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Nicaragua

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I. Methodology

1. The State of Nicaragua¹ produced this report following an extensive consultation process involving State institutions and civil society. It also took account of the analysis of the justice system, the strategic recommendations and the 2008–2010 Justice Plan drawn up as part of the work of the Subcommittee on Justice, which resulted in the formulation of a set of State policies that together constitute the National Agreement on Criminal Justice.² The State also organized a Forum³ on State, Human Rights, Policing and Development, with the participation of the Office of the Procurator for the Defence of Human Rights, the Nicaraguan Centre for Human Rights, the Standing Committee on Human Rights, among other institutions, as well as associations, trade unions, universities and autonomous State bodies. The drafting of the report was entrusted to a State Inter-Agency Commission coordinated by the Office of the President of the Republic, the Supreme Court and the Ministry of Foreign Affairs.

II. Historical context

2. The Sandinista Popular Revolution⁴ heralded a transformation of Nicaragua's economic, political, judicial and social structures.⁵ The Constitution was promulgated in 1987⁶ and the country has undergone substantive changes in both quantitative and qualitative terms. It is stated in the preamble that the Constitution is promulgated in order to “institutionalize the victories of the Revolution and construct a new society in which all forms of exploitation are eliminated and economic, political and social equality for the Nicaraguan people and absolute respect for human rights are guaranteed”. A central theme is that the people are the repository of the Constitution and not the State apparatus per se. Title IV on the rights, duties and guarantees of the Nicaraguan people sets forth individual, political, social, economic, family, labour, educational and cultural rights, as well as those of the Atlantic Coast communities.⁷ The defence and protection of human rights is a State policy.

3. Nicaragua's active participation in the Human Rights Council, and previously in the Commission on Human Rights, attests to the irreversibility of the process initiated in 1979. There are innumerable NGOs and non-profit associations working in the area of human rights.⁸ Attitudes are changing from the cultural and moral standpoint. Full membership in the international human rights system and cooperation with the relevant regional and international mechanisms have opened up a new dimension in this regard. Social rights that were previously of no more than rhetorical nature have taken tangible form in projects and programmes such as “Hambre Cero” (Zero Hunger), “Usura Cero” (Zero Usury), “Techo para el Pueblo” (Roof for the People), “Bono Productivo Alimentario” (the Food Production Voucher scheme) and “Programa Amor” (Love Programme). Nicaragua has subjected itself to international jurisdiction on more than one occasion and has complied with the decisions of the authorities concerned.⁹

4. The State of Nicaragua has adopted the paradigms of the United States Constitution (1787) and the French Constitution (1789), whereby public security is made a primary responsibility of the State in order to guarantee full enjoyment of such human rights¹⁰ as freedom, equality, security of the person and the right to own property. For this reason, as from 10 January 2007 the Government of Reconciliation and National Unity resolved to tackle organized crime and thus put an end to a trend that was undermining individuals' quality of life and the nation's development potential.¹¹ The President of the Republic personally intervened to ensure harmonious coordination between the army and the police in the fight against drug trafficking. Guaranteeing security and combating drug trafficking

and money laundering are State priorities. The illegal occupation of property and arbitrary evictions are prohibited and have no place in State policy.

A. Legal framework

5. The Constitution and all human rights enshrined therein are guaranteed through the institution of “*Amparo*”¹² (protection of constitutional rights), including *amparo* for unconstitutionality, administrative *amparo* as such, the remedy of habeas corpus, the remedy of habeas data and the remedy for conflict of jurisdiction. Constitutional rights and guarantees may be suspended throughout the national territory or in parts thereof only where the security or the economic circumstances of the country so require or in the event of a natural disaster.¹³ The fundamental rights that the State has an obligation to protect are recognized as “individual guarantees”.

6. The 1987 Constitution and amendments thereto establish human rights standards including the recognition of the rights of indigenous peoples;¹⁴ the explicit prohibition of any form of discrimination;¹⁵ access to free compulsory basic preschool, primary and secondary education;¹⁶ health care;¹⁷ recognition of the State’s obligation to provide compensation for violations of the rights of private individuals;¹⁸ reform of the juvenile justice system;¹⁹ abolition of the death penalty;²⁰ the right to information;²¹ and reform of the public security and criminal justice system.²²

7. The Constitution establishes the principle of exclusivity and unity of jurisdiction. The judiciary has exclusive power “to judge and enforce judgements” and the military courts shall only in exceptional cases deal with strictly military misconduct and other offences, without prejudice to the possibility of recourse or appeal to the Supreme Court.²³ Particular mention should be made of the approval and enactment of the Code of Military Criminal Procedure, which lends support to the modernization of the military criminal justice system and its alignment with the domestic legal system.²⁴ It also contains the following generic clause: “The administration of justice shall guarantee the principle of legality; it shall protect and safeguard human rights through application of the law in all matters or proceedings under its competence.”

B. Institutional framework

8. The National Human Development Plan 2009–2011²⁵ drawn up by the Government of Reconciliation and National Unity for the implementation of institutional initiatives includes a gender perspective in order to ensure full respect for human rights and strengthen and promote the protection of those rights through the harmonization of legislation, giving priority attention to the most vulnerable sectors by means of campaigns to raise awareness of human rights.

9. The National Human Development Plan sets forth a development strategy underpinned by the civil power model, human rights principles, and citizen participation and consultation. It envisages a national welfare and social equity system that includes clear strategies and policies concerning food,²⁶ health, education, social housing, drinking water and social security, reinforcing human rights by means of public policies agreed with the population. The plan seeks to strengthen and institutionalize the legal and administrative mechanisms that guarantee the promotion and protection of human rights, and thereby to build a culture of respect for and protection of human rights. Nicaragua is also working to ensure compliance with its international obligations under human rights treaties and other instruments, whether or not they are incorporated in the Constitution.

10. The promotion and protection of human rights has been given increased attention since 2007, when the State began providing human rights training and instruction for public employees. Such training now forms part of the syllabus at both the army academy and the national police academy,²⁷ both of which administer courses in human rights in conjunction with the Ministry of Foreign Affairs. The Ministry of the Interior has developed similar programmes for the prison system, providing training for both officials and prisoners. A dedicated human rights unit has been established within the Office of the Procurator-General of the Republic.

11. The Office of the Procurator for the Defence of Human Rights was established in accordance with the Paris Principles as part of the 1995 constitutional reforms. Since its creation, the Office has issued and disseminated among the various State institutions more than 2,000 resolutions. These contain recommendations that have for the most part related to lack of compliance with the police action protocol, access to justice through either judicial channels or the Public Prosecutor's Office, and failure to observe the medical action and social security protocols, thus giving effect to the right of petition²⁸ established under the Constitution, as well as the right to receive truthful information and the right to access public information. A Public Information Access Act was also recently promulgated to safeguard this latter right.

C. International commitments of Nicaragua

12. Under the provisions of the Constitution, in Nicaragua international treaties and protocols²⁹ ratified by the President of the Republic with the approval of the National Assembly become laws of the Republic. The case law of the Supreme Court has established that, hierarchically, international treaties rank below the Constitution.³⁰ Accordingly, once ratified by the National Assembly, international human rights treaties become part of domestic law and may therefore be invoked before the courts. Nevertheless, the Nicaraguan Constitution states that "within national territory all persons shall enjoy the protection of the State and recognition of the rights inherent in the human person, unrestricted respect, promotion and protection of human rights, and the full exercise of the rights set out in the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man, the International Covenant on Civil and Political Rights of the United Nations, and the American Convention on Human Rights of the Organization of American States". "Children shall enjoy special protection and all the rights that their status may require. To that effect, the International Convention on the Rights of the Child shall be fully applicable" (article 46 and article 71 of the Constitution, respectively). Ultimately, the aim is to achieve effective application of a range of economic and social rights and thus to ensure that they are not merely rhetorical in nature.

13. Nicaragua is a party to 13 of the 16 key international human rights treaties³¹ and recognizes the competence of many of the monitoring bodies, including their authority to receive individual complaints and communications and conduct investigations. Nicaragua has submitted its periodic reports in the prescribed manner and has responded to the observations and recommendations that the treaty bodies have made. It is also a State party to the instruments of international humanitarian law that protect refugees and asylum-seekers. Additionally, it is a party to conventions of the International Labour Organization and the World Health Organization, United Nations conventions on the environment, and other conventions of UNESCO and UNICEF.³²

14. Nicaragua is also a party to the principal inter-American human rights instruments and in February 1991 recognized the competence of the Inter-American Court of Human Rights. It has been a party to disputes brought before this Court and has accepted and complied with its decisions, as in the community title case concerning the indigenous Awas

Tingni people.³³ Since 2004 the country has hosted visits from various United Nations mechanisms including the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Working Group on Arbitrary Detention, and the Special Rapporteur on the right to food.

