



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
Thirty-seventh session

Summary record of the 762nd meeting (Chamber B)

Held at Headquarters, New York, on Thursday, 18 January 2007, at 3 p.m.

Chairperson: Ms. Gaspard (Vice-Chairperson)

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In the absence of Ms. Šimonović, Ms. Gaspard, Vice-Chairperson, took the Chair.

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (continued)

Sixth periodic report of Nicaragua (continued)
(CEDAW/C/NIC/6; CEDAW/C/NIC/Q/6 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Nicaragua took places at the Committee table.*

Articles 10 to 14 (continued)

2. **Ms. Patten** said that the extremely poor working conditions in *maquiladora* companies and free trade zones was a matter of serious concern. She sensed a lack of political will to address the issue. Neither the ministerial resolution nor the Free Zones Act mentioned in the State party's responses seemed to have done anything to improve those conditions. She would be interested to know what the Ministry of Labour was doing to ensure the implementation of labour laws, which local and foreign employers continued to violate. Information was needed on any action being taken in response to the inspections being conducted in companies in the free trade zone and any prosecutions of employers who violated the law. Would the sanctions contained in the Labour Code be strengthened? She was also curious to know whether women were aware of labour laws and the Free Zone Act and whether they had adequate access to justice, including legal aid.

3. While welcoming the fact that the Government had identified employment as a key challenge, she wished to know whether the Ministry of Labour would be provided with the technical and financial capacity needed to fulfil its mandate and implement the Labour Code, and whether the Government was doing anything to facilitate women's transition from the informal to formal sector. She referred, in particular, to training, outreach and assistance for women living in rural and remote areas.

4. Lastly, she asked whether the Labour Code contained any provisions on sexual harassment, if any cases had been reported and, if so, what their outcome had been.

5. **Ms. Tavares da Silva**, on the subject of working conditions in *maquiladora* companies, noted a discrepancy between the information provided by the State party and information received from other sources. She recalled, in particular, a fact-finding mission by the International Federation of Human Rights and the Centro Nicaragüense de Derechos Humanos (Nicaraguan Centre for Human Rights), which had discovered that women working in such companies were subject to very long hours, excessively high temperatures and noise levels, a lack of protective material, high stress levels and low pay. She was curious to know why there was such a discrepancy and what the Government was doing to address the issue.

6. The situation of domestic workers was unclear from the report (CEDAW/C/NIC/6) which stated both that the Labour Code's provisions on special working conditions covered domestic service (para. 109) and that employees in domestic service worked under difficult conditions and were subject to legal provisions which made discrimination against them lawful (para. 123). In its list of issues and questions (CEDAW/C/NIC/Q/6), the Committee had requested detailed information about the situation of such workers; the State party's response that no information was available about their situation was puzzling. The Committee would appreciate further information.

7. **Ms. Arocha Domínguez** acknowledged that Nicaragua's poverty levels and large rural population limited the Government's ability to provide comprehensive health-care services for women. However, the Government had a legal obligation to provide such services, particularly in the area of maternal morbidity and mortality. Neither the report nor the responses contained any information in that regard. In particular, she would be interested to know the main causes of mortality among urban and rural women and whether any special programmes had been set up to deal with the problem.

8. In her opening statement, the head of delegation had provided updated statistics on issues relating to sexual and reproductive health. The falling maternal mortality rate, while welcome, was not particularly reassuring as the birth rate was also falling significantly. The State party's ability to safeguard the right to sexuality was affected by the adverse conditions in the country, in particular the lack of health-care facilities and the levels of poverty, illiteracy, early sexual activity and early marriage in

rural areas. She was also concerned about the lack of reliable statistics on the number of abortions — particularly illegal abortions. The report (para. 150) stated that, according to Ministry of Health figures for 2002, the official annual figure for hospital admissions due to abortion complications was 6,694. However, it also stated that the Ministry itself recognized that abortion was underreported. According to other, unofficial, data, around 16 per cent of maternal deaths were caused by illegal and unsafe abortions. Against such a backdrop, Nicaragua's recent decision to ban all abortions, including therapeutic abortions, was surprising. The Committee would be interested to know why the Government had taken such a decision; whether it had consulted organizations working in the area of women's sexual and reproductive health before taking that decision; how it planned to deal with a pregnant woman whose life was at risk; how the Government saw the new situation, particularly given the already high number of illegal and unsafe abortions; whether the Government planned to take any specific action to ensure responsible sexual health and universal access to family planning for poor women, who, unlike rich women, would not be able to simply travel to another country to have an abortion; and, lastly, whether any sex education programmes were in place for teenage boys and girls.

