

**The Nicaraguan Federation of NGOs
Working with Children and Adolescents (CODENI)**

Universal Periodic Review

This report was produced by the Nicaraguan Federation of Non-Governmental Organizations Working with Children and Adolescents (CODENI), a coalition made up of 53 organizations that work to promote and defend the rights of Nicaraguan children. The information presented here corresponds to the 2005-2008 period, and it was obtained through a process of reviewing official statistics and studies and research conducted by independent organizations.

CODENI values the opportunity provided by the United Nations Human Rights Council to contribute to the Universal Periodic Review, and makes use of this occasion to highlight some of the inequities and disparities that limit children's ability to fully exercise and enjoy their rights.

The production of this report was guided by the main principles of the *Convention on the Rights of the Child* (CRC), the commitments that Nicaragua has made as a signatory-state of this Convention, and especially the political and moral commitments that member organizations of CODENI have made to Nicaragua's children and adolescents.

A. International Commitments made by the Nicaraguan Government

- In the past three decades, the Nicaraguan State has shown a strong willingness to sign international conventions and treaties. Nicaragua became a signatory nation of the Convention on the Rights of the Child (which it ratified in 1990) as well as its two facultative protocols. In addition, it has ratified the ILO's Conventions 138 and 182 related to child labor, the United Nations Standard Minimum Rules for the Administration of Justice (Beijing Rules), the United Nations Directives for Preventing Juvenile Delinquency (Riad Directives), and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

Recommendation

1. *The Nicaraguan State should fulfill its commitments and obligations derived from the CRC, and put the recommendations made by the Child Rights Committee at its 39th Session in 2005 into practice.*

B. Constitutional and Legal Framework

- In 2005, Nicaragua's Constitution (1987) was reformed. One of the most important reforms was recognition of the full validity of the *Convention on the Rights of the Child* as a national normative.
- The process of adapting legislation to the spirit of the Convention began in 1998, when the Child and Adolescent Code of Nicaragua entered into force. It was followed by promulgation of the Code and legislative reforms in different arenas. During the period covered by this report, the following legislation has been approved and reformed: the General Education Law was promulgated in 2005; the Adoption Law was reformed in 2007; the Responsible Paternity and Maternity Law was promulgated in 2007; and the Penal Code was passed in 2008, which incorporates sanctions for crimes that violate the physical and sexual integrity of children and adolescents.

- Nonetheless, there are still gaps in Nicaraguan legislation. The country's Family Code is not adapted to the postulates of the CRC; instead, it is regulated by the Civil Code, which dates from 1904.
- The promulgation of a new Civil Registry Law is still pending, which would help modernize the process of registering citizens by adapting it to the current social, cultural and legal context. This would help eliminate the barriers faced by thousands of Nicaraguan children and adolescents to fully exercising their right to a name and nationality.

Recommendation

2. *Approve the Family Code and the new Civil Registry Law as soon as possible. This includes approving the administrative and budgetary measures that will insure effective application of both of these statutes.*

C. The Relationship between Legislation and the Bodies that Monitor Human Rights

- One of the greatest obstacles to the full enjoyment of human rights is the lack of consistency between the commitments and obligations derived from the CRC and the political will to insure that they are fulfilled. The consequent result is that the interests of political parties and powerful groups often prevail over the interests of citizens.
- CODENI wishes to express its concern about the growing political polarization in Nicaragua, and the trend toward imposing an authoritarian and anti-democratic model of power. The questions raised about the results of the 2008 municipal elections, the constant restrictions on the right to freedom of association and expression, and the lack of political will to seek consensus are all examples of the lack of independence of state powers and their subordination to partisan interests, and the fragility of the institutions charged with guaranteeing citizen rights. All of these are unequivocal signs of the deterioration of human rights in Nicaragua.
- The Ombudsman's Office on Human Rights lacks autonomy, independence and impartiality, as well as a sufficient budget for fulfilling its mandate. This poses a huge obstacle to safeguarding the human rights of Nicaraguan children, and investigating and sanctioning any violation of these.