III. Promotion and protection of human rights

15. Nicaragua encourages maximum participation by civil society organizations and supports gender mainstreaming. It co-sponsored and signed the United Nations Declaration on the Rights of Indigenous Peoples, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities, as well as the Optional Protocols to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Second Optional Protocol to the International Covenant on Civil and Political Rights.

16. Although the State has made significant progress in consolidating democracy, it still faces a number of challenges. These arise from the implementation of the new Codes of Criminal Procedure, the Criminal Code, the Judicial Service Act, and the Administrative Disputes Act,³⁴ the establishment of juvenile criminal courts and the creation of family courts; the new management model for judicial departments; the issue of how to guarantee full application of State policies on the security of persons and on the fight against drug trafficking, money laundering and terrorism; and the effective implementation of international human rights standards at various levels, including full legislative harmonization with international treaties, institution-building and effective use of international case law in this area.

A. Civil and political rights

17. The Government of Reconciliation and National Unity has made strengthening the rule of law and legal security a central focus of its actions. It is shortly due to sign the National Agreement on Criminal Justice drawn up by the criminal justice system. The Agreement sets forth general strategies and policies for strengthening criminal justice in Nicaragua which include the development of indicators to measure the performance of police departments and the Public Prosecutor's Office and for building, with the participation of the civil branch of government and relevant NGOs and associations, a criminal justice system that is more accessible, transparent, inclusive, modern, efficient, effective and expeditious, besides preserving and fostering the principle of legal security.

18. A key element of the reform of the justice system has been the introduction of adversarial criminal procedures in place of the inquisitorial system. This has meant a radical change in the administration of justice. The reform seeks to establish a rights-based system in which the rights of the victim, the aggrieved party and the accused — based on the presumption of innocence — are all respected. It is an accusatory, oral system that encourages transparency by ensuring direct contact between the judge and the parties and streamlining and simplifying criminal proceedings. The reform envisages alternative dispute settlement mechanisms for less serious offences. It also establishes that any evidence obtained in violation of human rights is inadmissible. It includes special measures to fight organized crime, in line with the United Nations Convention against Transnational Organized Crime.

19. The Public Prosecutor's Office is responsible for bringing prosecutions and representing the interests of society and of the victims of crime in criminal proceedings and provides legal guidance to the police and other institutions during the search for trial

evidence. The Public Prosecutor's Office has a virtual monopoly on criminal proceedings, but the new Criminal Code³⁵ provides for the possibility of private suits³⁶ when the Public Prosecutor's Office decides not to take action.

20. Access to criminal justice as State policy.³⁷ The drive to expand access to criminal justice by eliminating existing barriers (which include financial, geographical, social, and cultural and gender barriers, and the limited defence rights, among others) is being intensified. Nicaragua will step up the drive in especially poor areas and will endeavour to use alternative dispute settlement mechanisms, besides pursuing the development of community justice and restorative justice, among other measures.

21. The Supreme Court has taken various steps to facilitate access to justice, especially for rural populations, communities with limited economic resources and, in particular, vulnerable groups such as women, children and adolescents that have historically encountered severe difficulties in accessing the justice system. These steps have included the establishment of a Public Defender's Office and appointment of the judicial facilitators that have played an important role. In 2007–2008, 65 new public defence counsels were appointed, taking the total to 150 spread across 71 offices, and between 2006 and 2008 public defenders participated in a total of 62,522 cases. This has resulted in the development of a civil justice culture characterized by greater access to justice, less delinquency and fewer conflicts, which has brought improved security as well as economic benefits in the form of higher levels of production in those communities where judicial facilitators are in place.³⁸

22. Nicaragua's prison system is governed by the Prison System and Enforcement of Sentences Act,³⁹ article 2 of which provides that the prison system shall be operated in accordance with the guarantees and principles laid down in the Constitution and other laws of the Republic, the relevant implementing regulations, the code of conduct and the international legal instruments on human rights that Nicaragua has ratified and incorporated in positive law and that are therefore mandatory. Similarly, respect for the life and dignity of the person are cornerstones of the prison system built up since 1979.

23. The prison population takes part in various rehabilitation programmes. Foremost among these are the primary and secondary educational programme, the higher education programme, and the technical training and skills development programmes for adults and adolescents. Detainees are also offered courses on human rights, health, sports, art, employment and religion. The prison system has been progressively modernized and professionalized through the development and implementation of policy lines that provide for the rehabilitation, readjustment and social reintegration of prisoners. The National Prison System⁴⁰ consists of eight prisons with a combined capacity of 4,742 places. At present, the prison population stands at 5,952 detainees. The prison overcrowding rate is therefore 25.51 per cent. There are no maximum security prisons. The main obstacle is funding.

24. The Nicaraguan National Police is guided by a sense of belonging and proximity to the community as well as by a profound respect for the human person, human rights being one of the cross-cutting principles of policing. Article 97 of the Constitution, together with article 1 of the Act establishing the police force,⁴¹ provides that "the mission of the National Police shall be to protect the life, integrity and security of persons, and the free exercise of the rights and freedoms of citizens; it shall also be responsible for preventing and prosecuting crime and for maintaining the domestic public and social order". The Nicaraguan National Police has adopted a proactive community policing model that rests on the relationship between police and community, enabling it to identify and address the most acute problems.

25. The global economic crisis has had adverse effects on the national economy, including an 11 per cent overall increase in crime from the level recorded in 2008. Managua accounts for 42 per cent of registered crime, with aggravated robbery generating the greatest insecurity.

26. In 2008 the police provided support to political parties at 500 events in 153 municipalities during the municipal election campaigns. In addition, a total of 285 preventive operational plans were implemented throughout the country over the summer holiday period, around the year-end, at Easter and during the celebrations of Nicaragua's National Day; and a special rural security programme was introduced to guarantee production and protect lives and property in rural areas. Ten and a half tons of drugs were seized as a result of 35 operations against international drug trafficking, and 2,130 operations against the domestic sale and consumption of drugs. The Department of Internal Affairs of the National Police received 3,921 complaints in 2007–2008, of which 2,798 cases (71.36 per cent) related to alleged violations of human rights and 1,164 resulted in disciplinary action. Complaints of police abuse were down 24 per cent on the previous year.

27. Police investigation, reporting, detention, emergency and communication processes have been computerized. Holding cells have been improved and separate wings for women and adolescents created. With the agreement of the prison system, areas for conjugal visits have been established and literacy and health-care programmes implemented in the Atlántico Sur Autonomous Region. A total of 60,425 arrests were made in 2007–2008: 1,209, or 2 per cent of those arrested, were released upon expiry of the maximum period of detention without charge.

28. In the area of gender, a dedicated department for women and children has been established to provide specialist and preventive psychosocial support to victims of human trafficking and sexual exploitation. A map of the routes typically used for trafficking in persons has been drawn up and four campaigns to raise awareness of violence against women have been conducted. Twelve new offices of the Special Police Unit for Women and Children have been set up since 2005, taking the nationwide total to 38. Backed by a network of 1,350 outreach workers, these centres provide assistance to victims of all forms of domestic and sexual violence, besides maintaining a register of victims.

29. A specialist unit dealing with gender violence has been created within the Public Prosecutor's Office. Institutional policy is to initiate criminal proceedings in all cases of domestic or family violence and informal proceedings are obligatory even in cases where the victim discontinues private prosecution. The principle of free justice is guaranteed, and two additional prosecutors have been appointed to extend the coverage of the unit specializing in cases of deliberate failure to pay maintenance and contempt of court, as a way of guaranteeing children's right to food.

