



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

Distr.: General  
1 October 2019  
English  
Original: Spanish  
English, French and Spanish only

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**Committee against Torture**

**Second periodic report submitted by Nicaragua  
under article 19 of the Convention, due in 2013\***

[Date received: 14 May 2019]

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\* The present document is being issued without formal editing.



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## Introduction

1. The State of Nicaragua, acting in accordance with article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, hereby submits its combined second and third periodic reports, corresponding to the period from 2008 to 2018.
2. In 2007, Nicaragua submitted its initial report to the Committee against Torture. Following its consideration of the report, the Committee issued a series of observations and recommendations regarding the various aspects of the Convention.
3. The present document is based on the compilation of guidelines on the form and content of reports to be submitted by States parties to the international human rights treaties. It provides information on new measures and new developments relating to the implementation of the Convention, as well as measures taken by the Nicaraguan State to take action on the conclusions and recommendations issued by the Committee during its consideration of the initial report.

## I. Information on new measures and new developments relating to the implementation of the Convention

### Article 2

#### New legislative, administrative and judicial measures to prevent torture

##### Legislative measures

###### *Act on Enforcement, Privileges and Judicial Oversight of Criminal Sanctions (No. 745)*

4. The Act on Enforcement, Privileges and Judicial Oversight of Criminal Sanctions (No. 745), which entered into force on 26 January 2011, regulates the oversight of criminal sanctions by judges, prison supervision and the monitoring of security measures, and establishes procedures for ancillary proceedings on matters of enforcement and prison supervision.
5. Article 3 of the above-mentioned Act strengthens existing provisions in our legal system that relate to the protection of human dignity and the human rights of persons deprived of their liberty, particularly protection against torture and ill-treatment, when it provides that “the State must guarantee the physical, moral and psychological integrity of convicted persons, who shall not be subjected to torture or to cruel, inhuman or degrading procedures, treatment or punishment”.
6. Also in relation to protection against torture and ill-treatment, article 26 of the Act provides that the prison authority must request approval from the Sentence Enforcement and Prison Supervision Court of any measure involving solitary confinement, placement in an individual cell or holding of a prisoner under a secure regime for longer than 48 hours. Such requests must be accompanied by details of the administratively imposed measure, a medical evaluation of the convicted person, the justification for the request and an indication of the exact duration of the measure.
7. Article 23 of this Act expands on one of the powers of the sentence enforcement and prison supervision judges, as set forth in article 407 of the Code of Criminal Procedure, by stipulating that those officials must visit places of deprivation of liberty at least twice a month to conduct inspections, engage in discussions or hold interviews, unimpeded by prison or police authorities. After each visit, they are required to draw up a report of their findings with the corrective measures to be taken.
8. The Act strengthens the powers of the Ombudsman for Prisons of the Office of the Human Rights Advocate, by providing that he or she must be informed of the following: reports of prison visits and the corrective measures ordered by sentence enforcement and prison supervision judges (art. 22); transfers of persons deprived of their liberty to hospitals or to psychiatric treatment units of the Ministry of Health (arts. 58 and 61); incidents of refusal to eat on the part of persons deprived of their liberty; and deaths of persons deprived

of their liberty while in prison, in a health-care facility or in the course of transfer to such a facility.

*New law to prevent and eliminate violence against women*

9. The Comprehensive Act on Combating Violence against Women and Amendments to Act No. 641 containing the Criminal Code (No. 779), entered into force on 22 June 2012. It is a special, stand-alone law that represents major progress in dealing comprehensively with the phenomenon of gender-based violence, which is recognized as a symptom of the discrimination and inequality experienced by women in relation to the power dynamics that exist in a patriarchal society, as well as a public health and public security problem.

10. The Act defines the various forms of violence against women and prescribes penalties for them. It establishes the offence of femicide and defines other behaviour as criminal, including the following: physical violence and psychological violence, which are autonomous in relation to the existing offence of domestic and family violence set forth in our Criminal Code; patrimonial and economic violence, in any of the six forms identified in article 13 of the Act; intimidation or threats against women; child abduction; violence in the workplace; and violence in the exercise of official functions committed against women.

11. On 5 July 2017, Act No. 952, entitled “Act amending Act No. 641, the Criminal Code of the Republic of Nicaragua, Act No. 779, Comprehensive Act on Combating Violence against Women and Amendments to Act No. 641 containing the Criminal Code, and Act No. 406 containing the Code of Criminal Procedure of the Republic of Nicaragua”, entered into effect. It stipulated harsher penalties for a series of offences related to violence against women, children and adolescents, such as femicide, rape of a child under the age of 14 years and aggravated rape.

*New act and disciplinary regulations of the National Police*

12. On 7 July 2014, the Act on the Organization, Functions, Career and Special Social Security Scheme of the National Police (No. 872), entered into force, superseding the previous legislation. It constitutes the new legal corpus that regulates the nature, mission, fundamental principles, organization and powers of the police institution of the State of Nicaragua.

13. It is important to note that article 5 of the Act includes respect for human rights among the institution’s doctrinal principles, by recognizing that human beings are the centre and *raison d’être* of police activity. Similarly, article 6 establishes the decent treatment of human beings as one of its principles of conduct. As a result, members of the police institution must protect and respect the life and physical and mental integrity of individuals, especially when they are being held in custody.

14. The new disciplinary regulations of the National Police, which are contained in Decree No. 51-2012, entered into force on 21 June 2013. Article 10 of the decree sets out the severe penalties that may be imposed on members of the National Police who engage, *inter alia*, in the excessive use of force or technique when carrying out arrests, or who “engage in cruel, inhuman, degrading or humiliating treatment of persons who are the object of their intervention, in their custody or under their protection”. Article 17 sets out the disciplinary sanctions that are applicable to very serious infractions, which include dishonourable discharge from the force.

*The Family Code*

15. The Family Code, which entered into force on 8 October 2015, governs the administrative, institutional, judicial and community processes, and strengthens the State institutional system, to protect the family rights recognized in our legal system.

16. Article 50 of the Family Code sets forth the State’s obligation to prevent, punish and eradicate domestic or family violence, for which purpose it stipulates that measures must be taken in the areas of education, awareness-raising, study and research to address this issue, and that psychosocial support, legal assistance and protection must be provided to victims by the institutions with competence in this area.

*Anti-Trafficking in Persons Act*

17. The Anti-Trafficking in Persons Act (No. 896), which entered into force on 25 February 2015, takes a human rights-based approach, recognizing in particular the right to physical and moral integrity and not to be subjected to torture or to cruel, inhuman or degrading procedures, treatment or punishment.

18. The purpose of the Act is to prevent and combat all forms and manifestations of trafficking in persons, with a particular focus on women, children and adolescents; to provide for reparation and comprehensive assistance to victims; and to establish rules for the effective punishment of this crime. Chapter IV of the Act sets out the rights of victims and measures for their protection, and chapter V regulates the reparation of damages to victims.

*Partial amendment of the Nicaraguan Constitution*

19. On 29 January 2014, the National Assembly approved a partial amendment of the Constitution. Two new paragraphs were added to article 34 of our Constitution, which enshrines the rights of accused persons to due process, effective protection and minimum guarantees. One of the paragraphs relates to victim protection and reparation and provides that “the State shall protect victims of crime and shall ensure reparation of the damages suffered. Victims are entitled to protection of their safety, physical and psychological well-being, and dignity and privacy, in conformity with the law”.

**Administrative measures***Administrative measures against corporal punishment in schools*

20. Pursuant to Ministerial Agreement No. 13-2009 issued on 13 April 2009, the Ministry of Education of Nicaragua took measures to give effect in public and private schools throughout the country to the provisions of national and international instruments on the prohibition of corporal punishment, or physical and humiliating punishment, of children and adolescents. These measures include awareness-raising and training activities for teachers, as well as the formulation of complaint, investigation and sanction procedures for acts of corporal punishment, abuse and/or ill-treatment committed by teaching or administrative staff of educational establishments.