9. **Ms. Brenes Peña** (Nicaragua), in response to a question raised at the morning meeting, said that literacy among women had risen during the period covered by the report, owing partly to an adult literacy programme launched by local mayors in 2006. Unfortunately, the delegation was unable to provide specific data on the results of the programme, which was just a first step.

10. As for the number of boys and girls not attending school, the new administration had eliminated the so-called school autonomy system, according to which, even though education was officially free in the country, certain schools could charge a minimal attendance fee. There were other factors preventing children from attending school; however, that was no longer one of them.

11. **Ms. Aguirre** (Nicaragua) said that the Constitution recognized work as a right and a social responsibility of all Nicaraguan citizens, male and female alike (see report, para. 106). Furthermore, one of the fundamental principles of the Labour Code was that women and men had the right to equal access to

work and equal treatment at work (report, para. 107). Article 144 of the Labour Code, meanwhile, forbade employers from dismissing women who were pregnant or on pre- or post-natal maternity leave (report, para. 108). Thus, both the Constitution and the Labour Code enshrined the principle that the right to work was the inalienable right of all human beings.

12. As also stated in the report (para. 116), the creation of sources of employment under the free zones arrangement had alleviated the high unemployment triggered by economic crises. Moreover, the number of people working in such zones had risen from 3,000 in 1991 to 16,000 in 1999. Most of the workers in such jobs were women, and they provided few protections, long hours and low wages.

13. As also noted in the report (para. 132), the Government had established a special legal and institutional framework for the emergence and development of the *maquiladora* industry, which enjoyed special tax treatment. One of the laws establishing such treatment was the Foreign Investment Act and its regulations (Law No. 127 of 1992). However, workers in *maquiladora* firms were paid the equivalent of the minimum monthly wage of 1,128.57 córdobas, or a little under \$1 per day. According to data from the International Labour Organization (ILO), women accounted for between 75 per cent and 90 per cent of workers in that sector.

14. As the ministry responsible for monitoring compliance with the relevant provisions of the Constitution and the Labour Code, the Ministry of Labour had developed measures to monitor whether *maquiladora* companies were respecting the rights of their female workers. For example, there was a system of inspectors in the free zones. That had not been enough, however, to monitor implementation of the law. The Movimiento de Mujeres Trabajadoras y Desempleadas "María Elena Cuadra" (María Elena Cuadra Movement of Working and Unemployed Women) was monitoring the situation more closely and working to raise female workers' awareness of their rights.

15. The Labour Code recognized domestic workers as a key sector of the economy. At the time of the report, no information on the number of women in domestic service had been available. The State party had, therefore, simply provided the definition of workers in domestic service contained in article 145 of the Labour

Code (see report, para. 123). Since the report, however, the Government had introduced measures to ensure that domestic workers benefited from social security. As a result, 3,000 women had registered in the social security system by the end of 2006.

16. **Ms. Brenes Peña** (Nicaragua) said that the recent criminalization of therapeutic abortions continued to create considerable controversy in Nicaragua. There had been no open consultations and the National Assembly had voted on the matter quickly. However, many women's groups had spoken out against the decision and an appeal challenging its constitutionality was currently before the Supreme Court.

17. With respect to the question on maternal mortality, the majority of deaths occurred as a result of post-partum complications. Rural women, in particular, were at risk because they lacked access to information and health clinics. Unsafe abortion was clearly another factor.

18. **Ms. Gumede Shelton**, referring to article 13, said that she would appreciate receiving additional information regarding the overall context and thrust of the current regulatory framework of microfinance and microcredit lending. She noted that statistics showed a decline in women's access to microfinancing and wished to know whether the Nicaraguan Institute for Women had made any recent attempts to develop creative lending mechanisms or to coordinate the efforts of the different civil society organizations that were trying to offer alternatives for women in need of credit.

19. She commended the delegation for having provided detailed statistics in its report but expressed disappointment that the statistics in the responses to the list of questions had not been broken down by sex.

20. **Ms. Patten**, referring to article 14, noted that the 2000 Enhanced Economic Growth and Poverty Reduction Strategy had not benefited poor rural women and wished to know which groups it had targeted. She also would like to know how the Government planned to address the multiple forms of discrimination being faced by rural and indigenous women and women of African descent. In particular, she would appreciate further details on the national gender equity programme, the Equal Opportunity Policy for Rural Women and its related Plan of Action and the new Zero Hunger project. Finally, she would like information on the Government's plans to restructure public

expenditure to promote economic opportunities for rural women and equal access to productive resources.