30. As a State party to the United Nations Convention on the Rights of the Child,⁴² Nicaragua has added the following text to its Constitution:⁴³ "Children shall enjoy special protection and all the rights that their status may require. To that effect, the international Convention on the Rights of the Child shall be fully applicable." It has also promulgated a Children and Young Persons Code.⁴⁴

31. As a result, a new juvenile criminal justice system designed to guarantee due process and to reintegrate adolescents in the family and in society has been established. As of 2007–2008, Nicaragua relinquished its former punitive paternalistic system in favour of a juvenile criminal justice system⁴⁵ with a restorative focus. The country can thus affirm that adolescents are punished for the offence they commit and not for the underlying causes that lead them to offend.⁴⁶

32. The Global Operational Plan⁴⁷ of the Supreme Court had three main priorities: (a) improving conditions of pretrial detention for children and young persons; (b) expanding

the coverage provided by the courts and facilities envisaged in the Children and Young Persons Code; and (c) fostering specialization among justice system officials. In the first area, the Court has coordinated its work with that of the National Council for the Comprehensive Care and Protection of Children and Young Persons. In the second area, work has included the creation of 17 district criminal courts for juveniles and 1 court, by operation of law, in Siuna, with the support of UNICEF. With regard to the third area, the specialization of justice system officials has been achieved through the provision of training at the Judicial Training College, the production of a procedural handbook for juvenile criminal court judges, and the development of a training module on the system of criminal responsibility for juveniles.⁴⁸

33. In 2007 the Institute of Forensic Medicine reported dealing with a total of 1,790 young persons. It provided psychological support to 1,346 young persons in 2007 and 1,222 in 2008, making a total of 2,568 young persons who received individual attention. The Institute also provided social support, undertook home and prison visits, and organized 415 socio-educational talks.

34. Under the terms of the Constitution, the Nicaraguan Army⁴⁹ must receive civic and human rights training. In 2007–2008, the army ensured peace and security in the national territory through the implementation of operational plans to address traditional and emerging threats such as drug trafficking, organized crime and related activities. It provided timely assistance to sectors of the population affected by natural and man-made phenomena, focusing in particular on the aftermath of Hurricane Felix. Disaster response capabilities and the capacity of the National Disaster Prevention System were strengthened by providing training to committees and brigades at municipal/local level.

35. Under the National Programme for Humanitarian Mine Clearance and the Ottawa Convention, Nicaragua has completed 91 per cent of its general programme, extending the areas and targets now free from anti-personnel mines and reducing the risk of accidents.

36. The Nicaraguan Army has sustained its operational efforts to increase public security in rural areas, to protect and preserve natural resources, and to combat organized crime, working in conjunction with the National Police, the Public Prosecutor's Office and governmental organizations responsible for the protection and controlled use of natural resources; 149,055 operational activities⁵⁰ have thus been carried out.

37. Article 23 of the Constitution provides that "there shall be no death penalty in Nicaragua" and Nicaragua adopted the Second Optional Protocol to the International Covenant on Civil and Political Rights in May 2009.

38. Enforced disappearance is a crime against humanity⁵¹ under Nicaraguan criminal law, which stipulates that "any authority, official, public employee or law enforcement officer who legally or illegally detains a person and does not disclose their whereabouts shall be sentenced to imprisonment for a period of four to eight years and shall be disqualified from public office or employment for a period of six to ten years".

39. Reflecting the wording of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Constitution⁵² establishes that "the promulgation of proscriptive laws and application of degrading punishment or treatment to convicted persons shall be prohibited".⁵³

40. The Criminal Code⁵⁴ defines and establishes penalties for torture: "Any person who subjects another person to any type of physical or mental torture for the purposes of a criminal investigation, as a means of intimidation, as a personal punishment, preventive measure or punishment, or for any other purpose, shall be sentenced to a term of imprisonment of between seven and ten years ... For the purposes of this Code, 'torture' shall be understood to mean the intentional infliction of severe pain or suffering, whether

physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions.”

41. The Code of Criminal Procedure⁵⁵ provides that “no evidence or confession may be obtained by unlawful means”. No confession or information obtained by torture or other unlawful means may be cited in evidence.

42. Freedom of expression has been near absolute in Nicaragua; there is no censorship of any kind. The Access to Public Information Act guarantees access to public information⁵⁶ in the possession of the executive, legislative, judicial and electoral authorities for all persons.⁵⁷

43. The right of access to information is governed by the following principles: the principle of access to public information,⁵⁸ the principle of public disclosure,⁵⁹ the principle of multi-ethnicity,⁶⁰ the principle of public consultation,⁶¹ the principle of transparency,⁶² the principle of responsibility⁶³ and the principle of evidence of harm.⁶⁴

44. The right of access to information in turn underpins the remedy of habeas data,⁶⁵ guaranteeing the protection of any personal and private data held in archives, records, databases or other electronic media, whether public or private, the public disclosure of which could constitute an invasion of family and/or personal privacy, particularly with regard to sensitive data concerning individuals and their private lives, including their families, which could be in the possession of the bodies specified in article 1.⁶⁶

45. State institutions guarantee observance of and compliance with the aforementioned Act through the Office for the Coordination of Access to Public Information. Users are free to choose whether or not to avail themselves of the administrative channel and take their case to the Administrative Litigation Division⁶⁷ of the Supreme Court if denied access to information.

46. Regarding compensation for victims of human rights violations, the 1995 Constitutional reforms introduced a new article 113 which provides that “officials of the four branches of government ... shall be accountable to the people for the proper performance of their duties and must report on their work and official activities. They must respond and listen to their problems and endeavour to resolve them ... officials and public employees shall be personally accountable for any violations of the Constitution. In accordance with the Law, the State shall be materially liable for any injury to their property, rights and interests that individuals may suffer as a consequence of actions or omissions of public officials in the exercise of their duties, except in cases of force majeure. The State may claim restitution from the official or public employee who caused the injury.”

47. The State has an obligation to make provision in the budget for comprehensive reparation. Since 1990 it has been paying compensation to all those who have been adversely affected by the agrarian reform or as a result of occupations, interventions, expropriations or confiscations, and have submitted claims through administrative or judicial channels.

48. The State has also endeavoured to settle the numerous property disputes⁶⁸ inherited from and attributable to earlier governments seeking to reverse the process of agrarian and urban reform – a case of institutionalized mismanagement that allowed multiple title deeds to be issued for the same property. The restitution of rights has been achieved by regularizing and granting title to 47,106 urban and rural properties in a process that has benefitted thousands⁶⁹ and thus contributed to economic development and poverty reduction. This is a remarkable achievement, considering that the previous three governments granted title in 58,654 cases over a period of 16 years.

B. Economic, social, cultural and environmental rights

49. The challenge facing the Government of Reconciliation and National Unity is the fight against poverty. The National Human Development Plan identifies as the main obstacles to the eradication of poverty in Nicaragua the social costs of three decades of structural adjustment policies and the adverse effects of the global economic crisis that are now taking their toll on poor countries. Domestic factors that are cultural and structural in origin, and mishandling of public policy, have also played a part.⁷⁰

50. Against this backdrop, the economic growth that is an essential aid to the reduction of poverty has failed to have the expected impact. This is because: (1) growth has been neither sustainable nor socially responsible. Instead, growth has been volatile and accompanied by the increasing concentration of wealth; (2) terms of trade are unfair; (3) tax shelters have been granted to the most affluent groups; (4) the productive system that has developed is inefficient and costly.⁷¹ To achieve a reduction in poverty, the Government of Reconciliation and National Unity is implementing a more equitable development model and a new, more democratic power structure through the civil branch of government.

51. Under the civil power model, the individual is the centre and focus of development.⁷² Accordingly, the Government of Reconciliation and National Unity is implementing policies designed to foster the production of public and private goods and services for the people; to create a fair market free from exploitation, speculation and unlawful practices; to develop economic complementarity in the region; and to develop networks of cooperatives, small and medium-sized producers and large national entities. It is strengthening the State by taking a proactive approach,⁷³ promoting fair and stable markets, the protection of the environment, more extensive use and generation of alternative energy, solidarity, food sovereignty and security, macroeconomic stability and the investment climate.

52. Policies, initiatives and programmes are directed to shoring up the production capacity of the poor; guaranteeing the minimum calorie intake that enables people to rise above the poverty line; increasing employment and income, and reducing indigenous migration. Specific food programmes have been included in the basic education system. In 2007 the Government of Reconciliation and National Unity launched a programme to benefit 75,000 families in rural areas over five years by means of a system of (partly refundable) transfers providing productive resources to target families. Women heads of household are the main partners in this programme. Other initiatives pursuing the same strategy include the extension of the “Libra por Libra” (Pound for Pound) programme and the “Usura Cero” (Zero Usury) programme of financial aid. Food has become a critical issue in the current international situation and the State has extended the scope of its food strategy to envision a shift from the subsistence production of small-scale producers to the generation of a surplus for export and domestic consumption.