*Designation of the Office of the Human Rights Advocate as the national mechanism for the prevention of torture*

21. By means of Presidential Decision No. 04-2012, which has been in effect since 18 January 2012, the Office of the Human Rights Advocate was designated as the national mechanism for the prevention of torture, “based on the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and United Nations document CAT/OP/5 containing guidelines on national preventive mechanisms”.

22. By assigning it this new function of conducting regular inspections of detention centres with the aim of preventing acts of torture and ill-treatment, the statutory powers of the national human rights institution of Nicaragua were expanded, with regard to inspecting, monitoring, protecting and safeguarding the human rights of persons deprived of their liberty.

*National Human Development Plan*

23. The Government of Reconciliation and National Unity has developed and implemented the National Human Development Plan as a tool for creating the necessary conditions for all Nicaraguans to fully realize their potential. The plan focuses on economic growth with a rise in employment and a reduction in poverty and inequality, as well as macroeconomic stability, sovereignty, security and integration, for the benefit of Nicaraguan families.

24. As one of the main drives of its preventive and proactive security strategy, the plan calls for continuing to strengthen the National Prison Service, as a whole, by improving the infrastructure of the country’s penal institutions and increasing their inmate capacity, and

by ensuring proper attention to prisoners through improved living conditions and reduced overcrowding. This, in turn, is aimed at facilitating prisoner rehabilitation through the enlistment of inmates in all types of educational programmes, community work and cultural and recreational activities, with a view to promoting their positive social reintegration and preventing recidivism.<sup>1</sup>

### **Judicial Measures**

#### *The establishment of new courts specialized in matters of violence and in family law*

25. Following the entry into force of the Comprehensive Act on Violence against Women and on Amendments to Act No. 641 containing the Criminal Code (No. 779), district courts specialized in matters of violence, composed of a male or female judge with a specialization in this field, were established in Nicaragua. The Act stipulates that there must be at least one such district court in each departmental capital and in each capital of the autonomous regions of the Caribbean coast. In addition, a specialized division on violence was set up within the Managua Court of Appeal.

26. It is important to point out that the district courts specialized in matters of violence are staffed by an interdisciplinary team composed of at least one female psychologist and one female social worker, who are responsible for providing specialized assistance to victims.

27. The Family Code, which entered into force in 2015, introduced a specialized family law jurisdiction consisting of the following: district family courts; at second instance, the family law divisions of the courts of appeal; and, at the cassation level, the family law division of the Supreme Court.

28. Article 425 (q) of the Family Code provides that among the matters that may be heard by the specialized family courts is that of protection and the application of protective measures in response to all forms of domestic violence between spouses or cohabitants, or involving children, adolescents, older persons, pregnant women, persons with disabilities and adults declared as lacking legal capacity.

## **II. Information on action taken to implement the Committee's conclusions and recommendations**

### **Recommendation contained in paragraph 10 (CAT/C/NIC/CO/1)**

29. In this recommendation, the Committee states that the State party should adopt a definition of torture fully in line with article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and ensure that this definition covers all the elements of torture.

30. However, an analysis of the definition of torture contained in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the definition contained in the Criminal Code of the Republic of Nicaragua shows the latter definition to be broader in scope than the one in the Convention for the following reasons:

(a) The Criminal Code is not specific in terms of who may be considered a perpetrator of torture, meaning that it can be any person who performs such an act, not only public officials or other persons acting in an official capacity;

(b) The Criminal Code stipulates that responsibility may be attributed not only to anyone who carries out torture directly but also to anyone who does not prevent it and anyone who, having knowledge of the commission of an act of torture and lacking authority to halt it, fails to report it;

(c) The definition set out in the Criminal Code reproduces not only elements embodied in the Convention against Torture and Other Cruel, Inhuman or Degrading

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<sup>1</sup> National Human Development Plan 2012–2016, component III. 5 “Public safety and efforts to combat drug trafficking and organized crime”, p. 58.

Treatment or Punishment but also elements of the definition of torture set out in the Inter-American Convention to Prevent and Punish Torture, since both specify that an act of torture may be understood to have been committed for the purpose of criminal investigation, as a means of intimidation, as personal punishment, as a preventive measure, as a penalty, or for any other purpose;

(d) Thus, the recommendation to adopt a definition of torture in line with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment can ultimately be seen as an indication that the definition included in the Criminal Code of Nicaragua does not mention offences committed at the instigation of, or with the consent or acquiescence of a public official;

(e) In that regard, part II, sole chapter, articles 41 and 43 of the Criminal Code of Nicaragua not only contain provisions relating to the direct commission of the offence but also regulate the degree of participation in it, providing for the criminal responsibility of the participants, defining them as instigators, necessary cooperators or accomplices – instigators being considered persons who directly instigate another person or persons to carry out the act;

(f) The foregoing demonstrates that the definition of torture set out in the Nicaraguan Criminal Code does not refer to the commission of the offence at another person's instigation, or with his or her consent or acquiescence, since this is covered by the degrees of participation in the offence, which applies to those responsible for offences (*delitos*) and minor offences (*faltas*); this includes the offence of torture; likewise, it should be noted that the definition contained in the Criminal Code provides that responsibility may be attributed to persons who fail to prevent this offence, meaning persons who permit it;

(g) It is therefore possible to assert that our Criminal Code contains a definition of torture that is fully in line with that of article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and whose scope is, furthermore, and as noted previously, broader in scope, since it is to be read in the light of the perpetrator's degree of participation in the offences and minor offences in question; moreover, it embodies elements of the definition of torture set out in the Inter-American Convention to Prevent and Punish Torture.

### **Recommendation contained in paragraph 11 (CAT/C/NIC/CO/1)**

31. During the period from 2008 to 2018, the institutions that comprise the criminal justice system ensured that persons lodging complaints (reports) of torture or other cruel, inhuman or degrading treatment were granted access to justice, with the aim of punishing the persons responsible and preventing and avoiding impunity for the commission of those acts.

32. The organs of the criminal justice system of Nicaragua are as follows: the National Police, the Public Prosecution Service, the Judicial Branch and the Ministry of the Interior.

33. The data requested in this recommendation, arranged according to institution, are included below.

34. The National Police, through the Internal Affairs Directorate,<sup>2</sup> received a total of 30,299 complaints about the conduct and actions of members of the police force. Of these, 3,727 corresponded to disciplinary administrative infractions<sup>3</sup> related to human rights violations, accounting for 12.3 per cent of all complaints. A total of 2,322 complaints

<sup>2</sup> Act on the Organization, Functions, Career and Special Social Security Scheme of the National Police (No. 872), Art. 17: Specialized Functions, para. (21), Internal Affairs: This is the specialized body charged with considering and investigating complaints brought at their own initiative, by other authorities, by human rights organizations or by individuals, in relation to the conduct and actions of police officers. Its findings are referred to the Inspector General or to the relevant supervisors for the determination of administrative responsibility and the application of sanctions, in accordance with the disciplinary regulations and other internal rules.

<sup>3</sup> Decree No. 51-2012, Disciplinary Regulations of the National Police. Published in the Official Journal of 21 December 2012. It sets out the disciplinary administrative infractions that may be committed by members of the National Police in the course of performing their duties.

related to the excessive use of force, 976 to the misuse of firearms and 429 to failure to respect physical integrity.

35. Of the 3,727 complaints related to human rights violations received, 3,687 were investigated as allegations of very serious infractions, while the remaining 40 complaints were transferred to the respective supervisors of the officials implicated, for the application of administrative sanctions, since they concerned serious or minor infractions.

36. Disciplinary responsibility was found in 1,470, or 40 per cent, of the 3,687 complaints investigated by the Internal Affairs Division, implicating 2,006 officials. With regard to the remaining 2,217 complaints, accounting for 60 per cent of the total, the disciplinary investigations concluded without findings of administrative responsibility.

37. The 1,470 complaints that resulted in findings of administrative responsibility fall into the following categories: excessive use of force: 835 (57 per cent); misuse of firearms: 445 (30 per cent); and failure to respect physical integrity: 190 (13 per cent). These complaints led to the application of the following disciplinary administrative sanctions: dismissal: 119; demotion in position: 17; drop in grade: 3; additional work hours: 27; and work restrictions: 1,840.

