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**COMMITTEE ON ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS**  
Pre-sessional working group  
26 – 30 November 2007

**NICARAGUA**

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**List of issues to be taken up in connection with the consideration of the combined second, third and fourth periodic reports of Nicaragua concerning the rights covered by article 1 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/NIC/4)**

**I. Follow up to recommendations of previous reports**

1. Please provide additional and updated information on the measures, legislative or other, which the State party has adopted to implement the suggestions and recommendations contained in the Committee's concluding observations on the initial report of the State party, in particular those measures adopted to guarantee security of tenure and property titles as well as on the implementation of a comprehensive housing policy<sup>1</sup>
2. Please indicate whether the State party adopted new measures and set up new mechanisms in order to reduce poverty in the State party. Has a timetable been

<sup>1</sup> See E/C.12/1993/14, para. 11.

established for achieving the objectives of the State party's National Development Plan?<sup>2</sup>

## **II. General framework within which the Covenant is implemented**

3. Please explain whether the rights enshrined in the Covenant can be directly applied and invoked in Nicaraguan courts, and provide examples, if any, of court decisions directly applying Covenant rights.
4. Please indicate to what extent the Covenant is incorporated in the State party's economic policies and practices on economic development and to what extent the Covenant is taken into consideration in the State party's bilateral and multilateral trade policies.
5. Please explain the reasons why the State party has not yet ratified International Labour Organization Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries.
6. Please provide information about the mechanisms that ensure adequate safeguards for the protection of economic, social and cultural rights, and in particular the rights to health, an adequate standard of living, to work and to favourable conditions of work, of the most marginalized and disadvantaged individuals and groups, when the Government negotiates trade, investment and economic agreements, including the Central America Free Trade Agreement (CAFTA). Please provide information about the process of public consultation on such agreements and whether human rights impact assessments are conducted as part of the preparations for such negotiations.
7. Please indicate whether the State party has established a National Human Rights Institution in conformity with the Paris Principles. If so, does it have competences on issues relating to economic, social and cultural rights?

## **III ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (ARTS.1-5)**

### **Article 2, paragraph 2: Non-discrimination**

8. Please provide information on measures being taken or envisaged to address the reported economic and social marginalization of the indigenous populations of the Atlantic coast regions.
9. In its report submitted in 1995, the State party indicated that there was no indigenous population in the North and Central Pacific regions. Please provide

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<sup>2</sup> See E/C.12/NIC/4 para.25 and E/C.12/1993/14, para. 6.

information on the situation of the Chorotegas, Namuas, Maribius and Matagalpas who live in those regions.

10. Please inform why the new general law on the North and Central Pacific has not been to date adopted, despite having been submitted in 2005.
11. Please inform whether the State party is envisaging revising, in conformity with article 2, paragraph 2, of the Covenant, article 204 of the Penal Code which criminalizes not only gay men, lesbians and bisexual people but also permits the prosecution of persons for activities such as campaigning for LGBT rights or anyone providing sexual health information or services.
12. Please indicate whether the State party implemented or envisaged to implement a comprehensive strategy, including clear goals and timetables, to modify and eliminate negative cultural attitudes and practices and deep-rooted stereotypes that discriminate against women in the State party. Please also inform whether it has carried out awareness-raising campaigns aimed at the elimination of stereotypes associated with men's and women's traditional roles in the family and in society at large.
13. Please describe the measures adopted or foreseen to increase women's full and equal participation in public life and decision-making at all levels. Please inform whether the State party envisages implementing training programmes to support women in leadership and decision-making positions. If so, please provide concrete examples.
14. According to information received, women's rights are not fully incorporated into national legislation. Please inform on the measures that the State party is envisaging in order to fully incorporate women's rights in its national legislation. Please explain the role of the "Instituto Nicaraguense de la Mujer" in charge of ensuring gender mainstreaming in public policies. Please also inform whether the State party has adopted legislation on gender equality.
15. Please provide information on concrete outcomes of the State party's plans and programmes on gender equality, in particular the National Programme of Gender Equity.<sup>3</sup>

### **III. ISSUES RELATING TO THE SPECIFIC PROVISIONS OF THE COVENANT (ARTS. 6-15)**

#### **Article 6: The right to work**

16. Please provide information on whether effective measures are being undertaken to improve women's opportunities to move from informal to

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<sup>3</sup> See E/C.12/NIC/4, para.63.

formal sector employment, including through the provision of training and capacity building efforts.<sup>4</sup>

17. Please provide updated information and statistical data on unemployment, in particular regarding youth, adults and those on long-term unemployment.<sup>5</sup>

#### **Article 7: The right to just and favourable conditions of work**

18. Please provide detailed and updated information, including statistical data disaggregated by sex and age, on domestic workers in the State party, in particular on the legal norms regulating domestic work, and specifically whether domestic workers enjoy the same rights as other workers, including the maximum working day, rest days and the minimum wage as well as on oversight mechanisms and the frequency of labour inspections in this sector.
19. Please provide information on the working conditions of agricultural workers, including migrant workers, and indicate what effective measures have been taken by the State party to improve the precarious working conditions in this sector. Please also indicate whether labour inspections are regularly carried out in this sector.
20. Please provide further information on the measures taken by the State party to ensure the enjoyment of the right of women workers to exercise their right to lactation.<sup>6</sup>
21. According to information received, there is a lack of salary policy according to the needs and working conditions of workers in the State party. Please inform the Committee whether the State party is envisaging the adoption of a policy on fair wages and equal remuneration for work of equal value.
22. Please provide information on the working conditions in Export Processing Zones (EPZs - *maquilas* in Spanish) in respect of minimum wages, right to association, right to social security as well as the existence of black lists.