53. The right to food is a constitutional right⁷⁴ and in application of voluntary guideline No. 7 of the Right to Food Guidelines, Nicaragua has promulgated a Food and Nutrition Security and Sovereignty Act,⁷⁵ article 1 of which states that “the aim of this public policy and social interest law is to guarantee the right of all Nicaraguans to have access to safe, nutritional food sufficient to meet their basic needs”.⁷⁶ It has also launched a number of programmes, including Food Security and Sovereignty for Life, Zero Hunger, the Food Production Voucher scheme, Zero Usury, the Comprehensive Food Programme, the Child Nutrition Programme, and the School Snack and Glass of Milk Programmes.

54. The Constitution states that “Nicaraguans shall have the right to education and culture”. On 11 January 2007, the Government of Reconciliation and National Unity abolished autonomy for schools and re-established totally free education for all. It also

launched a national literacy campaign entitled “From Martí to Fidel” that drastically reduced illiteracy from a rate of 22 per cent in 2007 to 3.58 per cent in 2009.

55. The Ministry of Education has established five new educational policies entitled More Education,⁷⁷ Better Education,⁷⁸ Alternative Education,⁷⁹ Participative and Decentralized Educational Management,⁸⁰ and All Educations.⁸¹

56. The Comprehensive School Nutrition Programme is taking shape as a sustainable school food programme and has been highlighted as a model programme by the FAO.

57. The Ministry of the Family, Young Persons and Children has developed the “Programa Amor” (Love Programme) which it is implementing in conjunction with various State institutions. One of the principal objectives of this programme is the restoration of the right of children and young persons: (1) to live in normal family conditions without exposure to the risks of the street; (2) to grow up in a loving environment in the care of a family; (3) to have access to child development centres providing professional care for the children of working mothers; (4) to registration in the Civil Register of Persons; (5) to specialist care for children and young persons with disabilities; (6) to guaranteed care for children of migrant parents or parents deprived of liberty; and (7) to the eradication of the worst forms of child labour and to reintegration in school.

58. “All Nicaraguans shall enjoy an equal right to health.”⁸² Since 2007 medical fees have been absolutely prohibited and private medical services may no longer be offered in public health-care facilities. To cater for diagnostic and therapeutic requirements, a high-tech centre has been made available to the population. To guarantee universal access to health services, the existing health-care model has been reworked into a family and community health-care model based on the provision of systematic preventive health care to families in their homes.

59. The Government of Reconciliation and National Unity encourages public participation in preventive health-care initiatives through the organization of Health Days. More than 5 million doses of vaccine⁸³ were administered between 2007 and 2009 and hygiene and cleanliness campaigns have been organized to prevent the spread of communicable diseases. Public participation through community education, early detection and appropriate care have ensured successful containment of the AH1N1 influenza epidemic: nine deaths have been reported to date.

60. Maternal mortality⁸⁴ has been reduced from 90 in 2006 to 64 in 2008. Infant mortality due to diarrhoea was reduced from 82 per 100,000 cases in 2006 to 50 in 2008, while infant mortality due to acute respiratory infections fell from 35 in 2006 to 23 in 2008.⁸⁵

61. Nicaragua has exceeded the Millennium Development Goals⁸⁶ (MDGs) for tuberculosis control, having reduced mortality to half the level registered in 1990,⁸⁷ and work is continuing to reduce the prevalence of this disease. With regard to malaria, the entire country has been classified as a low-risk area since 2007 and 78 municipalities have reported zero cases over this period. In 2008, antiretroviral therapy was secured for 734 HIV carriers, including 54 pregnant women needing treatment to prevent HIV transmission to their child.

62. The Constitution defines work as a right and a social responsibility.⁸⁸ For Nicaraguans, work is the essential means of satisfying the needs of society and its individual members and is the source of the nation’s wealth and prosperity. The State will pursue the goal of full and productive employment for all Nicaraguans, under conditions that guarantee their fundamental human rights.

63. As an ILO member, Nicaragua has ratified a considerable number of conventions and has incorporated in article 46 of its Constitution the Universal Declaration of Human

Rights.⁸⁹ The rights incorporated include those deemed fundamental workers' rights, such as the abolition of compulsory labour, the right to form and to join trade unions and to bargain collectively, the right to non-discrimination in the workplace and the protection of minors aged under 18 at work (child labour). Nicaragua's work in these areas has been acknowledged by ILO.

64. Nicaragua has ratified the Convention on the Elimination of All Forms of Discrimination against Women⁹⁰ (CEDAW). It has not yet ratified ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries but our Constitution includes a chapter⁹¹ that goes beyond the provisions of the Convention. Within the framework of its policy for the restitution of the rights of indigenous peoples, the Government of Reconciliation and National Unity has so far issued nine land titles to the communities of the Caribbean Coast, which covers an area of 10,210.68 km²⁹² (8.49 per cent of the national territory), benefiting 121 communities and a total of 53,580 inhabitants.

65. The Ministry of Labour regularly reports to ILO on compliance with the Conventions. It has also issued a number of new legal instruments, including the General Labour Inspection Act,⁹³ the General Occupational Health and Safety Act⁹⁴ and the Equal Rights and Opportunities Act. Priorities include strengthening the rights of trade unions, the freedom to form and join trade unions and the right to bargain collectively, and combating the exploitation of children for labour purposes,⁹⁵ with special attention being accorded to migrant workers. To generate employment, three support programmes have been launched – “Mi primer empleo” (My First Job), “Proyecto para el auto empleo” (Self-Employment Plan),⁹⁶ and “Ventana de Juventud y Empleo” (Window on Youth and Employment).

66. The right to decent, comfortable and safe housing that guarantees family privacy has been a constitutional right since 1987. The Government of Reconciliation and National Unity has adopted policies to this end consisting of the following lines of action: granting subsidies; creating mortgage security funds and a credit fund; establishing a building materials bank; training manpower, as the contribution of the beneficiaries of the programmes; and launching a programme to regularize land titles, including in particular the Homes for the People Project.

67. Under the Constitution, “the State shall guarantee Nicaraguans the right to social security for their comprehensive protection against the social contingencies of life and work in the manner and conditions determined by law”. Conscious that social security is a cornerstone of the social strategy set forth in the National Human Development Plan, the Government of Reconciliation and National Unity is currently working on a proposal that will ensure that pensioners do not bear the cost of the change of system. The feasibility of a mixed model is under consideration, and any reform ultimately adopted must not under any circumstances place the beneficiaries of the current system at risk.

68. The need to revitalize the system in the medium to long term imposes limits on current policy, since any extension of benefits and coverage and any adjustments to pensions must not be at the expense of future pensions. The system will therefore need to include alternative methods for improving the financial position of the system, restoring the balance between contributions and benefits and protecting the rights acquired by workers who have not yet reached retirement age.⁹⁷

69. The right of every person to a healthy environment is a constitutional right.⁹⁸ The following principles are adopted under the National Human Development Plan: protection of nature and the environment,⁹⁹ independence, sovereignty, and revival and affirmation of national identity.¹⁰⁰

70. The National Forest Programme is designed to improve the quality of life of Nicaraguans by ensuring sustainable management of national forest ecosystems. It is being

implemented in synergy with general land use planning policy,¹⁰¹ the environmental policy¹⁰² of Nicaragua and policy for food and nutrition security and sovereignty.

71. Through the Nicaraguan Water Supply and Sewerage Corporation, the Government is implementing a Sectoral Programme for the Environment and Natural Resources which sets goals for the provision of drinking water, wastewater treatment, land reforestation and the expansion of protected natural areas.

72. The Government has also established a National Water Resources Council to serve as the highest sectoral authority for the development of national water policy, and a Forum for Consultation and Participation, a body with powers to guide, coordinate and approve general policies.

C. Action to combat discrimination and specific vulnerable groups

73. Under the Constitution,¹⁰³ “All persons are equal before the law and have an equal right to protection. There shall be no discrimination on grounds of birth, nationality, political views, race, sex, language, religion, opinion, origin or economic or social status. Aliens shall have the same obligations and rights as Nicaraguans, with the exception of political rights and the rights established by law. Aliens may not participate in the political affairs of the country. The State shall respect and guarantee the rights recognized in the present Constitution for all persons within its territory and under its jurisdiction”. The new Criminal Code provides a definition of discrimination and makes it a criminal offence.¹⁰⁴

74. The Nicaraguan Institute for Women¹⁰⁵ (INIM) is promoting the Government’s first gender policy. It has organized training and awareness-raising events in various municipalities and institutions, including associations, trade unions, and the civil branch of government, that allow women to assume ownership of the model and reclaim and enforce their rights, serving as a platform for the protection of those rights. The Equal Rights and Opportunities Act¹⁰⁶ and the Parental Responsibility Act¹⁰⁷ have entered fully into force.