38. During the period from 2008 to 2017, the Public Prosecution Service registered no complaints of torture or cruel treatment associated with the actions of law enforcement officials. In 2018, five complaints, in which all the alleged victims were male, were investigated, but in none was sufficient evidence provided to support the allegations and hence there were no grounds for criminal action.

39. Criminal procedure in Nicaragua is governed by the accusatorial principle, which implies, among other things, that criminal proceedings can be initiated only when formal charges are filed by someone other than a judge. Formal charges may be filed by the Public Prosecution Service *ex officio* for publicly actionable offences or by the victim initiating action as a private prosecutor. During the reporting period, no formal charges were filed before the courts for torture or ill-treatment allegedly perpetrated by law enforcement officials.

40. Given that no judicial proceeding was brought against law enforcement officers on charges of torture, the Supreme Court did not issue any judgment or order any measures of reparation, rehabilitation or compensation in favour of the victims.

41. The Ministry of the Interior did not handle any complaint relating to torture. It investigated 195 complaints relating to alleged violations of prisoners' human rights (188 men and 7 women), which involved 203 prison officers, and established administrative responsibility in 5 cases, while dismissing 190 complaints due to insufficient evidence.

42. In the 5 confirmed cases, administrative responsibility was attributed to 13 public servants, and appropriate disciplinary measures were taken.

43. Type of infraction under the disciplinary regulations for prison staff:

- Violation of physical integrity: 88

44. Measures imposed on 13 public servants implicated in the 5 confirmed cases:

- 9 work restrictions in the unit
- 2 dismissals from the penal institution concerned
- 2 demotions in position

45. During the reporting period (from 2005 to 2018), the Office of the Human Rights Advocate handled a total of 39,402 complaints, of which 11,359 (28.82 per cent) were against members of the National Police and 925 (2.34 per cent) against officers of the National Prison Service. Of the total number of complaints received, only 4,466 related to persons deprived of their liberty; of these, 1,409 alleged violations of the right to integrity of the person by the National Police and 93 by officers of the National Prison Service.

46. In its investigation of the complaints, the Office of the Human Rights Advocate carried out various activities (on-site work, inter-institutional and multisectoral coordination, meetings, interviews, etc.), thereby providing restitution of the human rights violations reported by the complainants.



**Recommendation contained in paragraph 12 (CAT/C/NIC/CO/1)**

47. In Nicaragua, the operation of a system to inspect conditions of detention and treatment of persons deprived of their liberty in penal institutions, police stations or in any other place of detention is ensured. The Prisons Regulation and Sentence Enforcement Act (No. 473), the Act on Enforcement, Privileges and Judicial Oversight of Criminal Sanctions (No. 745), the Code of Criminal Procedure and other laws authorize enforcement judges to conduct regular inspections. Other bodies authorized to conduct visits are: the Office of the Human Rights Advocate, the Inspectorate of the Ministry of the Interior, the Inspectorate of the National Police, non-governmental organizations (NGOs) and international human rights organizations.

48. Regarding the above-mentioned recommendation to extend the mandate of the Ombudsman for Prisons, we wish to report that this recommendation is currently being implemented. First of all, pursuant to Act No. 212, the Ombudsman for Prisons can carry out inspections at detention facilities of the National Police and the National Prison Service, as well as at any public administration premises that may be of interest to his or her office, which means that he or she can inspect such facilities as hospitals, special protection centres and migrant holding centres.

49. Moreover, upon being designated as the national mechanism for the prevention of torture, and in keeping with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Office of the Human Rights Advocate was empowered to inspect detention centres considered to be non-traditional, given that article 4 of the Optional Protocol provides that the national preventive mechanism may visit any place “where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence”. Accordingly, the Office of the Human Rights Advocate, in its capacity as the national preventive mechanism, may undertake visits to police stations, prisons, special protection centres for children and adolescents, centres, units or hospitals providing psychosocial assistance, and military detention centres.

50. With regard to statistical data on the number of visits made, the complaints received and the outcomes thereof during the reporting period, we can report that periodic inspections of these centres have been carried out by the various bodies mentioned previously.

51. Over the course of the period 2008–2018, sentence enforcement and prison supervision judges conducted 2,575 visits to lockups at police stations around the country.

52. In connection with these visits, 1,947 complaints were registered with reference to the following: allotment of more time for visiting with family members, ensuring that prisoners receive food brought to them by family members, ensuring that prisoners receive medications provided by family members, transfers to health-care centres where necessary, allowance of one half an hour of sunlight each day, ensuring one mattress per person deprived of liberty and access to books or games for additional recreation.

53. The following corrective measures were taken: the length of time allowed for family prison visits was increased from 20 to 40 minutes; a register was set up to record deliveries of food from family members; a register was set up to record and supervise the dispensing of medications provided by family members, accompanied by the corresponding medical prescription; efforts were made to coordinate with health-care centres and hospitals to ensure free medical care and medicines to prisoners with health problems during their stay in police lockups; the chiefs of legal cooperation around the country were instructed to ensure that persons deprived of their liberty received at least one hour of sunlight every three days; a new building was constructed for the Legal Cooperation Directorate; police lockups in various parts of the country were refurbished, with mats being provided to improve prison conditions for detainees during their short stay there; and efforts were made to ensure that persons deprived of their liberty who wished to do so could participate in religious activities, such as Masses and other worship services.

54. The Office of the Human Rights Advocate conducted 1,800 inspections of National Police premises, during which it monitored physical conditions in lockups and the situation of detainees. It issued conclusions and recommendations on each of these visits with regard to the following: physical conditions, in particular hygienic and sanitary equipment

(Turkish baths), access to potable drinking water, overcrowding, medical care and/or transfers to hospitals during stays in holding cells, requests for non-custodial measures, visits by judicial authorities, access to conjugal visits and telephone calls, and transfers of convicted prisoners who are subject to precautionary measures to penal institutions in order to serve out their sentence.

55. During the reporting period, the National Police received 9 visits from international human rights bodies and 1,370 visits to, and inspections of, police lockups around the country from religious bodies (Catholic churches and evangelical denominations) and organizations committed to the defence of human rights.

56. With regard to the National Prison Service, a total 5,731 inspection visits were carried out by sentence enforcement and prison supervision judges. The following complaints were considered during these visits: failure to comply with release orders issued by judicial authorities, delay in evaluating conduct, failure to comply with progression to a more favourable level of custody, lack of access to medical care in a prison clinic, and application for specialized medical care in Ministry of Health hospitals.

57. The following administrative measures were taken in response to the complaints: immediate execution of release orders; verification of official requests for conduct assessment by the courts and compliance with the requests in accordance with established procedure, namely, completion within five days following receipt of the request; review of each of the claims made, with the finding that none was in compliance with the criterion set forth in the Prisons Act for progressing to the next level of custody; review carried out in conjunction with prison medical staff, with the finding that medical care was provided to the persons in question in a timely manner; review conducted of each of the cases put forward, with the conclusion that medical care in hospitals depends on previously scheduled appointments in relation to each specialization offered by the Ministry of Health.

58. During the reporting period, the Office of the Human Rights Advocate carried out 1,079 inspection visits of penal institutions in the country. The main complaints handled by the officials of the Office during these visits were as follows: failure to comply with release orders issued by a judicial authority; failure to submit conduct evaluation documentation to enforcement courts; failure to provide medical care in prison clinic; failure to honour specialist medical appointments made with health-care units of the Ministry of Health; failure to consider application for participation in work activities; failure to process proceedings on the appeal; delay in processing appeal in cassation; imposition of disciplinary sanction; and failure to provide notice to prisoner of his or her procedural status.