Recommendations

3. *As the guarantor of human rights, the State should initiate a dialogue with different sectors in Nicaragua that addresses the range of citizen demands and proposals.*
4. *Legitimacy and independence should be returned to the Ombudsman's Office on Human Rights through appointing new authorities. These should be selected from candidates recommended both by the State and by Civil Society organizations. They should be chosen by independent professionals with proven track records and the pertinent personal and technical qualities.*

D. Public Policy Measures

- Nicaragua has adopted numerous policies, strategies and national plans related to children's rights, the most important of which are the National Policy on Comprehensive Care for Children and Adolescents and its National Plan of Action (2002-2011); the National Strategy to Progressively Eradicate Child Labor; the National Education Plan (2001-2015); and others that are no longer valid and were not duly implemented or evaluated.

- Although most of these instruments have been formulated in light of the CRC's principles, they have not turned out to be useful tools for advancing the fulfillment of child rights, mainly because: i) they have not been allocated the necessary and sufficient human, financial and material resources to insure their application (in 2008 and 2009, the budgets assigned to health, education and social protection have all been reduced); ii) the evident fragility of institutions responsible for guaranteeing rights due to changes of government and the failure to continue national efforts already underway; and iii) the absence of concrete goals related to children's rights.
- Beginning in 2007, the Executive branch terminated the functions of the National Council on the Comprehensive Care and Protection of Children (CONAPINA), which had been created through Law 351 to coordinate and monitor the national policy. Not only was this decision illegitimate; it also signified a reversal in terms of complying with the Child Code and international commitments derived from the CRC.
- The dismantling of CONAPINA also meant the closure of an arena where the State and civil society organizations working with children could reach agreement, and it also left the National Legal Aid System—as a mechanism for promoting, defending and restoring rights—unrealized.
- One of the greatest obstacles to effective planning and application of policies related to children is the fact that after more than ten years of having a Child Code in force, Nicaragua has still not developed a unified statistical system for monitoring children's rights, despite the support provided for this purpose by international cooperation agencies.

Recommendations

5. *The State should immediately reactivate CONAPINA, re-assigning it the faculties that are mandated by law, and allocating the necessary resources so that it can operate fully.*
6. *Define short, medium and long-term national goals for guaranteeing children's rights.*
7. *Legally establish a national information system on child rights, allocating the resources and assigning responsibility to institutions that are charged with insuring social policies, so that they can adapt their statistical systems and unify variables, indicators and the criteria used for analyzing/organizing information.*

E. Implementation of International and Human Rights Commitments

Equality and Non-Discrimination

- Nicaragua is a nation of profound social inequity. According to the World Bank, the poorest 20% of the population accounts for 6.3% of the nation's total consumption, while the wealthiest 20% accounts for 46.8%.
- Close to half of the population lives in poverty, and 15% in extreme poverty. Generalized poverty is greatest in the Central and Caribbean regions of the country, affecting six out of every ten inhabitants, and 70% of the inhabitants in rural zones.
- Added to this is the predominance of cultural and social practices centered on adult and male power, which give rise to different forms of discrimination and the exclusion of children and adolescents from the moment they are born. According to official estimates, 30% of all children do not possess an identity document, which places them at a complete social and legal disadvantage.
- Some of the main causes of discrimination include: socio-economic status, age, gender,

disability, race, ethnicity, and even parents' political affiliation. Discrimination mostly affects children and adolescents living in rural zones and in the most isolated communities of the Caribbean regions.

- A study conducted in 2005 revealed that close to half a million Nicaraguans are disabled, and 16% of disabled people are 6-18 years of age. Only 6% of the disabled population receives some type of care, and only 3% know that Law 202 protects their rights.