75. The Constitution¹⁰⁸ states that: “The Nicaraguan people shall be multi-ethnic in character ... The State shall recognize the existence of the indigenous peoples, who shall enjoy the rights and guarantees and share the obligations assigned, especially those related to maintaining and developing their identity and culture, practising their own forms of social organization, administering their local affairs and having communal forms of land title and the enjoyment of its use and yield, all according to law.” The revised Constitution¹⁰⁹ also establishes the system of autonomy applicable to the Atlantic Coast communities. Lastly, it establishes that “the languages of the communities of the Atlantic Coast region of Nicaragua shall also be used officially in the cases specified by law”.

76. Nicaragua has also promulgated the Act concerning the Communal Property Regime of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and of the Bocay, Coco, Indio and Maíz Rivers.¹¹⁰ This Act serves to guarantee the land rights of the indigenous communities populating the Caribbean region of Nicaragua and is aimed at ensuring the negotiated and inclusive demarcation of these indigenous territories.

77. The development of the Caribbean Coast¹¹¹ is an integral part of the National Human Development Plan and one of the cornerstones of Nicaragua’s poverty reduction strategy.¹¹² The Government of Reconciliation and National Unity has established an Atlantic Coast Development Secretariat to assume responsibility for liaison and coordination between the Autonomous Regional Councils of the Caribbean Coast¹¹³ and the various State Ministries.

78. Nicaragua applies humanitarian migration policies with a focus on irregular migrants. Specifically: (a) deportations are coordinated with the migrants’ diplomatic

representatives; (b) rehabilitation is provided in shelters for irregular migrants; (c) the newly implemented Refugee Protection Act,¹¹⁴ described by the Office of the United Nations High Commissioner for Refugees as the most advanced in the region, sets out the operational framework for the National Commission for Refugees; and (d) a new draft law on migration, which consolidates all laws relating to migration, is currently being debated in the National Assembly.

79. With regard to the protection of the human rights of certain vulnerable groups, including persons with disabilities, Nicaragua has ratified the Convention on the Rights of Persons with Disabilities,¹¹⁵ which also benefits the elderly, who usually suffer some form of disability. Nicaragua has also signed the Optional Protocol and is in the process of ratifying it. It has also drawn up a draft amendment to Act No. 202, the Disabled Persons (Prevention, Rehabilitation and Equal Opportunities) Act, with a view to aligning national legislation with the provisions of the Convention, which is currently going through the parliamentary consultation process. In 2008, Nicaragua approved Act No. 650 concerning the protection of the human rights of persons with mental health problems, which includes the rights of persons affected by psychiatric disorders within its scope.

80. The new Criminal Code has established the right to freedom of sexual orientation by decriminalizing same-sex relationships.

Notes

¹ Nicaragua consta de 15 departamentos y 2 regiones autónomas. Su extensión territorial es de 130.373,40 km² incluyendo el área de lagos y lagunas que se encuentran dentro del territorio continental y las islas, cayos, arrecifes y bancos adyacentes situados en aguas nicaragüenses del mar Caribe y el océano Pacífico, incluido el golfo de Fonseca.

² Pendiente de firma del Presidente de la República.

³ Del 28 al 30 de septiembre de 2009. Hotel Hilton Princess, Managua.

⁴ 19 de julio de 1979.

⁵ La Constitución nicaragüense promulgada en 1987 establece que Nicaragua es una República unitaria, democrática, participativa y representativa de naturaleza multiétnica y sus órganos de gobierno son el poder ejecutivo, el poder judicial, el poder legislativo y el poder electoral (arts. 7 y 8). El poder ejecutivo lo ejerce el Presidente de la República electo directamente por el pueblo en sufragio universal directo y secreto por un período de cinco años. El poder judicial lo integra los tribunales de justicia que forman un órgano unitario y cuyo órgano superior es la Corte Suprema de Justicia (artículos 158 y 159 de la Constitución política de Nicaragua). La Corte Suprema de Justicia estará integrada por 16 magistrados electos por la Asamblea Nacional por un período de cinco años (artículo 163 de la Constitución política de Nicaragua). El poder legislativo lo ejerce la Asamblea Nacional integrada por 90 diputados con sus respectivos suplentes elegidos por voto universal, igual, directo, libre y secreto. El poder electoral está integrado por el Consejo Supremo Electoral que lo componen 7 magistrados propietarios y 3 suplentes electos por la Asamblea Nacional por un período de cinco años.

⁶ Artículo 46: "En el territorio nacional toda persona goza de la protección estatal y del reconocimiento de los derechos inherentes a la persona humana, del irrestricto respeto, promoción y protección de los derechos humanos, y de la plena vigencia de los derechos consignados en la Declaración Universal de Derechos Humanos; en la Declaración Americana de Derechos y Deberes del Hombre; en el Pacto Internacional de Derechos Económicos, Sociales y Culturales; en el Pacto Internacional de Derechos Civiles y Políticos de la Organización de las Naciones Unidas; y en la Convención Americana de Derechos Humanos de la Organización de Estados Americanos", artículo 71 que incorpora la plena vigencia de la Convención Internacional de los Derechos del Niño y la Niña.

⁷ Artículos 23 a 91 de la Constitución política de Nicaragua.

⁸ Según registros del MIGOB: 4.758 asociaciones registradas.

⁹ Casos *Jean Paul Genie*, *Yatama*, *Awass Tigni*, entre otros.

- ¹⁰ Artículo 35 de la Constitución política de Nicaragua: “Los menores no pueden ser sujetos ni objeto de juzgamiento ni sometidos a procedimiento judicial alguno. Los menores transgresores no pueden ser conducidos a los centros de readaptación penal y serán atendidos en centros bajo la responsabilidad del organismo especializado. Una ley regulará esta materia”.
- ¹¹ Acuerdo Nacional sobre Seguridad.
- ¹² Título X, Supremacía de la Constitución, su reforma y las leyes constitucionales. Artículos 182 a 195 y los artículos 1, 5, 7 y del 80 al 84 de la Ley de amparo.
- ¹³ Artículo 185 de la Constitución política de Nicaragua: El Presidente de la República en Consejo de Ministros podrá decretar para la totalidad o parte del territorio nacional y por tiempo determinado y prorrogable la suspensión de derechos y garantías cuando así lo demande la seguridad de la nación, las condiciones económicas o en caso de catástrofe nacional. La Ley de emergencia regulará sus modalidades.
- ¹⁴ Artículo 5 de la Constitución política de Nicaragua, párrafo 3: El Estado reconoce la existencia de los pueblos indígenas que gozan de los derechos, deberes y garantías consignados en la Constitución y en especial los de mantener y desarrollar su identidad y cultura, tener sus propias formas de organización social y administrar sus asuntos locales, así como mantener las formas comunales de propiedad de sus tierras y el goce, uso y disfrute de las mismas, todo de conformidad con la ley. Para las comunidades de la costa atlántica se establece el régimen de autonomía en la presente Constitución.
- ¹⁵ Artículo 27 de la Constitución política de Nicaragua, Igualdad ante la ley.
- ¹⁶ Artículo 121 de la Constitución política de Nicaragua, Acceso a la educación.
- ¹⁷ Artículo 59 de la Constitución política de Nicaragua.
- ¹⁸ Artículo 131 de la Constitución política de Nicaragua.
- ¹⁹ Artículo 35 de la Constitución política de Nicaragua.
- ²⁰ Artículo 23 de la Constitución política de Nicaragua.
- ²¹ Artículos 26, 66, 67 y 68 de la Constitución política de Nicaragua.
- ²² Nuevo Código Procesal Penal y Código Penal así como la Ley N° 228 “Ley creadora de la Policía Nacional”.
- ²³ Artículo 159 de la Constitución política de Nicaragua.
- ²⁴ Código de Procedimiento Penal Militar.
- ²⁵ Gobierno de Reconciliación y Unidad Nacional, julio de 2009.
- ²⁶ Ley de soberanía y seguridad alimentaria y nutricional. Ley N° 693, *La Gaceta*, de 16 de julio de 2009.
- ²⁷ Formación y capacitación en materia de derechos humanos: en las diferentes estructuras policiales se mantiene un plan de preparación permanente en materia de derechos humanos y el 30 septiembre de 2009 culminó el Foro Nacional de Consulta sobre la aplicación, cumplimiento e implementación de los instrumentos internacionales de derechos humanos; 6.270 funcionarios policiales fueron capacitados en esta temática en los años 2007–2008.
- ²⁸ Artículos 52 y 66 de la Constitución política de Nicaragua y Ley de acceso a la información pública, Ley N° 621 aprobada el 16 de mayo de 2007.
- ²⁹ Artículos 138, inciso 12, y 150, inciso 8, de la Constitución política de Nicaragua.
- ³⁰ Artículo 182 de la Constitución política de Nicaragua y sentencia ... de la Corte Centroamericana de Justicia.
- ³¹ El Pacto Internacional de Derechos Civiles y Políticos y sus dos Protocolos Facultativos; el Pacto Internacional de Derechos Económicos, Sociales y Culturales; la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes y su Protocolo Facultativo; la Convención Internacional sobre la Eliminación de todas las Formas de Discriminación Racial; la Convención sobre la eliminación de todas las formas de discriminación contra la mujer y su Protocolo Facultativo; la Convención sobre los Derechos del Niño y sus dos Protocolos Facultativos contra las desapariciones forzadas (?).
- ³² Convención para la prevención y sanción del delito de genocidio. Convención sobre el Estatuto de los Refugiados. Protocolo sobre el Estatuto de los Refugiados. Convención Internacional sobre la Eliminación de todas las Formas de Discriminación Racial. Pacto Internacional de Derechos Económicos, Sociales y Culturales. Pacto Internacional de Derechos Civiles y Políticos. Protocolo Facultativo del Pacto Internacional de Derechos Civiles y Políticos. Convención sobre la imprescriptibilidad de los crímenes de guerra y de los crímenes de lesa humanidad. Convención Internacional sobre la Represión y el Castigo del Crimen del *Apartheid*. Convención sobre la