59. In accordance with established procedure for visits to penal institutions, following these visits, an outline of all the cases that were considered was presented to the authorities of the facility in question, and immediate corrective measures were taken in those cases that could be resolved at the facility level, such as measures relating to a lack of medical care. In the remaining cases, which could not be resolved immediately, such as those relating to prisoners' procedural status, the appropriate complaint was lodged with a view to its investigation and follow-up before the relevant bodies.

60. The National Prison Service received visits from the following national NGOs: 9 from the Standing Committee on Human Rights and 1 from the Asociación Nicaragüense Pro Derechos Humanos. In addition, 29 inspection visits from the following international bodies were conducted: 13 from the International Committee of the Red Cross, 2 from the Inter-American Commission on Human Rights, 1 from the Committee against Torture and 1 from the Office of the United Nations High Commissioner for Human Rights.

### **Recommendation contained in paragraph 13 (CAT/C/NIC/CO/1)**

61. Over the course of the period 2008–2018, 266 public defenders were appointed throughout the national territory, 14 between 2008 and 2009, and 252 between 2010 and 2018 (139 women and 113 men).

62. During the period 2008–2018, staff within the Public Defender Service took part in a total of 181 training courses, as follows:

- 6 induction courses were provided to a total of 202 public defenders, of whom 122 were women and 80 were men.
- 11 courses, workshops and encounters on good practices, were conducted internationally and provided to 39 women and 26 men.
- In the area of criminal law, 87 training courses were provided to 227 men and 140 women.
- In the area of family law, among other areas, 77 training courses were provided to 256 public defenders.

63. These training courses focused on the following topics: preparatory workshop on the accusation module for trainers; oral litigation under the new criminal procedure; preparation of curricula for public defender training; techniques in oral proceedings; round-table discussion on the new Criminal Code; accusation course; challenges in civil law matters; drug trafficking offences; the Responsible Parenthood Act; labour law; gender training; socioeconomic offences under the new Criminal Code; domestic violence seminar; citizenship-building; the Weapons Act; environmental offences; criminology course; preparatory workshop on the accusation module for trainers; induction course for public defenders; psychotropic and narcotic offences and minor offences; and expression of grievances in civil law matters.

64. Defenders were also trained in the following areas: human rights protection mechanisms; conference on procedural mediation under the new Code of Civil Procedure of Nicaragua; certification programme on the return of children and adolescents; video conference on civil procedural law, with emphasis on techniques in oral proceedings; workshop on information and communication technologies and their effects on the due diligence of States; postgraduate course in oral litigation under the Code of Civil Procedure of Nicaragua; online course on the protocol for interpreting laws on preventing and responding to gender-based violence in Nicaragua; and video conferences on the use of information and communication technologies in preventing the revictimization of victims of gender-based violence.

65. The following types of training were also provided: video conference on women victims and women perpetrators of patrimonial crimes; adoption and its inconsistencies; the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169); writing and spelling workshop; preparatory workshop on gender; meeting of public defender services of Costa Rica, Paraguay and Nicaragua to exchange experiences and good practices; regional workshop and seminar on public defence and human rights monitoring in detention centres; multidisciplinary exchange between justice officials on the implementation of restorative justice under restorative criminal procedure; training of justice officials in the justiciability of economic, social and cultural rights; international conference on criminality and the criminal justice system in Latin America and the Caribbean; workshop on restorative justice and dissemination of successful experiences in criminal law matters; guarantees of access to justice for persons deprived of their liberty; training workshop to design protocols for addressing the needs of women deprived of their liberty in Nicaragua; training workshop on the procedure of the Inter-American Court of Human Rights; and a training course for inter-American public defenders imparted to the inter-American public defender.

66. Among other measures taken to ensure the effective exercise of the right to a defence of persons deprived of their liberty, a special unit of public defenders, known as the sentence enforcement unit, was set up beginning in 2008. It is composed of five public defenders with offices in the Department of Managua. In the other departmental offices of the Public Defender Service, persons deprived of their liberty are defended by the criminal public defender.

67. In the interest of protecting the human rights of persons deprived of their liberty, in 2011, there was a drive to conclude agreements for the provision of support with human rights organizations, with the Roman Catholic Church through the organization Prison Fellowship, human rights NGOs and the Office of the Human Rights Advocate through the Special Ombudsman for Prisons. These efforts were carried out in a joint, coordinated fashion through prison visits, periodic working and evaluation meetings, as well as the

referral of specific cases to the Public Defender Service, with priority given to persons deprived of their liberty who were ill, elderly or whose human rights had been violated.

68. In August 2012, given the level of prison overcrowding, the National Inter-Institutional Commission of the Criminal Justice System issued a mandate for the formation of a special inter-agency commission to be coordinated by the Director of the Public Defender Service and composed of judges and sentence enforcement and prison supervision judges, representatives of the Public Prosecution Service, prison system directors and representatives of the National Police. Pursuant to the above, Administrative Circular No. 02-2012 was issued on 21 August 2012 to the coordination offices of the Public Defender Service around the country, in order to comply with the Commission's mandate and at the same time establish criteria to be used by persons deprived of their liberty for obtaining privileges. These include the following: (a) prisoners convicted for less serious offences; (b) first-time offenders who have received an assessment of good behaviour and the approval of the operational team.

69. The National Sentence Enforcement Unit was established beginning in 2014, and 27 public defenders were selected for the purpose of providing specialized and individualized support services to persons deprived of their liberty. The public defenders were given training that took into account the 100 Brasilia Regulations Regarding Access to Justice for Vulnerable People, which introduced a paradigm shift in serving this population, with the inclusion of a major social welfare component and a level of service characterized by its technical, multi-ethnic, intercultural, high-quality and friendly nature.

70. In terms of the actions taken to ensure better access to justice for this vulnerable segment of the population, the following results were obtained with assistance from international organizations:

- Adoption by the Public Defender Service of a regional guide for the public defence and comprehensive protection of persons deprived of their liberty.
- Preparation of a manual on monitoring human rights in detention centres by inter-American public defender services.
- Preparation of a procedural protocol for criminal enforcement public defenders in Nicaragua.
- Development of a model survey with a gender perspective on comprehensive attention to women deprived of their liberty.
- Preparation of a legal analysis sheet for persons deprived of their liberty.
- Preparation of a protocol on attention to women deprived of their liberty in Nicaragua.
- Issuance of Circular No. 001-2015 adopting the regional guide for the public defence and comprehensive protection of persons deprived of their liberty, together with its explanatory manual.
- Issuance of Circular No. 002-2015, pursuant to which a public defender is designated as National Coordinator for Sentence Enforcement, in order to give effect to the National Plan on Attention to Persons Deprived of Their Liberty.
- Conclusion of cooperation agreements with the National Police and the Legal Advisory Office of the Nicaraguan Army, the main undertakings of which are to conduct the public defence of military service members in conflict with the law and to train officials from both institutions as an exercise in raising awareness of service to and treatment of others from a human rights-based perspective.
- Issuance, pursuant to administrative order, of instructions concerning the study and application of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, known as the Bangkok Rules.

71. With regard to the treatment of persons deprived of their liberty known as "donados", the Public Defender Service takes stock of the needs of this category of persons during prison visits. In addition, it receives requests from private individuals, who, while not members of their families, are interested in ensuring that they receive this service, which the Public Defender Service then undertakes to provide.

### **Recommendation contained in paragraph 14 (CAT/C/NIC/CO/1)**

72. As to the resources allocated to the administration of justice, in the period 2008–2018, the judicial branch received 4 per cent of the general budget of the Republic, as provided for in the Constitution.

73. Budget allocations have shown steady growth, reaching a level of 215 per cent for the period from 2007 to 2018, which is equivalent to overall growth in the amount of 2,239,392,994 córdobas (C\$).

74. To ensure an increase in the allocation of budgetary resources for the administration of justice, efforts have been carried out in accordance with a 10-year plan for the period from 2012 to 2021, which specifies the growth needed in respect of each of the various areas of law of the judicial branch, while also being based on requests for judicial services from the Nicaraguan public.