Recommendation

- 8. Harmonize economic and social policies, to help insure fulfillment of the principle of the best interests of the child, and of the specific recommendation made by the Committee on Child Rights with respect to investing in children as specified in Article 4 of the CRC.***

The Right to Freedom, Integrity and Security

- According to the 2006/07 LSMS (ENDESA 2006/07), the average rate of infant mortality is 29 per 1,000 live births, which means that this indicator has improved slightly. However, it remains high in the Caribbean Coast regions where it reaches 43 per 1,000.
- A child's right to life and integrity is constantly threatened by the abuse of adult power. Between 2005 and 2008, the Nicaraguan Center for Human Rights (CENIDH) received information about the deaths of five adolescents between 16-18 years of age, attributed to the National Police. The police have also been accused of arbitrary arrests and mistreatment.
- In recent years, there has been an alarming rise in complaints of malpractice and medical negligence in public hospitals and social security clinics that has led to the deaths and serious injury of children and adolescents. However, authorities have failed to undertake conclusive investigations or sanction those responsible for such acts.
- Nicaragua is extremely vulnerable to natural disasters. The greatest tragedy during this period was caused by Hurricane Felix, which left 214 deaths and more than 749 orphaned children and adolescents in its wake.
- Children and adolescents are mistreated by their relatives. A study conducted by Save the Children indicates that 54% report having been victims of at least one physical attack in their homes, and 14% report at least one sexual assault.
- Limited access to justice is expressed in inefficiency and serious delays in court procedures. A recent "*Analysis of judicial sentences related to family violence and sexual violence...*" found that in 599 trials for sexual crimes against children and adolescents, only 28% of the aggressors were found guilty and more than half were absolved.
- In addition to its unconstitutionality, the total criminalization of therapeutic abortion is a serious attack on the right to the integrity, freedom, health and life of girls and adolescents who have become pregnant due to rape. These girls and young women are denied health care and are exposed to the multiple risks that early pregnancies pose to their physical and mental health and full development.

Recommendations

- 9. The Nicaraguan State should strengthen the institutions responsible for justice (the police, public prosecutor's offices, and the courts) so they fulfill their responsibility to prevent, attend to and sanction all forms of violence against children and adolescents, as specified in the Child and Adolescent Code and the Penal Code.***
- 10. Reform the Penal Code so that it includes the right of girls and adolescents who have***

been raped to receive protection, legal assistance and health care, including access to safe and legal therapeutic abortions.

The Right to an Adequate Standard of Living

- The right to be born and grow up in decent living conditions is the first step in building children's citizenship. In Nicaragua, thousands of children and adolescents living in the poorest areas do not enjoy such a right.
- Despite an important drop in fertility in recent years (3.2 in 2001 to 2.7 in 2006), Nicaragua's population grows every year by 80,000 people, which generates a higher demand for basic social services.
- Nicaragua has a deficit of half a million homes. In the more marginal neighborhoods of cities and in rural communities, thousands of children and adolescents live in precarious structures built in locations that are extremely vulnerable to natural disasters, and that lack access to basic services such as potable water.
- Although Nicaragua has adopted a food security law, insufficient resources are assigned to insuring that it is applied. The population living in 59 municipalities of the Pacific and Central regions and in the two autonomous Caribbean regions live in conditions of "extreme" and "very high" food insecurity.
- One out of every three children is chronically malnourished, and 9% are seriously malnourished. According to the FAO, four out of every ten children die due to causes linked to malnutrition. Information from the World Bank indicates that one out of every three children between 12 and 59 months of age is likely to suffer from anemia caused by iron deficiency. This affects psychomotor development and increases the risk of mortality.
- One out of every ten children is born with low birth weight, and 27.2% of school age children have moderate or severe stunting. The socio-economic situation of families tends to increase the risk of malnutrition in childhood. The children from the poorest families consume 200-300 fewer calories per day than they need to achieve normal development.
- As a result of the Expanded Program of Immunizations (EPI), all vaccination coverage has improved significantly. The Living Standards Measurement Survey (2005) reported that 77% of children had completed the vaccination program for their age group. However, the rates of preventable diseases such as diarrhea, dengue and respiratory infections continue to increase.
- A Nicaraguan child's right to health is limited by numerous factors, including the insufficient coverage and quality of health services, the inadequate allocation of resources to child health programs, the deterioration of health infrastructure, the lack of medicines, geographic barriers to access, and the lack of qualified human resources. All of these conditions impact most seriously on the population living in rural and isolated zones.
- Maternal Mortality has dropped slightly in recent years, from 139 (2003) to 117 per 100,000 live births in 2007. Nonetheless, Nicaragua still has the highest rate in Latin America and the Caribbean. Close to 40% of maternal deaths in rural zones are among girls and adolescents younger than 19 years of age, which is the age by which 20% of Nicaraguan females have become mothers.
- HIV incidence increased from 2.52 to 12 cases per 100,000 inhabitants between 2000 and 2008. Some 87% of registered cases are among 15-49 year olds. Three out of every ten are women. Approximately 4% of the new cases detected in 2008 are children who were infected by mother-child transmission.