eliminación de todas las formas de discriminación contra la mujer (CEDAW). Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos y Degradantes. Convención sobre los Derechos del Niño. Convención internacional sobre la protección de los derechos de todos los trabajadores migratorios y de sus familiares. Acuerdo para el establecimiento de un Fondo para el desarrollo de las poblaciones indígenas de América Latina y El Caribe. Enmienda al artículo 43 2) de la Convención sobre los Derechos del Niño. Protocolo Facultativo de la Convención sobre los Derechos del Niño relativo a la participación de los niños en conflictos armados. Protocolo Facultativo a la Convención sobre los Derechos del Niño relativo a la venta de niños, la prostitución y la utilización de niños en la pornografía. Convención Interamericana sobre Concesión de los Derechos Políticos de la Mujer. Convención Interamericana sobre Concesión de los Derechos Civiles de la Mujer. Convención Americana sobre los Derechos Humanos (Pacto de San José) * Convención sobre Defensa del Patrimonio Histórico y Artístico de las Naciones Americanas (Convención de San Salvador). Convención Interamericana sobre Restitución Internacional de Menores. Protocolo a la Convención Americana sobre Derechos Humanos relativos a la Abolición de la Pena de Muerte. Convención Interamericana sobre Restitución Internacional de Menores. Protocolo a la Convención Americana sobre Derechos Humanos relativos a la Abolición de la Pena de Muerte. Convención interamericana para prevenir, sancionar y erradicar la violencia contra de la mujer. Convención sobre Tráfico Internacional de Menores. Convención Interamericana para la Eliminación de Todas las Formas de Discriminación contra las Personas con Discapacidad. Tratado Marco de Seguridad Democrática Centroamericana. Convención sobre asilo político.

³³ Ver nota 9.

³⁴ Leyes Nos. 641, 501 y 350.

³⁵ Ley N° 641 aprobada el 16 noviembre de 2007.

³⁶ Artículo 564 del CP y 226 del CPP.

³⁷ Acuerdo Nacional citado.

³⁸ Hay un acercamiento entre la justicia y las comunidades. El juez local se humaniza y se traduce en una mejor comunicación entre los diferentes integrantes del sistema de justicia: Procuraduría General de la República, Fiscalía, Defensoría Pública, poder judicial, gobiernos municipales, Iglesias católicas y evangélicas y la sociedad. En las comunidades hay 1.662 facilitadores dándole cobertura a 133 municipios. En los años 2007 y 2008 se dio asesoramiento a 142.262 personas. Hubo 20.557 mediaciones.

³⁹ Ley N° 473, Ley del régimen penitenciario y ejecución de la penal.

⁴⁰ Dirección General del Sistema Penitenciario Nacional-Capacidad instalada Sistema Penitenciario Nacional (SPN).

Centros penales	Capacidad instalada	Población penal física	Sobrepoblación penitenciaria	
			Diferencia	Porcentaje
Esteli	498	565	67	13.45
Chinandega	603	783	180	29.85
Tipitapa	1 908	2 041	133	6.90
Veracruz	152	115	-37	-24.35
Granada	469	806	337	71.85
Juigalpa	555	800	245	44.00
Matagalpa	497	742	245	49.29
Bluefields	60	100	40	66.66
Total	4 742	5 952	1 210	25.51

⁴¹ Ley N° 228 – Ley de la policía nacional, *La Gaceta* N° 162, de 28 de agosto de 1996.

⁴² Instrumento internacional que fue suscrito el 20 de noviembre de 1989 aprobado el 19 de abril de 1990 y luego ratificado en el mes de octubre del mismo año.

⁴³ Artículo 71, párr. 2, de la Constitución política de Nicaragua.

⁴⁴ Ley N° 287 publicada en *La Gaceta* N° 97, de 27 mayo de 1998.

⁴⁵ Ley N° 655 la cual fue aprobada el 3 de junio de 2008, publicada en *La Gaceta* N° 130, de 9 de julio de 2008.

⁴⁶ En el Plan Operativo Global de 2009-2010 lo que se persigue es un modelo de justicia juvenil restaurativa y la prevención de la violencia urbanajuvenil fortaleciendo y promoviendo las medidas alternativas de la privación de libertad.

⁴⁷ Plan operativo global.

⁴⁸ Las causas sentenciadas en los juzgados de adolescentes en 2005: en 4.510; en 2006: 3.506; correspondiendo el 89% al sexo masculino y el 11% al sexo femenino. El 76% de los adolescentes se encuentran en el rango de edad de 16 a 18 años no cumplidos (3.424) y el 24% (1.072) en el rango de 13 y 15 años cumplidos.

⁴⁹ Artículo 93 de la Constitución política de Nicaragua: El ejército de Nicaragua es una institución nacional de carácter profesional apartidista, apolítica, obediente y no deliberante. Los miembros del ejército deberán recibir capacitación cívica y en materia de derechos humanos.

⁵⁰ **Operaciones y actividades operativas realizadas**

<i>Actividades operativas</i>	<i>144 911</i>	<i>4 144</i>	<i>149 055</i>
Personas vinculadas en las actividades ilegales			
Focos de delincuentes desarticulados	1	0	1
Delincuentes capturados	258	17	275
Delincuentes muertos	0	8	8
Inmigrantes capturados	104	2	106
Narcotraficantes capturados	38	14	52
Personas capturadas en pesca ilegal	56	0	56
Armas y pertrechos capturados e incautados			
Armas restringidas	194	10	204
Armas de uso civil	87	4	91
Municiones, explosivos, etc.	4 510	542	5 052
Estupefacientes			
Cocaína (kilogramos)	7 436.02	18.34	7 454.36
Heroína (kilogramos)	3.21	0	3.21
Crack (piedras)	735	0	735.00
Marihuana (libras)	279.73	0	279.73
Marihuana (gramos)	7 682.06	0	7 682.06
Marihuana (plantas)	157	1 197	1 354.00
Medios capturados por actividades ilegales			
Vehículos	2	7	9
Medios navales del narcotráfico	16	1	17
Medios navales de pesca ilegal	82	0	82
Otros			
Semovientes recuperados	873	0	873
Madera (pies tablar)	186 842	0	186 842
Madera (piezas)	1 151	0	1 151
Madera (tucas, trozas)	1 027	0	1 027
Embarcaciones rescatadas	12	0	12
Personas rescatadas	69	0	69