75. In addition, the following actions have been identified as part of the Judicial Branch Modernization Project and are contained in the 10-Year Institutional Plan:

- Construction of judicial complexes around the country (Managua, Jinotega, Chinandega, Madriz, Rivas, Carazo, Ocotal, Rio San Juan, Boaco, Acoyapa, Tipitapa, Nueva Guinea and El Rama).
- Construction of family law complexes, the National Labour Court of Appeal, headquarters of the Directorate of Alternative Conflict Resolution, labour courts, a data archiving facility and the Real Estate and Commercial Property Registry of Managua.
- Improvements to and expansions of judicial complexes in León, Matagalpa, Estelí, Puerto Cabezas, Granada, the Real Estate and Commercial Property Registry of Chinandega, infrastructure improvements and expansions of the Institute of Forensic Medicine.

76. All of these investments were made with funds from the general budget of the Republic; they were also funded through investments in information technology infrastructure and the necessary furniture and office equipment.

77. The judicial branch of Nicaragua has been modernizing the country's courts through the implementation of a new management model for judicial offices – a technology platform known as the Nicarao System, which handles all aspects of its court administration. This makes it possible to optimize national budget resources allocated to the Supreme Court, given that it improves the effectiveness and efficiency of court management. Over the course of this period, the model was replicated in 14 departments and 3 municipalities around the country, representing 73.9 per cent of all judicial offices in the country.

78. An added benefit of the system is that it generates management indicators that provide a source of information for analysing and evaluating the establishment of new courts according to area of law or instance.

79. Since 2007, the following 94 courts/divisions have been established in Nicaragua: a specialized court division in Managua on violence, 2 sentence certifying judges, 23 family law courts, 12 labour law courts, 5 district criminal trial courts, 14 district criminal courts on violence, 7 enforcement and attachment courts, 2 enforcement, attachment and certification courts, 12 district civil courts, 12 district criminal courts of sentence enforcement and prison supervision, 2 local civil courts and 2 local criminal courts.

80. In order to implement and give genuine effect to the constitutional guarantee whereby anyone charged with an offence in a criminal proceeding must be tried without delay, the Code of Criminal Procedure sets up legal mechanisms for resolving cases within specific time limits, stipulating actual time periods (expressed in numbers) for them, and not abstract or indeterminate periods. In other words, it sets prescriptive, not extendable, legal time limits, guided by the greater or lesser gravity of the offence in order to set the maximum length of the proceedings for prosecuting an individual. Article 134 of the Code of Criminal Procedure sets a specific time limit for trial and sentencing on the basis of the following: (1) where the case involves a serious offence and the accused is being held in custody, the judgment or verdict must be issued no later than 3 months after the first hearing; (2) where the case involves a serious offence and the accused is not being held in

custody, the judgment or verdict must be issued no later than 6 months after the first hearing; (3) in the case of less serious offences, the time limit is set at 1 or 2 months, respectively; and (4) the time limit for minor offences is 10 days. If the time limit for a particular proceeding expires before a judgment or verdict is returned, the criminal prosecution is extinguished and the judge dismisses the case.

81. In conclusion, the actual average time that an accused person spends in pretrial detention is three months for serious offences and one month for less serious offences; after expiry of those time limits, the accused person is released immediately, either of the judge's own motion or on application of the parties, and the judge may continue the proceedings and order another precautionary measure lasting an additional three months for serious offences and an additional one month for less serious offences, after which, if no final judgment is handed down, the proceedings will be extinguished (a judgment of dismissal is issued), as will any precautionary measure.

82. Accordingly, when a trial is concluded, and if a guilty judgment or verdict is returned, the judge must order the appropriate precautionary measure and schedule a sentencing date.

83. During the appeals process, pretrial detention may not exceed the duration of the penalty imposed by the contested judgment; if it does, it is the court hearing the appeal that must, of its own motion or on application of the parties, order the immediate release of the detainee.

### **Recommendation contained in paragraph 15 (CAT/C/NIC/CO/1)**

84. The State of Nicaragua has promoted a series of measures whose main objective is the comprehensive protection of women's human rights. Combating and eliminating violence against women is a public policy that is accompanied by an action plan with three objectives: prevention, protection and assistance to victims.

85. The State of Nicaragua, through the institution of the National Police, has prepared a map of the violence perpetrated against women in Nicaragua, which includes, among other relevant data, homicides (femicide, homicide, murder, parricide); injuries (serious and extremely serious) and rape (rape, aggravated rape, rape of a child under 14 years of age).

86. The Judicial Observatory for Gender-based Violence carries out the collection, analysis and dissemination of periodic, uniform and systematic information relating to gender-based violence in the area of justice administration in Nicaragua.

87. A public policy on strengthening the Nicaraguan family and preventing violence is currently in effect; it outlines a strategy for the promotion, protection and restitution of the human rights of families, women, children and adolescents, through the establishment of comprehensive measures to prevent, punish and gradually eradicate violence. Similarly, a public policy on comprehensive attention to early childhood, which promotes new child-rearing norms as part of the violence prevention strategy, is currently being implemented.

88. Furthermore, the gender policy of the Government of Reconciliation and National Unity recognizes and promotes equality and non-discrimination between men and women as a human right. The Equal Rights and Opportunities Act (No. 648) upholds the principles of freedom, equality and non-discrimination, and reflects recommendations contained in international women's rights instruments.

89. Pursuant to Act No. 779, the Inter-Institutional Commission on Combating Violence against Women was established with a view to preventing violence in the family and in the community. The Commission is composed of 14 institutions belonging to the 3 branches of government (executive, legislative and judicial).

90. In keeping with efforts to prevent violence, beginning in 2014, family and community counselling centres were introduced in order to strengthen the values of respect, love and solidarity among family and community members.

91. With the aim of combating violence against specific groups of women victims of various forms of discrimination, the Government of Reconciliation and National Unity, in conjunction with the United Nations Development Programme, implemented a project on improving prevention and access to justice for victims of violence against women and

victims of domestic and sexual violence (April 2013 to December 2015), which was made up of two components: (1) the promotion of organizational and participatory skills and the deliberate mobilization of female protagonists of the Christian, Socialist and Solidarity Model; and (ii) strengthening the process of institutionalizing gender practices in the national and regional governments. The executive agency was the Ministry for Women's Affairs.

92. As a member of the Central American Integration System, Nicaragua implements national, regional and local initiatives that contribute to the resolution of common problems. One such initiative is the implementation of the "Prevention of Violence against Women in Central America" project, which was formulated as part of the violence prevention component of the Central American Security Strategy.

93. Educational campaigns have been designed with a view to strengthening the family, peace, security and tranquillity, one of which is entitled "A home is built with love ... because there is no fear in love". In coordination with the telephone service provider, users received a text message inviting them to call the free helpline (No. 133) to request services and guidance in family matters on any situation that they may be experiencing.

94. A strategy on comprehensive attention to the promotion of coexistence in education, together with gender equity, in order to prevent, detect and address violence in educational institutions in Nicaragua, is currently being carried out with the participation of the network of school counselling and teaching staff and the Federation of Secondary School Students. In addition, plans to promote coexistence and a culture of peace in educational institutions in Nicaragua are being implemented.

95. An early warning violence prevention system, which serves as the inter-institutional mechanism for early detection, engagement, response, referral, specialized assistance, monitoring and follow-up, was implemented. The system ensures an effective response to situations, such as family misunderstandings, school bullying, addiction, teenage pregnancy, sexual abuse, trafficking and sexual exploitation, sexual violence, etc., that affect the psychological, physical and emotional stability of children and adolescents.

96. Pursuant to Act No. 779, courts specialized in matters of violence, composed of a judge with a specialization in that area and the specialized division on violence of the Managua Court of Appeal were established. The full application of Act No. 779 and its amendments is ensured through the training of justice sector officials, the incorporation of a gender perspective at all stages of the criminal procedure, an analysis of judgments, the use of procedural protocols and efforts to strengthen institutions.

97. In addition, Nicaragua has adopted procedural protocols for criminal proceedings that incorporate a gender perspective.

98. Similarly, with the aim of expanding access to justice and judicial protection in the period from 2014 to 2018, 61 special police units for women and children were established throughout the national territory.