21. **Ms. Tan** wished to know what was meant by the expression "triple working day". She also wondered how many years of schooling rural females generally received and whether efforts were being undertaken to improve their educational status. It would also be useful to receive information on women working in the agricultural sector, their average wage levels, social benefits, access to affordable health services and so forth. Given that Nicaragua had one of the highest maternal mortality rates in the region, it was particularly important that rural women should be able to access obstetrical services and, if necessary, safe therapeutic abortion.

22. **Ms. Brenes Peña** (Nicaragua) replied that the Government had not done an assessment of the 2000 Enhanced Economic Growth and Poverty Reduction Strategy. The national gender equity programme, which had been developed with input from various civil society organizations, comprised policy guidelines on addressing the problems of rural women living in poverty, including access to microfinance.

23. With respect to the Zero Hunger programme, the plan was to conduct a pilot project in 20 of the poorest municipalities in the north. A follow-up study would be done to assess the project's impact, with a view to extending it to the rest of the country. If the programme proved successful, it would eventually be made part of the national gender equity programme.

24. The Zero Hunger programme was aimed at female heads of household and provided revolving credit and technical assistance for activities such as stockbreeding and agriculture. Efforts were being made to coordinate with the Ministry of Transport and Infrastructure, since producers needed adequate roads to get their products to market and to access health and education services. Another ongoing problem was that, in many cases, women were seeking microfinancing for land which was in their husband's name or even their children's. The Government was continuing its efforts to improve that situation.

25. **Ms. Aguirre** (Nicaragua) said that Nicaragua's newly elected Government had expressed its clear determination to implement the Convention in a transparent manner. However, much remained to be done, and a major problem was the lack of statistical information needed to define policies on such issues as

the gender gaps in the labour sector and the transition from the informal to the formal sector. Nicaragua had carried out an agricultural census which had revealed an enormous and growing gender gap regarding access to formal and informal credit mechanisms. It was to be hoped that the Government would build on existing policies on development and poverty reduction, but the delegation was not in a position to give detailed responses. Measures were being taken to improve access to education. However, the alliance formed between civil society and the State in the employment sector must be strengthened.

26. **Ms. Begum** inquired whether the State party's migration policy ensured that migrant women did not become caught up in trafficking and were protected at their place of destination. Although the State party had already introduced several measures aimed at boosting the rural economy, it should also consider introducing options for alternative livelihoods as a way to encourage rural women to remain in their communities.

27. **Ms. Arocha Domínguez** said that Nicaragua should be more proactive in addressing the problems of women working in *maquiladora* factories and free trade zones, and must also develop a clear plan to promote legislation on women's sexual and reproductive rights, including issues such as family planning and contraceptive methods. The State party should also conduct campaigns and community actions on such issues, in schools, in the media and in State institutions.

28. **Ms. Gumede Shelton** said that the State party must find ways to increase women's access to financing, notably through the introduction of the necessary legislation.

29. **Ms. Šimonović** asked for clarification regarding the State party's response to question 10 in the Committee's list of issues and questions. It should indicate when it planned to amend the articles in its Penal Code relating to the practice of abortion and clarify exactly what changes had been made to the relevant penalties provided for in the Code.

30. **Ms. Brenes Peña** (Nicaragua) said that Nicaragua was reviewing data about the living conditions of migrants, especially women. The major problem among women migrants from Nicaragua's Caribbean coast was HIV/AIDS, notably vertical transmission. Women's organizations had challenged local and central authorities on the issue, but the State

should be more proactive in its efforts to improve the health care provided. Nicaragua was also gathering information about women who worked in the *maquiladora* industry, and its commitment to address the issue would be reflected in future policies and decisions. It was not possible to give a detailed response regarding Government policies on sexual and reproductive health rights. Penalties were imposed on doctors performing therapeutic abortions. The right to therapeutic abortion had been abolished and severe sanctions had been introduced, as indicated in the response to the Committee's question 10. The system for granting access to credit was discriminatory, but civil society had put forward many relevant proposals, and all the institutions concerned were working proactively to address the situation.

31. **Ms. Aguirre** (Nicaragua) said that the Ministry of Labour was spearheading actions to assist migrants, focusing on efforts to legalize the status of undocumented migrants. A 24-hour information centre had been set up to assist migrants abroad, and a reintegration programme and a programme to improve the use of family remittances had also been introduced. National institutions must improve their coordination of actions on behalf of migrants and strengthen their actions to protect women from trafficking. The Government had expressed its clear intention to address the issues of sexual and reproductive rights.