- ⁵¹ Artículo 488 del Código Penal, Ley N° 641, publicada en *La Gaceta*, Nos. 83, 84, 85, 86 y 87, del 5, 6, 7, 8 y 9 de mayo de 2008.
- ⁵² Artículo 34, incisos 11 y 36, de la Constitución política de Nicaragua.
- ⁵³ “Toda persona tiene derecho a que se respete su integridad física, psíquica y moral. Nadie será sometido a torturas, procedimientos, penas ni a tratos crueles, inhumanos o degradantes. La violación de este derecho constituye delito y será penado por la ley.”
- ⁵⁴ Artículo 486: A la autoridad, funcionario o empleado público que realice alguna de las conductas descritas en el párrafo anterior se le impondrá, además de la pena de prisión, la de inhabilitación absoluta de 8 a 12 años. La autoridad, funcionario o empleado público que no impida la comisión de alguno de los hechos tipificados en los párrafos anteriores, cuando tenga conocimiento y competencia para ello, será sancionado con pena de cinco a siete años de prisión e inhabilitación especial para ejercer el empleo o cargo público de cinco a nueve años. La misma pena se impondrá a la autoridad, funcionario o empleado público que, teniendo conocimiento de la comisión de alguno de los hechos señalados en los párrafos anteriores y careciendo de competencia, omita denunciar el hecho ante la autoridad competente dentro de las 48 horas siguientes, a partir del momento en que los conoció.
- ⁵⁵ Artículo 191 del Código Procesal Penal.
- ⁵⁶ Ley de acceso a la información pública; Ley N° 621, aprobada el 16 de mayo de 2007 y publicada en *La Gaceta* N° 118, de 22 de junio de 2007.
- ⁵⁷ Ley de acceso a la información pública; Ley N° 621, aprobada el 16 de mayo de 2007 y publicada en *La Gaceta* N° 118, de 22 de junio de 2007.
- ⁵⁸ “Toda persona, sin discriminación alguna, tiene derecho a solicitar y recibir datos, registros y todo tipo de información pública en forma completa, adecuada y oportuna de parte de todas las entidades sometidas al imperio de la presente ley, salvo las excepciones previstas como información reservada.”
- ⁵⁹ “Toda la información existente en posesión de las entidades señaladas tendrá carácter público y será de libre acceso a la población, salvo las excepciones previstas en la presente ley.”
- ⁶⁰ “La información pública deberá proveérsele también en las distintas lenguas existentes en la costa atlántica de nuestro país.” Principio de participación ciudadana.
- ⁶¹ A tales fines, los ciudadanos podrán directamente o a través de cualquier medio, solicitar la información que requieran para presentar propuestas y formular opiniones sobre la gestión pública del país.
- ⁶² “Las entidades ... están en el deber de exponer y someter al escrutinio de los ciudadanos la información relativa a la gestión pública y al manejo de los recursos públicos”...
- ⁶³ Que implica su manejo completo, integral y veraz.
- ⁶⁴ Garantiza que la autoridad, al catalogar determinada información como de acceso restringido, fundamente y motive los siguientes elementos: a) la información se encuentra prevista en alguno de los supuestos de excepción previstos en la propia ley; b) la liberación de la información puede amenazar efectivamente el interés público protegido por la ley; c) el daño que puede producirse con la liberación de la información es mayor que el interés público de conocer la información de relevancia.
- ⁶⁵ Artículo 4, Ley de acceso a la información pública y artículo 26, inciso 4, de la Constitución política de Nicaragua.
- ⁶⁶ Se entiende por datos sensibles los datos personales que revelan origen racial y étnico, opiniones políticas, convicciones religiosas, filosóficas o morales, afiliaciones políticas, sindicales e información referente a la salud física y psicológica o a la vida íntima de las personas, en cualquier formato en el que se generen o almacenen.
- ⁶⁷ Artículo 37, Ley acceso a información pública.
- ⁶⁸ **Conflictos resueltos**

<i>Período</i>	<i>Fincas resueltas</i>	<i>Beneficiarios directos</i>	<i>Impacto ampliado</i>
2007–2008	222	3 967	17 852
Septiembre de 2009	66	3 201	14 480
Total	288	7 168	32 332

Conflictos de propiedades en el interior de país, heredados y propiciados por el desorden institucionalizado que otorgó diversos títulos sobre una misma propiedad generando violencia y

pérdida de vidas de campesinos involucrados en los mismos. En la actualidad, con la solución gradual de esos conflictos se ha reducido drásticamente la inseguridad en las zonas rurales de nuestro país.

⁶⁹ **Títulos entregados por el Gobierno de Reconciliación y Unidad Nacional**

<i>Tipo de documentos</i>	<i>Emitidos por años</i>			<i>Total</i>
	<i>2007</i>	<i>2008</i>	<i>A septiembre de 2009</i>	
Títulos urbanos	1 628	3 906	4 098	9 632
Títulos rurales	2 748	5 759	3 845	12 352
Certificados de cumplimiento	1 609	2 132	3 201	6 942
Solvencias leyes Nos. 85, 86 y 88	2 919	7 558	7 703	18 180
Total	8 904	19 355	18 847	47 106

⁷⁰ El aumento de la tasa de analfabetismo en 16 años de gobiernos anteriores, la incultura en la prevención de enfermedades y las prácticas culturales inapropiadas en la explotación de los recursos naturales han contribuido a la transmisión generacional de la pobreza en el país. Por otra parte, las consecuencias de los abusos del modelo económico liberal profundizaron la concentración de riqueza, ampliando sostenidamente las brechas sociales y aumentando la pobreza en Nicaragua.

⁷¹ Los resultados han evidenciado que la calidad, intensidad y continuidad de las políticas públicas contenidas en las estrategias de reducción de la pobreza que fueron implementadas no fueron efectivas. La superficialidad, el enfoque asistencialista, la asignación limitada de recursos y la dispersión de los programas sociales fueron características recurrentes de las políticas gubernamentales que generaron alivio pero que no resolvieron el problema estructural de la pobreza en Nicaragua.

⁷² Que es un proceso de cambio en la calidad de vida del ser humano, sostenible, fomentando el desarrollo y protección de los recursos naturales y el medio ambiente, para garantizar el bienestar de las generaciones futuras.

⁷³ Que restaura los derechos ciudadanos con el poder ciudadano.

⁷⁴ Artículo 63 de la Constitución política de Nicaragua.

⁷⁵ Ley No. 693.

⁷⁶ “Que estos sean accesibles física, económica, social y culturalmente de forma oportuna y permanente asegurando la disponibilidad, estabilidad y suficiencia de los mismos a través del desarrollo y rectoría por parte del Estado, de políticas públicas vinculadas a la soberanía y seguridad alimentaria y nutricional para su implementación.”

⁷⁷ Más Educación: obedeció la medida incluida en el Acuerdo ministerial No. 017-2007, por el cual se eliminaban los cobros en las escuelas públicas. Si se seguía cobrando y privatizando la educación, menos estudiantes habrían venido a las escuelas y más analfabetas mayores de 15 años tendríamos en el futuro. A la política No. 1 Más Educación, correspondió pues la Campaña Nacional de Alfabetización de Martí a Fidel que redujo drásticamente el analfabetismo en Nicaragua entre 2007 y el primer semestre de 2009 del 22 al 3,58%.

⁷⁸ Mejor Educación: correspondió la Consulta Nacional del Currículo y la formulación y puesta en marcha del nuevo currículo durante 2007 y 2008. A esta Política corresponde también el nuevo Sistema de Formación y Capacitación del Magisterio y el nuevo perfil de las escuelas normales.

⁷⁹ Otra Educación corresponde el Programa pro valores. Los valores, el buen vivir y el buen convivir, como amalgama de los saberes y los conocimientos del nuevo currículo.

⁸⁰ Educación Participativa y Descentralizada: corresponden los Talleres de Evaluación, Programación y Capacitación Educativa (TEPCEs) realizados en los recién creados núcleos educativos, constituyéndose mensualmente en la más grande Asamblea de Educadores de América Latina. A esta política corresponde también la idea de un Plan Decenal de la Educación construido y administrado autónomamente desde los 153 municipios del país.

⁸¹ Todas las Educaciones obedecen la tarea y obstinada vocación del Ministerio de Educación por la articulación de “tantos vigores dispersos” expresada en los diferentes subsistemas educativos del país, en especial con el de la educación superior y con mayor urgencia aún con el del Sistema Educativo Autonómico Regional (SEAR) y la Educación Técnica Profesional.

⁸² Artículo 59 de la Constitución política de Nicaragua: “El Estado establecerá las condiciones básicas para su promoción, protección, recuperación y rehabilitación. Corresponde al Estado dirigir y organizar los programas, servicios y acciones de salud y promover la participación popular en defensa de la misma...”.

⁸³ Nuestras coberturas de inmunizaciones son superiores al 90% de niñas.

⁸⁴ La mortalidad materna son las defunciones de mujeres durante su embarazo, parto o en los 42 días posteriores al parto y por causas obstétricas y excluye las defunciones en ese período originadas por causas accidentales o incidentales; la mortalidad materna se expresa en relación a 100.000 nacidos vivos registrados. Para este logro se ha garantizado acceso de las mujeres del área rural a la atención de un parto seguro, funcionando 79 casas maternas para alojar a las mujeres con condiciones de atención segura del parto las 24 horas.