99. Work is under way to strengthen institutions that follow the comprehensive assistance model and the model for the promotion of values in the family by providing them with equipment, furniture, supplies and small construction and renovation works, with the objective of providing friendly, quality assistance to women in situations of risk.

100. Nicaragua has given priority to incorporating a gender perspective into policies, plans, programmes and legislation that ensure the restoration of rights and the full and active participation of women in decision-making spheres.

101. With the aim of protecting women's human rights, especially the right to live a life free of gender-based violence, various State agencies have taken steps to pool efforts on the basis of a broad international and national legal framework, particularly Act No. 779. To that end, institutions that facilitate access to justice and the provision of comprehensive assistance to victims (the National Police, through the police units for women and children, the Institute of Forensic Medicine, the Public Prosecution Service and the Supreme Court) concluded an inter-institutional coordination agreement on improving assistance to women, children and adolescent victims of gender-based violence.

102. Based on this agreement, the above-mentioned agencies developed a comprehensive model of assistance for victims of gender-based violence in Nicaragua, based on the needs

of victims, accumulated experiences in addressing the different forms of violence against women, children and adolescents, the provisions of national and international legislation and the availability of resources for their implementation.

103. This comprehensive assistance model has four cross-cutting approaches:

(a) A gender approach, which makes it possible to identify and recognize the existence of unequal power in relations between men and women, expressed as subordination, oppression, injustice and discrimination. It seeks substantive equality between women and men;

(b) A generational approach, which takes into account the cultural and age differences at each stage of the life cycle of women and men, from childhood to old age, in order to adapt the assistance to the various life cycles and cultural realities that have influenced their development and way of life;

(c) A human rights-based approach, which brings respect, recognition, enjoyment and exercise of the human rights inherent in all persons and views women as subjects of law;

(d) An intercultural approach, which respects ethnic and multicultural diversity through the interaction of various cultures and assumes that no cultural group is above another, thereby fostering integration and coexistence among cultures.

104. In the past decade, the State of Nicaragua has been taking a variety of measures to strengthen the training of its public servants, particularly those that make up the justice administration system. The incorporation of a gender perspective is a cross-cutting component of educational and training processes, whose various forms include postgraduate studies, diploma courses, workshops, training courses, fairs and awareness-raising campaigns.

105. As a result of the coordinated efforts of National Police and the Nicaraguan national human rights institution (the Human Rights Advocate), 16,157 members of the National Police, 4,470 women and 11,687 men, were given training using various techniques. Training topics included gender-based violence, domestic violence, violence against women, the study of Act No. 779 and its amendments, the study of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the gender perspective, domestic and sexual violence, the sexual exploitation of children and women, the study of the Anti-Trafficking in Persons Act (No. 896) and the decent treatment of persons in police holding cells.

106. In addition, the National Police conducted 622 workshops on gender equity for a total of 29,669 police officers, of whom 14,312 were women and 15,357 were men.

107. With regard to education and training in foreign countries, 121 police personnel (58 women and 63 men) participated in 59 courses conducted in 18 countries on the topics of the prevention of violence against women, children and adolescents, and human rights.

108. For the purposes of giving effect to Act No. 779, inter-institutional training was organized and provided to 1,337 public servants (police officers, forensic medicine and psychology professionals, prosecutors, judges, and judges specializing in matters of violence). These consisted of postgraduate courses on the gender perspective, violence against women, and trafficking in persons, among others, thereby constituting an investment in specialized training for those serving in courts dedicated to matters of violence, family law and labour law.

109. Nicaragua has a combined strategy to eliminate violence against women and girls. The public security policy of the National Human Development Plan calls for the implementation of the community security model. It also includes a proactive and preventive strategy with various components that focus primarily on the provision of information and direct contact with the population, young people, women and children. These actions will certainly have an impact on efforts to educate the public.

110. The comprehensive policy of the Office of the Human Rights Advocate on combating domestic violence and sexual and gender-based violence provides that the community security model of the Government of Reconciliation and National Unity should



also be used to combat domestic violence and sexual and gender-based violence, relying as well on social participation in the search for solutions.

111. During the period 2014–2018, the State of Nicaragua, through its judicial branch and courts, registered a total of 69,605 criminal cases of violence against women. Of these, a total of 43,287, or 62 per cent, have been settled. A total of 65 judgments were handed down in cases of femicide, all of which resulted in convictions, attesting to the fact that there is no impunity.

112. To facilitate women’s access to justice, the Institute of Forensic Medicine conducted 167,009 expert appraisals as part of investigations into offences against the life, health and physical, mental and sexual integrity of the victims.

### **Recommendation contained in paragraph 16 (CAT/C/NIC/CO/1)**

113. The State of Nicaragua is emphatic in recognizing that the Nicaraguan people love and defend life, consider life to begin at conception and have declared themselves to be in favour of criminalizing abortion.

114. The National Assembly approved the criminalization of abortion by a majority of votes cast and with the full support of public opinion; a decision to the contrary would undermine the will of the sovereign people.

115. The State implements treatment strategies, regulations and protocols for women who suffer complications during pregnancy, in order to protect their life and that of their unborn child. As a result of these strategies, regulations and protocols, we have succeeded in reducing infant mortality to 13.9 per 1,000 live births; reducing maternal mortality to 34 per 100,000 live births; providing 7,151,494 prenatal visits to pregnant women; and increasing childbirth coverage to 95 per cent. These have resulted in the provision of prompt, effective and timely treatment, without any conditions, thereby fulfilling the mandate to provide free health care, given that it is public policy to provide medical care in health centres and hospitals throughout the country.

116. The State recognizes sexual and reproductive health as a component of the right to health, and, to that end, has developed a national strategy on sexual and reproductive health.

### **Recommendation contained in paragraph 17 (CAT/C/NIC/CO/1)**

117. Nicaragua has a general legal framework for the protection of human rights and combating violence, with the Constitution as the highest-ranking legal instrument. This framework reflects international conventions condemning violence against women, children and adolescents.

118. Nicaragua is taking steps to ensure that children and adolescents are protected from all forms of violence, and important changes have been made in the legal, political and regulatory frameworks, as well as in the implementation of institution-building strategies for supporting the family and preventing violence.

119. By means of Decree No. 42-2014, Nicaragua set itself the priority of building institutional capacity in the areas of values, preventing violence, achieving egalitarian relations between men and women, and responding promptly and rapidly to violence against women, children and adolescents. Along these lines, the Ministry for the Family, Adolescents and Children has focused its efforts on providing specialized training to 286 technical staff around the country.

120. Likewise, by means of Decree No. 43-2014, Nicaragua developed a public policy on strengthening the Nicaraguan family and preventing violence. Through the Ministry for the Family, Adolescents and Children, action is being taken to promote values through the nationwide implementation of the School for Values initiative, in addition to the implementation at all territorial levels of a plan to promote family harmony intended to ensure “good living”, prosperity and happiness for Nicaraguan families.

121. Article 50 (d) of the Family Code (Act No. 870) stipulates that the Ministry for the Family, Adolescents and Children is to promote self-monitoring and dispute-settlement

techniques for persons affected by domestic violence and that such actions are to be carried out in conjunction with the family counselling centres and the schools for values.

122. As part of the process of providing special attention and protection to children and adolescents, the Ministry for the Family, Adolescents and Children established a directorate of psychosocial support in order to provide comprehensive assistance, in both institutional and domestic settings, to children and adolescent victims of violence, with a view to restoring their rights and giving them the necessary tools to strengthen their self-esteem and emotional well-being. Partnerships have been set up with centres specializing in providing free therapy to families that have been exposed to domestic violence.

123. The Ministry for the Family, Adolescents and Children, in coordination with the Ministry of Education, outlined a care path for children, women and older adults who have been victimized by violence at the individual, family, community, school or work levels through the introduction of the Early Warning Violence Prevention System. This is a tool for identifying difficult situations that are potentially conducive to the violation of the rights of such persons and which may be activated in order to provide coordinated action, support and assistance.