Recommendations

- 11. Conduct a national study as soon as possible that will establish the baseline about needs derived from basic social policies, in order to define goals for the National Plan of Action for Children, and to better define investment needs.*
- 12. The state should commit itself to increasing investment, while also linking sector policies, strategies and programs in order to assure fulfillment of the universal right of all children and adolescents to receive basic social services.*

The Right to a Family

- Poverty in Nicaragua has a child's face. Seven out of every ten children and adolescents live in poor households, and four of them live in extreme poverty. This situation has tended to worsen with the world economic crisis that, according to Central Bank projections, will cause negative economic growth of at least 1-2%.
- Reduced public spending on health and education is hitting already weakened household economies very hard, since families must assume a range of additional costs for education (uniforms, school supplies) and for health care, such as purchasing medicines.
- The economic crisis has increased unemployment among adults, which affects families' purchasing power and increases migration. These phenomena are accompanied by other consequences: family disintegration, violence, and the labor exploitation of children and adolescents.
- Approximately 10% of Nicaraguans live outside of Nicaragua, which negatively impacts a child's right to family protection. Thousands of children and adolescents are being cared for by grandmothers, uncles and aunts, siblings and other people, often exposed to mistreatment and the violation of basic rights.
- Between 2006 and 2007, there were public complaints of corruption and irregularities in the adoptions of children and adolescents. However, these complaints were never sufficiently investigated or sanctioned.
- The Ministry of the Family is responsible for governing child protection policies. Its lack of resources and technical capacities, combined with the absence of a Family Code adapted to the spirit of the Convention, has led to an increase in the number of children living in internment centers (mostly private), which clearly violates the principle of the best interests of children, and consideration of the fact that children should only be separated from the family as a last resource.
- CODENI recognizes the "AMOR Program" initiative, designed with the intention of providing greater protection to children from the least favored sectors. However, it is also concerned about the fact that the program lacks resources for real and effective implementation. CODENI is also concerned about the Ministry of the Family's institutional weaknesses, not only in terms of its insufficient budget but also its frequent rotation of human resources. The current Minister is the fourth person to hold this post since January 2007.

Recommendation

- 13. The State should allocate sufficient financial, material and human resources to the Ministry of the Family, procuring greater stability and professionalism so that it can fulfill its functions as the institution responsible for social protection policies.*

The Right to an Education

- Although some progress has been made in education, it is unlikely that Nicaragua will achieve the goal of universal basic education by the year 2015. There have been improvements in school attendance rates; however, the educational system still suffers from significant deficits that affect thousands of children and adolescents.
- Some 38% of all children between 4-6 years of age attend preschool. This percentage is 80% among the wealthiest 20% of the population.
- According to the Ministry of Education, the primary school enrollment rate is 87.1%. However, data from INIDE indicate that more than 500,000 children and adolescents were not enrolled in the school system this year. This situation mostly affects households living in extreme poverty, whose main reasons for not sending children to school include the economic situation, distance from schools, and a lack of interest.
- The secondary school enrollment rate is 45%. Some 51% of non-poor youth between 16-18 years of age are studying. In contrast, only 15% of this age group from extremely poor households has access to secondary education.
- Education lacks quality and pertinence. The curricular changes initiated more than a decade ago have not been concretized, since each new government changes its functionaries and changes approaches, without continuing already initiated efforts. This reform, moreover, has not been accompanied by sufficient training for teaching personnel or the provision of school textbooks.
- There is a 10% grade repetition rate and 9% school dropout rate, which are key factors that interfere with successful advancement in school. Only 42% of the children who enroll in primary school complete the cycle on schedule. This indicator is 92% among children and adolescents from the wealthiest population quintile.
- Factors that reduce educational quality include: i) late entry into school (only 30% of children enter 1st grade at the right age); ii) high levels of empiricism among teaching personnel (40-50%); and iii) the lack of pertinence and flexibility of educational programs, which are not adapted to the needs and characteristics of children (rural children, working children).
- Adolescents have extremely limited access to technical training programs, and most such programs are concentrated in urban zones. In addition, technical education does not correspond to the real demands and characteristics of the labor market.