Articles 15 and 16

32. **Ms. Belmihoub-Zerdani** asked whether the customary law used as a basis for community mediation in remote Atlantic coastal areas (report, para. 200) was being applied also with regard to marriage and family law matters, and if that meant that the Civil Code did not apply in those communities. She also would like to know if anything more had been done since the report to hasten the adoption of the draft Family Code or to eliminate the admittedly discriminatory provisions in the Civil Code, under which, presumably, the husband alone had full parental authority. It was not clear from the response to question 27 of the list of issues if the Government intended to harmonize the contradictory figures established for the legal age of majority and of marriage, and, more important, to bring them at long last into line with the provisions of the Convention and the Convention on the Rights of the Child.

33. **Ms. Tan** asked what was hindering the passage of the draft Family Code and when the delegation thought it might be adopted. She requested information about measures taken under the Supreme Court's Strategic Plan of 2002 (report, para. 200) to eliminate discriminatory provisions in Nicaraguan legislation, as well as further details about its pilot project for providing access to justice to low-income social groups, such as an assessment of the project, its possible expansion, the numbers of women assisted, and any reforms made as a result. Since the Civil Code was discriminatory and no implementing legislation had been adopted to apply the constitutional provisions on women's divorce and inheritance rights, more should be said about the current situation with regard to division of property, custody of children and payment of alimony and child support after divorce and with regard to inheritance of property.

34. **Ms. Aguirre** (Nicaragua) acknowledged that two successive legislative sessions had not given the adoption of the Family Code the priority it deserved, nor had anything been done to revise the 100-year-old Civil Code, which also dealt with marriage and family law. The draft Family Code said nothing about marital age or the age of childhood and the provisions of the Convention and of the Convention on the Rights of the Child could definitely be incorporated into it. The Civil Code itself stipulated that there was no constitutional impediment to harmonization with international law.

35. The Civil Code provisions on divorce had been revised to eliminate discrimination against women and incorporate legal advances, by means of legislation such as the Unilateral Divorce Act, the Alimony Act and the Parent-Child Relations Act.

36. The Public Prosecutor's Office had in 2006 set up a Domestic Violence Unit and the Supreme Court had adopted a gender-mainstreaming policy — established a programme, together with a set of indicators to assess its results, which aimed to expand women's access to justice by improving inter-institutional coordination, streamlining civil procedures, strengthening the family law system, and improving domestic violence investigation procedures. The National Gender Commission, also established by the Supreme Court, headed by a woman and coordinating with other judicial bodies, had, as proposed at the meetings of the Supreme Court Presidents of the Central American region, established the gender-mainstreaming programme in the Judicial School, where judges, police

officials, prosecutors, human rights activists, doctors and Ministry of Health Officials were trained in matters of domestic and sexual violence and on forensic law and forensic psychology. That had led to an assessment of evidentiary procedure in cases of violence against women, and to the adoption of the protocol for dealing with offences involving domestic abuse and sexual aggression, which was being implemented by the judicial branch, the National Police, the Public Prosecutor's Office, the Institute of Forensic Medicine, the Office of the Human Rights Ombudsman, the prison system, the Justice Commission of the National Assembly and the military police.

37. The Supreme Court also had a programme funded by the Inter-American Development Bank to provide access to justice especially in the autonomous Caribbean region: its main priorities were the reduction of judicial delays, the promotion of impartiality by public officials, the improvement of judicial security, increased access to justice by the most vulnerable groups, and the improvement of court administration. The delegation would provide further information to the Committee on those developments that had occurred after the submission of the report. As yet there had been no assessment of the results of any of those programmes.

38. There was no duality in the national legislation on marriage and family relations, although customary law was traditionally applied in the autonomous indigenous areas.

39. **Ms. Brenes Peña** (Nicaragua) said that the Parent-Child Relations Act provided that, after a divorce, a percentage of the father's income should be set aside for child support and deducted from his salary; and if child support was not paid, the Ministry of the Family was required to take legal action. The Ministry could also take action on other domestic matters and to protect the unity of the family household. Those protective provisions were especially crucial in the rural areas.

40. Returning to questions raised at the previous meeting, she said that the gender training given to the police had indeed had a positive impact. A gender approach had been introduced by the Chief of Police, currently a woman, and the Women's Commissariat within the National Police had now been upgraded from an office to a department. Statistics were still

being collected by the police but were now being studied very carefully. In the armed forces, women had now begun advancing to the higher ranks.

41. **The Chairperson** observed that the dialogue with the delegation had helped the Committee to assess the situation in the country. The Committee would be sending its concluding comments to the Government, and asked that they be widely publicized in all branches of the Government and among the police force and civil society, to assist in the advancement of the women and men of Nicaragua.

42. **Ms. Brenes Peña** (Nicaragua) assured the Committee that her Government was endeavouring to improve the living conditions of women and eliminate discrimination against them. The dialogue with the members had been very positive and very instructive, and the Government looked forward to receiving the additional comments.

The meeting rose at 5 p.m.