124. A set of rules on restoring the rights of children and adolescents has been formulated; it sets out the procedure to be used for the special protection of victims of violence as set forth in the Code on Children and Adolescents.

125. Public information campaigns have been conducted to promote communication, prevention of violence, educational alternatives, equality and prevention of school bullying. In order to achieve this, the campaigns have incorporated rights-based, gender-based and intergenerational perspectives as cross-cutting themes.

126. Nicaragua approved and is currently implementing a public policy on strengthening Nicaraguan families and preventing violence. Its aim is to promote, protect and restore the human rights of families, women, children and adolescents, guaranteeing them a life free from violence.

127. Along these lines, strategies are being implemented to promote care and support for children's growth from the womb onwards, and the following programmes are being carried out: the Welfare Programme for Children Living in Extreme Poverty in Urban Areas, the Social Welfare Project and the Support Programme for the Implementation of the National Early Childhood Policy.

128. The Family Code regulates the return of children who have been taken unlawfully to a foreign country.

129. The network of child development centres was expanded from 60 centres to 270 centres around the country, which significantly increased coverage and the availability of care for the young children of working mothers.

130. The Early Warning Violence Prevention System was introduced, and the family counselling centres provided guidance and assistance to 42,073 persons.

131. Training was provided to 2,913 public servants of the National Social Welfare System on topics related to special protection and prevention; 1,169,979 "Love Letters to the Little Ones" were sent in order to promote care and support for children's growth from the womb up to the age of 6.

132. The Early Childhood Policy and the guidelines of the Ministry for the Family, Adolescents and Children promote new child-rearing methods, as well as parenting skills and family skills in early stimulation, and prohibit the practice of all forms of corporal punishment or humiliating treatment as a correctional or disciplinary method in schools and children's institutions, with 160,978 home visits having been carried out.

133. Act No. 779 and the Code on Children and Adolescents (Act No. 287) provide for the punishment of the physical abuse of children and adolescents by their parents, guardians or any other person, none of whom may invoke the right to discipline as a defence. The law also prohibits teachers, authorities, public officials or persons employed by or working for the education system from applying any kind of abusive measure or punishment.

134. The responsibilities of the Public Prosecution Service include protecting the rights of children and adolescents in order to ensure that they receive their rightful child support,

by raising public awareness of both parents' obligation to protect and guarantee the rights of their children, as well as to ensure the well-being of families.

135. The Government of Reconciliation and National Unity has carried out protective measures for some 37,000 children in situations of abandonment, abuse or other at-risk situations. Measures were taken to provide temporary shelter and protection in such cases, and the children were subsequently returned to their families or, in extreme cases, were placed in foster homes, thus respecting the right of children to grow up with the love and care of a family.

136. With a view to promoting positive child-rearing norms, we have conducted visits to the homes of 526,000 families with children under the age of 6 years in order to train them in the contents of "Amor para los más chiquitos y chiquitas" pamphlet on caring for small children, which enables each family to take actions that promote healthy living habits for improving children's growth and development.

137. Because of the community dynamic of the Government of Reconciliation and National Unity and its constant communication and contact with families, the schools for values constitute one of its most important strategies. To date, more than 130,000 parents have participated in these socio-educational forums around the country.

138. In these schools for values, families can reflect on, describe and share their experiences with other families, as well as ideas on how to make the home safe for each member of the family, especially for our children, who are at the heart of our institutional mission, the centre and future of the family and the soul of our nation.

139. The establishment of community educational advisory councils is part of a strategy to protect the peace of the Nicaraguan family. This strategy is geared to strengthening the role of families, schools and the community in promoting values, with the aim of instilling a culture of respect that leads to "good living" and to positive, healthy and harmonious living.

140. The advisory councils are formed in schools throughout the country with the participation of parents, students, teachers, principals and assistant principals, who, with enthusiasm and commitment, help to promote a culture of harmony and encourage the kind of personal and group attitudes and behaviours that promote the welfare of the family, the school and the community.

141. Through the community educational advisory councils, we promote the all-round education of girls, boys, adolescents and young people, by means of values training and practice at festivals, encounters with students and parents, international forums, national conferences, talks, workshops, municipal and departmental encounters and sports activities, thereby emphasizing the promotion of values.

142. By means of Ministerial Agreement No. 134-2009, the Ministry of Education has included in primary and secondary school teacher training curricula and programmes, and in those of teacher training instructors, awareness-raising and training activities that reinforce positive disciplinary strategies based on the respectful treatment of students.

143. This agreement sets out procedures for reporting, examining and addressing situations of violence against children and adolescents. In cases where such situations could potentially constitute a criminal offence, measures are taken in accordance with the laws of the Republic.

144. When ill-treatment or abuse occurs in any educational institution, the Ministry of Education takes steps to launch an investigation and apply the corresponding sanctions.

145. Through its Youth Affairs Directorate, the National Police of Nicaragua takes a comprehensive approach to youth violence, guided by the overarching principle of the best interests of the child, adolescent or young person, and of sharing and coordinating responsibility among the various actors, through the participation of the community in general and of young persons and children in particular.

146. The National Police are developing a specialized mechanism whose primary function is the treatment of children and adolescents from the police perspective. Its main objective is to apply a method that consists in studying the person and his or her interpersonal and community relationships and social circle in general, with a view to

dealing with, and preventing or reducing the number of, children, adolescents and young people who are at risk or living outside the law. This is done through the adoption of a holistic, human-rights based approach that is consistent with the established legal and institutional framework.

### **Recommendation contained in paragraph 18 (CAT/C/NIC/CO/1)**

147. The State of Nicaragua has engaged in efforts to ensure the promotion and protection of the human rights of all Nicaraguans, and during the period 2008–2018, human rights defenders carried out their work unhindered and visited State institutions that received them in a manner consistent with their role.

148. Nicaragua has adopted specific instruments in support of defenders and promoters of human rights. For example, the Public Prosecution Service adopted Circular MP-FGR-006-2017, which contains a procedural protocol for dealing with offences against human rights promoters and defenders, the aim of which is to ensure that prompt action is taken to respond to the situation of promoters and defenders who have been the victim of an offence. Similarly, the National Police adopted a protocol on special protection and safety measures for human rights activists. During the reporting period, there were no records of complaints in which such persons claimed to be the victim of an offence.

149. There is no governmental policy in Nicaragua to prosecute, threaten, harass or kill human rights defenders; nor has the State restricted or does it currently restrict the performance of their work in defending rights, not even in the difficult situation created by the failed coup attempt that our people experienced as a result of the violent acts of April 2018.

150. As to the precautionary measures for human rights defenders adopted by the Inter-American Commission on Human Rights, the State was notified of the adoption of precautionary measures for 27 people. Nicaragua confirms that it has provided and is actively providing protection to the persons covered by these measures. One example is MC-277-08 Vilma Núñez de Escorcía, who has been under the protection of precautionary measures since 2008, and who has never suffered any attack on her life, physical integrity or property.

151. We are working to ensure that truth and justice prevail, in order to restore the social order and full respect for human rights. To that end, the State of Nicaragua has consequently expressed its complete readiness and willingness to comply fully, to the extent of the nation's capacities, with the precautionary measures adopted by the Inter-American Commission on Human Rights. Accordingly, the State, through the National Police, has prepared and adopted a protocol for implementing the precautionary measures, the objective of which is to take special steps to ensure the security of the persons covered by those measures.

