government Procurator’s Office, namely, about 33% of the cases heard by the country’s courts and 15.5% of the cases that subsequently form the subject of an appeal.

358. The Civil Code, in force since 1904, recognizes that women have the same legal capacity as men, so that women can exercise that capacity by entering freely into contracts, including with their own husband, administer their property and appear in court themselves, without the need for legal representation, to assert their rights.

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<sup>65</sup> MINSA Gender Unit.



359. The Supreme Court has just taken a series of measures to make it easier for women to obtain access to justice through various projects: (a) the pilot project for facilitating access to justice for low-income social groups in certain areas of the country; (b) facilitation of access to justice for women in rural areas as a result of the extension of the Rural Judicial Facilitators Programme, including the publication of a prior mediation handbook; (c) creation of care, mediation, information and guidance centres for finding alternative solutions to disputes in remote areas of the Atlantic Coast, by recognizing customary law as a basis for community mediation; (d) the Programme of Care for Victims of Domestic and Sexual Violence in the Autonomous Regions of Nicaragua's Caribbean Coast.

### **G. Violence against women**

360. Where violence against women is concerned, the State of Nicaragua, on the basis of initiatives taken by the women's organizations and, subsequently, inter-sectoral and inter-agency cooperation, has worked for it to be recognized and accepted that violence against women constitutes a violation of human rights with an adverse impact on the quality of life, especially of women. It is a problem of primary importance for public health and safety and acts of violence constitute punishable offences.

361. The National Commission to Combat Violence Against Women, Children and Young Persons, for which INIM provides the Executive Secretariat, has continued with its work of coordination between government agencies and civil society for the purpose of combining efforts to respond to domestic violence. It is composed of senior officials representing 18 government agencies and 4 civil society organizations.

362. There is a National Plan for the Prevention of Domestic Violence and a National Gender-Based Violence Programme led by the National Commission to Combat Violence Against Women, Children and Young Persons.

363. The Public Prosecutor's Office has established, by ministerial order, the first specialist unit for the offence of domestic violence.

364. The National Police has continued installing offices of the Women and Children's Commissariat to deal with cases of domestic and sexual violence; at present there are nationally 27 functioning offices and these have helped to push the problems of domestic violence higher up the social and public agenda.

365. Although substantial progress has been made, the problem of domestic and sexual violence continues to be a matter of special concern.

### **H. Other measures for ensuring progress towards equality**

366. Through the National Social Development Council (CONADES) and the National Economic and Social Planning Council (CONPES),<sup>66</sup> the participation of the civil society organizations in the formulation of these public policies has been assured.

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<sup>66</sup> Established by constitutional mandate in 1995.

367. The following also deserve mention: the Policy Against the Commercial Sexual Exploitation of Children and Young Persons (2003-2007), approved in 2002; the National Policy for the Comprehensive Development of Youth (2001); the National Plan of Action for Children and Young Persons (2002-2011); the Public Participation Policy (2001); the previously mentioned National Education Plan (2001-2015); the Revision of the National Policy of Comprehensive Care for Children and Young Persons (2001); and the National Strategic Plan for the Prevention and Eradication of Child Labour and the Protection of Young Workers (2001-2015). These policies all serve as benchmarks for the activities of the various State and civil society institutions committed to the further strengthening of human rights in Nicaragua.

## V. CONCLUSIONS

368. As has been shown, Nicaragua has been making a considerable effort to strengthen the observance and promotion of human rights in the country. Nevertheless, the problem of insufficient budgetary resources has prevented the effective implementation and punctual fulfilment of the obligations assumed by Nicaragua, which has affected the normal development of the activities of such agencies as the Office of the Procurator for the Defence of Human Rights.

369. We recognize the need to make greater efforts to protect the vulnerable groups in our society, such as women, children, migrants, detainees, indigenous peoples and persons of African descent.

370. In the case of women, there is a need for the national legal framework to be more closely aligned on the international treaties ratified by Nicaragua in the field of promotion and protection of women's rights, as well as for the more effective application of the already existing legislation and improved access to justice for women, especially for those belonging to the more excluded groups (poor, rural, indigenous and adolescent women).

371. The Government of Reconciliation and National Unity has decided to enable women to participate more fully in the public life of the country by offering them, among other things, a 50% share of power, as demonstrated by the presence of women in the various ministries and public institutions.

372. The question of indigenous peoples and people of African descent is another important item on the Government's agenda. Smooth communications have been established with the representatives of these communities to promote development through public investment and to seek out opportunities for cooperation aimed at meeting their real needs, as well as rescuing their culture and preserving their languages and traditions.

373. The message we are sending to the international community is that we are eager to work together, government, civil society and donor friends, to create the necessary and basic conditions for the construction of a scenario that favours the promotion and protection of human rights in Nicaragua.

374. Within a short period of time, we have succeeded in eliminating the information deficit of more than 15 years which left Nicaragua with the image of a "delinquent" State for failing to fulfil its obligations.

375. This was possible thanks to the work of the team responsible for “United, Nicaragua will Triumph”. It was an organized effort in which over 50 governmental and non-governmental institutions with links to human rights took part. There was extensive consultation to ensure public participation.

376. We are signing the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment to permit regular inspections of places of detention; and we are signing the Convention on the Rights of Persons with Disabilities.

377. However, signing conventions alone is not enough; the National Assembly needs to ratify these instruments in order to transpose them into domestic legislation and in every sector the will must be there to make respect for these rights a reality.

378. We need to continue with the development of a legal framework consistent with the provisions of the Constitution within which the human rights of the country’s citizens, both men and women, are amply protected.

379. We will take the consultation steps necessary for the signature and ratification of ILO Convention 169 concerning indigenous and tribal peoples in independent countries.

380. We will also push for the signature and ratification of the Additional Protocol to the American Convention on Economic, Social and Cultural Rights.

381. We are giving a firm commitment to the Yatama community and the community in the Awas Tigni case progressively to comply with the judgments delivered against the State of Nicaragua [and] other human rights obligations.

382. We intend to institutionalize and strengthen the Inter-Agency Committee on Human Rights as a forum for all sectors of the country.

383. Moreover, Nicaragua will not fall behind again in complying with its international human rights obligations. The Follow-up Unit will continue functioning, in coordination with the Committee on Human Rights, to give effect to the recommendations of the Committees and promote the establishment of public policies that help to create a climate of respect for human rights in Nicaragua, with special emphasis on the vulnerable groups.

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**ANNEXES**

1. List of Members of the Inter-Agency Committee on Human Rights (CIDH).
2. Political Constitution of the Republic of Nicaragua and its Amendments.
3. Promotion of Human Rights and Teaching of the Political Constitution of the Republic of Nicaragua.
4. Office of the Procurator for the Defence of Human Rights (PDDH) Act.
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