Recommendations

- 14. Double investments in education in a sustained manner, in order to achieve the goal of universal basic education. Place highest priority on educating children in rural areas and in the Caribbean Coast region.*
- 15. The State should carry out concrete efforts to generalize the new curriculum, provide more training and higher salaries to teaching personnel, and supply sufficient textbooks.*

The Right to Protection Against All Forms of Exploitation (economic, sexual).

- Having children work is a key strategy employed by poor families to help insure the family's sustenance. The survey on working children (ENTIA 2005) reported that 239,000 Nicaraguan girls and boys between 5-17 years of age work in some way, and that 36 out of every 100 of these child laborers are younger than the minimum legal age (14 years). Some 76% of these young people are working in the informal sector of the economy as

non-remunerated family laborers. Many of the activities carried out by these children are catalogued as the worst forms of child labor.

- According to this survey, the total number of working children went down by 5.5 percentage points in relation to the previous survey (2001). However, the number of working children is under registered, especially among girls, since domestic labor is not defined as “work.” The survey indicates that 60% of the child labor force works in the agriculture sector. Approximately 13% of child and adolescent workers have received no schooling.
- Despite efforts by the Labor Ministry to prevent and monitor child labor, its inspections are mainly concentrated in the formal sector, leaving children working in the informal sector completely defenseless.
- CODENI is very concerned about the issue of commercial sexual exploitation of children and adolescents. Although estimates indicate that it is a growing phenomenon, it nonetheless remains disguised and out of view, making it hard to address the problem in a comprehensive manner.
- In this respect, CODENI would like to highlight the recently achievement of including a sanction for human trafficking, commercial sexual exploitation and other connected crimes in the penal code. In addition, the Coalition against Human Trafficking was created as an arena where the State and civil society can link efforts to address this problem that directly violates children’s rights.
- According to data from the National Police, 21 complaints of human trafficking and sexual exploitation were processed in 2006, and close to half of the victims were 13-17 years of age. In the first half of 2005, the Ministry of the Family provided protection to 3,637 children and adolescents, 50% of whom were victims of sexual exploitation.

Recommendations

16. Reinforce efforts to create decent jobs for adults, in order to reduce the migration of heads of household and thereby reduce the risk of abandonment and neglect, and the consequent exploitation of girls and boys.

17. The State should fulfill its obligation to provide special protection against all forms of violence, and insure that victims have access to justice and the restitution of their rights, without discrimination of any sort. The necessary mechanisms should be created so that the justice system applies the corresponding sanctions to aggressors.

Specific Situations (indigenous peoples and ethnic communities)

- Nicaragua is a multiethnic, multicultural and multilingual nation. However, although the rights of indigenous peoples and ethnic communities of African descent are formally recognized in the Constitution and in the Autonomy Law, the citizen rights of children from these groups and communities are not fully protected. Information from the UNDP (2005) indicates that 72% of the municipalities in both autonomous regions have low human development indices (below 0.50). Seven out of every ten members of the Miskito ethnic group and almost half of those from the Rama ethnic group are poor.
- The decision by the Human Rights Ombudsman’s Office in 2005 to eliminate the Special Ombudsman’s Office on Indigenous Rights and to replace the indigenous person holding this position with three non-indigenous people, to whom a variety of new tasks were assigned, was a clear violation of these peoples’ rights.
- The maternal mortality rate among women living in the autonomous regions is 2.1 times

higher than in the rest of the country; infant mortality is 14 percentage points higher than the national average.