#### **Article 8: The right to form and join trade unions**

23. Please comment on reports that the right to strike is restricted by the fact that it would take about six months for a union to go through the entire process in order to be permitted to hold a legal strike.

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<sup>4</sup> See E/C.12/NIC/4, para.172.

<sup>5</sup> See E/C.12/NIC/4, para. 166.

<sup>6</sup> See E/C.12/NIC/4, para.54.

24. According to information received, workers wishing to form a union are frequently fired. Please explain what measures the State party is taking to put an end to such practices.

### **Article 9: Social security**

25. Please explain the reasons why the State party has not yet ratified the Social Security (Minimum Standards) Convention (No. 102), the Convention concerning Basic Aims and Standards of Social Policy (No. 117) and the Convention concerning Equality of Treatment (Social Security) (No. 118) of the International Labour Organization.
26. Please provide disaggregated data, on an annual basis, on the minimum levels of unemployment, pension, disability and other social security benefits and explain whether these benefits are sufficient to ensure an adequate standard of living.
27. Please specify which mechanisms are in place within the social security system in the State party to provide coverage of the main nine main branches of social security, that is, health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability, survivors and orphans.<sup>7</sup>
28. According to information received, only 19,5 per cent of employees hold some type of social security coverage and only 7,4 per cent in rural areas. Please explain what concrete measures are being taken to improve this situation.

### **Article 10: Protection and assistance for the family**

29. Please provide further information on the mandate, competences and scope of the *Comisarías de la Mujer y de la Niñez* which provide psychosocial and legal aid to victims of domestic violence. Please also indicate whether it receives and considers individual complaints from individuals. If so, please provide information on the number and nature of the complaints received and on the action taken.<sup>8</sup>
30. Please provide disaggregated statistical data on street children and precise and detailed information on the measures taken to combat these phenomena.
31. Please provide detailed information on legislative measures or others adopted to combat trafficking in children and their sexual exploitation in the State

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<sup>7</sup> See E/C.12/NIC/4, para.407.

<sup>8</sup> See E/C.12/NIC/4, para.31.

party, in particular in the border areas. Please indicate whether there is an up-to-date database showing the scale of this problem. Please state what measures have been taken to rehabilitate victims of sexual exploitation and specify the number of cases that have been brought for such charges, as well as the penalties imposed on the perpetrators of such offences.<sup>9</sup>

32. Please provide information on the legislative framework of trafficking in persons in the State party.
33. Please explain what specific measures are being taken to criminalize domestic violence (*violencia doméstica*) and to put an end to deaths as a result of domestic violence. Please explain how the *Comisaría de la Mujer y de la Niñez* contributes to preventing domestic violence in the State party.<sup>10</sup>
34. According to information received, legislation does not explicitly prohibit all forms of corporal punishment and corporal punishment is widely accepted in society. Please inform whether the State party is taking any measures to criminalize such practices.

#### **Article 11: The right to an adequate standard of living**

35. Please indicate measures that are being taken to achieve the Millennium Development Goals described in paragraph 988 of the State party report. Has a timetable been established to achieve the objectives referred to in the Strategic Plan for Drinking Water 2006-2015 in the National Development Plan?<sup>11</sup>
36. Please indicate the measures adopted to remedy the fact that more than two-thirds of Nicaraguans lived in overcrowded dwellings and more than three-quarters of the extremely poor lived in overcrowded conditions.
37. Please provide information on the outcome of the programme *Hambre Cero* and its impact on the indigenous communities of Rio Coco, Miskitas and Mayagnas<sup>12</sup>

#### **Article 12: The right to the highest attainable standard of physical and mental health**

38. Please provide information on an annual basis on positive measures, and their implementation, to enhance access for persons with disabilities to employment,

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<sup>9</sup> See E/C.12/NIC/4, para.567-571

<sup>10</sup> See E/C.12/NIC/4, para.70

<sup>11</sup> See E/C.12/NIC/4 para.955

<sup>12</sup> See E/C.12/NIC/4, para. 726-732

public buildings, adequate housing, counseling and psychological care and education.

39. Please provide detailed information on the outcome of the Supervising System of Maternal Mortality (*Sistema de Vigilancia de Mortalidad Materna*) at national level aimed at reducing maternal mortality.<sup>13</sup>
40. Please indicate whether the State party intends to amend its legislation to provide for exceptions to the general ban when the mother's life is in danger. Please also indicate what measures have been taken to inform the population on birth control methods and on the prevention of unwanted pregnancies in general.
41. Please provide updated information on the State party's National Health Service, including disaggregated statistical data on those covered by the system. Please also inform on measures taken to guarantee the effective access to health of the most marginalized and disadvantaged individuals and groups, including the indigenous population.
42. Please provide information on the preventive educational measures that are being taken to combat HIV/AIDS and to eliminate discrimination against persons with HIV/AIDS

#### **Articles 13 and 14: The right to education**

43. Please indicate progress towards the achievement of the education goals referred to in paragraph 1142 of the report, in particular regarding plans to eradicate illiteracy among the population.
44. Please provide further information on the educational system in the State party, including measures to ensure the access of the indigenous population from the Atlantic and North and Pacific regions to primary, secondary and university education.
45. Please indicate the percentage of the national budget devoted to education<sup>14</sup>

#### **Article 15: The right to culture and to benefit from scientific progress**

46. Please explain how the Bilingual Intercultural Education Programme (PEBI) has proved effective to combat discrimination based on language, culture or origin. Please further develop on the establishment of new schools for the bilingual population of the State party<sup>15</sup>

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<sup>13</sup> See E/C.12/NIC/4 para. 499.

<sup>14</sup> See E/C.12/NIC/4 para.1152.

<sup>15</sup> See E/C.12/NIC/4, para. 1130.