⁸⁵ Para ello se impulsan controles para la vigilancia y promoción del crecimiento y desarrollo en menores de 5 años, con coberturas en el menor de 1 año cercanas al 100%. Estos controles se utilizan para la inmunización infantil con 5 vacunas que previenen 11 enfermedades.

⁸⁶ Objetivos de Desarrollo del Milenio (ODM).

⁸⁷ Según estimaciones de la Organización Mundial de la Salud (OMS).

⁸⁸ Artículo 80 de la Constitución política de Nicaragua.

⁸⁹ Artículo 23, incisos 1, 2, 3 y 4 de la Declaración Universal de Derechos Humanos.

⁹⁰ Aprobada en 1979 por la Asamblea General de las Naciones Unidas y ratificada por el Gobierno de Nicaragua el 10 de agosto de 1981.

⁹¹ Artículo 5, párrafos 3, 180, 181 de la Constitución política de Nicaragua.

⁹² Titulación de territorios indígenas

<i>Territorios titulados</i>	<i>2007</i>		<i>2008</i>		<i>Junio de 2009</i>		
9	5		2		2		
Territorios titulados	RAAN	RAAS	Altos Coco	Bocay	Extensión territorial (kilómetros cuadrados)	Número comunidades	Población beneficiada
9	4	1		4	10 210.68	121	53 580 habitantes

⁹³ 19 de septiembre de 2008, Ley No. 664.

⁹⁴ Ley No. 618 que garantiza la protección de la población trabajadora en materia de higiene y seguridad del trabajo.

⁹⁵ Nicaragua registra según la Encuesta Nacional del Trabajo Infantil de 2005 a 239.000 niños, niñas y adolescentes entre 5 a 17 años en actividades laborales. En relación a las acciones destinadas a la erradicación del trabajo infantil tenemos que desde 2007 a la fecha se han venido promoviendo desde la CNEPTI (ver anexo 11) la firma de acuerdos y compromisos con productores agrícolas (café y tabaco) así como con los sectores de energía, minas y la pesca con la finalidad de implementar medidas conjuntas para erradicar el trabajo infantil, con énfasis en las peores formas, teniendo una excepcional experiencia en el “Plan Cosecha” llevado a efecto hasta ahora en 32 haciendas cafetaleras en Jinotega para lograr el retiro de niños y niñas de las actividades laborales del café y restituir sus derechos fundamentales de estudio, diversión, alimentación y otros, contando para tal efecto con el apoyo de OIT-IPEC, UNICEF y Save the Children entre otros organismos, brindándoles otras oportunidades educativorecreativas, servicios de salud básica a través de los Ministerios de Educación y Salud, beneficiando con el retiro del trabajo a 1.040 niños y niñas.

⁹⁶ Sumado al incremento en un 50% en la cobertura del servicio público de empleo automatizado (Granada, León, Rivas y Managua) lográndose un incremento del ciento por ciento de personas colocadas a junio de 2009 con relación a diciembre de 2008.

⁹⁷ Los principios fundamentales en seguridad social son: a) universalidad, a través de la protección que se brinda a todas las personas sin ninguna discriminación y en todas las etapas de la vida; b) solidaridad, protegiendo a los menos favorecidos con base a la participación de todos los contribuyentes al sistema; c) equidad, igualdad de oportunidades, de accesibilidad, de trato y de garantía de prestaciones; y d) integralidad, garantizando la cobertura de todas las necesidades de previsión amparadas dentro del sistema. Los desafíos de la seguridad social son: i) alcanzar una cobertura durante el período 2008-2012 de más del 35% de la población económicamente activa volviendo efectivos los derechos de más trabajadores; ii) fortalecer la atención médica de los

- asegurados y sus beneficiarios en las clínicas provisionales tanto públicas como privadas eliminando las exclusiones tanto de patologías como de fármacos; iii) incrementar las reservas institucionales, diversificando las inversiones y obteniendo mejores tasas de interés en el mercado financiero; iv) mejorar los niveles de recuperación de cartera corriente y morosa; v) disminuir hasta 60 el número de días para liquidar una pensión; y vi) ejecutar un estricto control de los gastos institucionales incentivando el ahorro de los recursos.
- ⁹⁸ “Es obligación del Estado la preservación, conservación y rescate del medio ambiente y los recursos naturales.”
- ⁹⁹ Un país que trabaja en armonía entre el ser humano y la naturaleza, que defiende el medio ambiente ante el cambio climático acelerado por el calentamiento global y que impulsa una visión integral entre el quehacer humano con la preservación de la naturaleza.
- ¹⁰⁰ Rescate y promoción de la cultura y valores. Un pueblo con identidad es un pueblo libre que sabe defender y reclamar sus derechos. Un pueblo culto es un pueblo que toma conciencia de su identidad y tiene mayor capacidad para defender su cultura y sus valores.
- ¹⁰¹ Establecido en el Decreto presidencial N° 90-200, publicado en *La Gaceta, Diario Oficial* N° 04, de 7 de enero de 2002.
- ¹⁰² El Decreto N° 25-2001 publicado en *La Gaceta, Diario Oficial* N° 44, de 2 de marzo de 2001.
- ¹⁰³ Artículo 27 de la Constitución política de Nicaragua.
- ¹⁰⁴ Artículos 315 (materia laboral), 427 y 428 del Código Penal.
- ¹⁰⁵ Instituto Nicaragüense de la Mujer, 2007–2009.
- ¹⁰⁶ Ley N° 648 “que tiene como objeto promover la igualdad y equidad en el goce de los derechos humanos, civiles, políticos, económicos, sociales y culturales entre mujeres y hombres”.
- ¹⁰⁷ Que garantiza a las mujeres y a sus hijos/hijas la oportunidad de demandar con menos impedimentos el reconocimiento y la manutención.
- ¹⁰⁸ Artículo 8 de la Constitución política de Nicaragua.
- ¹⁰⁹ Artículos 180 y 181 de la Constitución política de Nicaragua.
- ¹¹⁰ Ley N° 445 de 23 de enero de 2003 publicado en *La Gaceta, Diario Oficial* N° 16.
- ¹¹¹ Ver artículo 60 de la Constitución política de Nicaragua. Para el desarrollo forestal se considera que el potencial agroforestal de Nicaragua es de alrededor de 72,8%; el 20,6% es agropecuario; el 43,9% son bosques y el 28,9% silvopasturas. Se estima que la participación del sector forestal en el PIB es de 1,3%. La velocidad de deforestación en el país es de 70.000 h por año entre 1948 y 2000. A este ritmo, dentro de 50 años se habrían terminado los bosques en Nicaragua. Ver Plan 24: la costa atlántica: el 46% del territorio nacional; el 72% del área forestal del país; el 95% de las cuencas hídricas drenan al Caribe; contiene el 70% de la producción pesquera; el 23% del área total agrícola; 60% de los recursos mineros. Además, la costa atlántica contiene 45.000 km de la plataforma continental con excelente potencial para la explotación de hidrocarburos y aproximadamente 700 km de costas en el mar Caribe.
- ¹¹² Los habitantes de las regiones autónomas han expresado que quieren ser autores de su propio destino, del progreso y la democracia nicaragüense, pero desde su propia identidad y desde las prioridades que propiamente han determinado para superar su estado de urgencia, sentimiento que ha sido expresado claramente en el Informe de Desarrollo Humano del Programa de las Naciones Unidas para el Desarrollo (PNUD) dedicado a la costa Caribe. En la primera etapa de la EDCC se planteó el esfuerzo de superar la situación de urgencia que provocó el huracán Félix. El Gobierno de Reconciliación y Unidad Nacional en acuerdo con los gobiernos autónomos de la costa Caribe han definido las bases de un modelo de desarrollo con equidad social.
- ¹¹³ Artículo 11 de la Ley de reforma y adición a la Ley N° 290, Ley de organización, competencia y procedimientos del poder ejecutivo, publicada en *La Gaceta* N° 20, de 29 de enero de 2007.
- ¹¹⁴ Ley N° 655, la cual fue aprobada el 3 de junio de 2008, publicada en *La Gaceta* N° 130, de 9 de julio de 2008.
- ¹¹⁵ Se firmó el Protocolo y se encuentra en proceso de ratificación. Se encuentra en proceso un proyecto de reforma a la Ley N° 202.