- Chronic malnutrition affects 33.7% of Miskito children, and overall malnutrition affects 12.8%. One hundred percent of Ramas suffer from chronic malnutrition.
- In the Pacific and Central regions, 24% of children and adolescents do not have access to growth and development control services. The disparity is so great that 100% of all Ramas and 55.7% of all Miskitos do not receive these services.
- Only 20% of the indigenous population has access to potable water, while this indicator is almost 80% for the non-indigenous population. Overcrowded living conditions affects 61.9% of Miskito families, in comparison to 38.1% of the rest of the population.
- The average distance that ethnic populations travel to health units is 8.8 km for Miskitos, 15.7 km for Mayagnas, and 22.5 km for Ramas, while the rest of the nation's population travels an average of 3 km.
- Although vaccination coverage has improved, the percentage of children and adolescents in the Caribbean region who have completed all of their vaccinations is 10 percentage points lower than the national average.
- Some 25% of indigenous children and adolescents between 7-14 years of age do not attend school. Education lacks cultural pertinence. Although the right of indigenous peoples, communities of African descent and other ethnic groups to be educated in their native languages is legally recognized, this right is not fulfilled. The intercultural bilingual education program has very low coverage, so children are obligated to study in schools where they are only taught in Spanish. This is a serious violation of their ancestral rights, and as a consequence the Rama language has all but disappeared.

Recommendations

18. The Nicaraguan State should adopt the necessary measures to insure restitution of the rights of children and adolescents from different indigenous and ethnic groups and of African descent, as mandated by the CRC, the Constitution of Nicaragua, and the Autonomy Law for the Caribbean Regions.

19. Sustained efforts should be made to insure the constitutional rights of these children and adolescents, and to guarantee full respect of their cultural identities, their customs and practices, and their forms of organization and participation.

Freedom of Association

- Erecting barriers or manipulating and exploiting children's participation are violations of their political rights, and a setback to the democratic process and the construction of children's citizenship. The prevalence of an adult-centered, patriarchal culture does not promote children's participation. A recent factor that is threatening the development of children's participation is the imposition of models and forms of citizen participation that only leave room for the participation of those who sympathize with the ruling political party. Children's participation is mainly promoted by civil society organizations, albeit to a limited extent since it is usually involves small groups of children and adolescents and is short-term in nature.
- The few achievements made with respect to children's participation in schools is being reverted, since a political agenda is being imposed on students, in clear violation of the stipulations of the General Education Law and the Child and Adolescent Code. Freedom of

expression and association are being threatened. In 2008, a group of students who staged a peaceful protest at the entrance of a state-owned television station were brutally attacked by employees of the TV station. Not only did those responsible go unprosecuted, but the adolescent victims were then accused of having instigated the attack. As a result of the contested results of the municipal elections in 2008, incidents in which pro-government groups have attacked adolescent protesters have occurred, and these acts have neither been investigated nor sanctioned.

Recommendation

20. The State should prevent the abuses committed by pro-government groups that limit freedom of expression, association and mobilization. Guarantees should be reestablished to protect child and adolescent association, as a form of citizen education.

Specialized Juvenile Justice

- There are large gaps, delays and weaknesses with respect to the application of a specialized juvenile justice system. Only half of the specialized penal courts that are required have been set up, as specified in the Child Code.
- The right to defense by adolescents who are accused of breaking the law is seriously limited, since the Interior Ministry's Legal Aid Office does not have enough public defenders with training in this area.
- The basic food and health needs of prison convicts are not met, due to the inadequate allocation of resources to the national penitentiary system. Adolescents are still being held in adult jails, since the two special detention centers for adolescents have not been built. In addition, there is a notable lack of up to date information about the juvenile criminal population and its situation, which indicates that appropriate monitoring of cases is not taking place.
- Abuse and mistreatment, crowding and the poor sanitary conditions of prisons signify serious violations of adolescent rights and judicial guarantees. In early 2009, the Supreme Court heard the case of thirteen adolescents incarcerated in the National Penitentiary who were brutally beaten by one of the prison guards.
- Some progress has been made in this respect, including the creation of the specialized Public Prosecutor's Office for Women, Children and Adolescents that has made processes run more smoothly. Also, the National Police has promoted the creation of crime prevention commissions whose members include adolescents. These have led to concrete results such as the dismantling of gangs and the social reinsertion of their members.

Recommendation

21. Redouble national efforts and seek technical and financial assistance from international cooperation agencies and specialized organizations to insure adequate application of the Adolescent Penal Justice Law.