152. In order to implement this protocol in agreement with the persons covered, the State of Nicaragua, through the Office of the Counsel General of the Republic, has invited the beneficiaries to meet and agree on the protective measures to be taken. In this connection, the State of Nicaragua reports that:

(a) By means of Resolution Nos. 36/2018 and 38/2018, the Inter-American Court of Human Rights asked the State of Nicaragua to adopt precautionary measures for Danilo Antonio Martínez Rodríguez and Álvaro Leiva Sánchez, who are members of the Asociación Nicaragüense Pro-Derechos Humanos. Through the Office of the Counsel General, telephone contact was established with the beneficiary Alvaro Leiva, who provided an address for notification, which was used for both beneficiaries on 11 June 2018 at 9.31 a.m., despite the fact that, to date, no response has been received from either of the two;

(b) Resolution No. 46 of 2 July 2018, in favour of Marcos Antonio Carmona and 20 members of the Standing Committee on Human Rights. In response to the invitation of the State, the beneficiaries Marcos Carmona and Denis Darce appeared at the Office of the Counsel General on 9 July 2018, and the protocol for police protection was discussed with them. Subsequently, by letter of 8 August 2018, they informed the State of their acceptance

of the “establishment of focal points for information and notification of protection”, and they were informed on 5 September 2018 about focal points in the National Police;

(c) Resolution No. 59 of 8 August 2018 in favour of Adelaide Sánchez Mercado and three other members of the Centro Nicaragüense de Derechos Humanos, who were notified on 20 August 2018 to appear before the Office of the Counsel General to agree on protective measures, but who, to date, have failed to appear.

153. The State of Nicaragua reiterates its readiness to continue working to protect and defend the human rights of all Nicaraguans, without distinction. In practice, despite the Government’s willingness to sponsor jointly agreed protection measures, there has been no response from the beneficiaries, which shows that a situation of gravity and urgency never existed.

### **Recommendation contained in paragraph 19 (CAT/C/NIC/CO/1)**

154. The full exercise of the right to freedom of expression is protected in the Republic of Nicaragua, since there is no prior censorship, nor restrictions of any kind on this right. As a result, Nicaraguans have the right freely to express their thoughts in public or in private, individually or collectively, or orally, in writing or by any other means.

155. Moreover, article 53 of the Nicaraguan Constitution fully guarantees the right to peaceful gathering, which does not require prior authorization.

156. The right to public assembly, demonstration and mobilization in conformity with the law is recognized.

157. In Nicaragua, there are no arbitrary detentions in the context of peaceful demonstrations, because it is not public policy to suppress social protests, nor is it the policy for the National Police to use arbitrary and excessive force. Peaceful demonstration is a right that is enshrined in our Constitution, without prejudice to respect for the rights of others in accordance with article 24 of the Constitution.

158. In accordance with the constitutional principle whereby the rights of every individual are limited by the rights of others, by the security of all persons and by the just demands of the common good, the exercise of the right to public assembly, demonstration and mobilization, according to article 54 of the Nicaraguan Constitution, requires prior authorization by the National Police, in conformity with the Act on the Organization, Functions, Career and Special Social Security Scheme of the National Police (No. 872).

159. In Nicaragua, the constitutional right to freedom of association is protected, as evidenced by the existence of 7,000 duly registered non-profit organizations.

160. There are no acts of violence against representatives of NGOs in Nicaragua; the latter have full freedom to carry out their functions, without being exempt from their legal or criminal responsibilities under our legal system.

161. These NGOs were granted legal personality in accordance with their approved constitution and bylaws; however, some of them used their organization to direct and channel funds towards undermining law and order and carrying out actions to destabilize the country, participating actively in the attempt to overthrow our Government, in violation of the General Act on Non-Profit Legal Persons (No. 147).

162. Some organizations violated Act No. 147, and consequently, the Ministry of the Interior, in exercise of its powers, withdrew the legal personality of the associations directly involved in the commission of unlawful acts to support, promote, incite and participate in acts of violence related to the attempted overthrow of the Government of Reconciliation and National Unity.

### **Recommendation contained in paragraph 20 (CAT/C/NIC/CO/1)**

163. Regarding the system of registers to be kept in police stations and the data they must contain, we wish to report that, on 14 January 2003, pursuant to Order No. 001-2003, an internal manual on the functions of custody and transfer officers in the departmental, municipal, regional and district stations of the National Police was approved and entered

into force. Chapter IV describes the registers that must be kept in order to monitor detainees, two of which we have implemented, thereby enabling us to obtain the information referred to in the above-mentioned recommendation.

164. The detainee intake register must indicate the detainee's name and address; the date, time and place of the arrest; the offence being investigated; the names of the contact family member, person responsible for taking him or her into custody and authority into whose charge the detainee was handed; whether the detainee has been formally charged, is under investigation or has been convicted; and a description of the detainee's physical state or health status. As may be seen, this register contains not only the data referred to in the recommendation, but also other data, such as the detainee's address, the name of his or her contact family member and his or her physical state or health status.

165. The incidents register must contain an indication of any incidents that occur during guard shifts. This register is used to record situations that occur within police lockups for each detainee concerned. This is so that police officers who take the next guard shift are informed of them and, if necessary, can take appropriate measures to ensure respect for detainees' rights.

166. It is important to mention that this manual calls for two other registers, namely, the register used to record visits and food deliveries to detainees, and the register of detainees' personal property. These two registers also contain data on the detainees, as well as on their family members and defence counsel. They provide a record of the fact that detainees are guaranteed the right to receive visits from their relatives and their lawyers, as well as the right to receive the food that is delivered to them and to have their belongings held in safekeeping.

167. As a way of improving the system of registers, on 8 October 2012, pursuant to Order No. 014-2012, the procedural manual for police investigations into offences and minor offences was approved and entered into force. It includes, among others, the forms to be filled out during arrests, which make it possible to keep and refer back to records of these arrests.

168. The arrest record, which must contain the date, time, location, reason and ground for the arrest, the file number, an indication that the detainee was notified of his or her constitutional rights, the full name and signature of the detainee, the signature of the investigator and the signature of the chief of legal cooperation. In accordance with article 14 (c) of the aforementioned manual, the arrest record must contain an indication that the detainee's family member was notified of his or her arrest within three hours of being apprehended.

169. The release order must contain the date and time the order was issued, the full name of the individual being released, the date and time of his or her admission, the reason for the release and the signature of the chief of legal cooperation.

170. The transfer of an accused person to a prison facility is recorded in a document containing the date of the transfer, the authority into whose charge the accused person is transferred, the name of the detainee, the judicial authority under whose orders the detainee is placed, an indication of the offence, the date scheduled for the preliminary hearing, the full name, position and signature of the person delivering the detainee and the full name, position and signature of the person receiving the detainee.

171. The police report submitted to the Public Prosecution Service must contain the date it was issued, the name of the authority into whose charge the detainee is handed, the names of the complainant, the individual under investigation and the victim, and the date the report was received.

172. In order to bring about these improvements, in 2018, the Detainee Information and Monitoring System, with automated support from Microsoft Excel, was created. It allows daily monitoring of detainee admissions to and releases from police lockups. This automated system is currently undergoing technical adjustments so that, once completed, it will be activated by order of the Director General of the National Police.

173. The following information is recorded in the system:

- Court hearings

- Consular visits
- Medical care
- Forensic services
- Family visits
- Legal assistance
- List of personal property
- Summary of the facts
- Transfers to the prison system
- Date of release from police lockup

174. Daily, weekly, monthly, quarterly and annual reports with information on admissions and departures are issued internally in order to keep senior officials informed of detentions, releases and orders issued by the competent authorities. They indicate the date and time of each one of the situations being reported. There is also a register for recording the transfer of police files to the Public Prosecution Service, with an indication as to whether the transferred case involves an individual held in custody, the complaint number, the file number, the name of the accused, the name of the victim, and the date of receipt by the Public Prosecution Service.

175. Upon receipt of the police file, the Public Prosecution Service must decide whether to file formal charges, and in cases where the person under investigation has been taken into custody, ensure that he or she is brought before a judge within 48 hours following arrest. If a decision is made to file charges, the Public Prosecution Service must do so before the relevant court, recording this in the register it keeps of cases brought before the courts, while making it a priority to record the information on the webpage of the judicial branch, in the Nicarao System. It must also ensure that the detainee appears physically at the preliminary hearing and that this information is recorded in the system as well.

176. As to the recommendation to improve the system of registers and to record the situation of all detainees and the name of the authority responsible for taking them into custody, these data are recorded in the detention intake register, in the space for specifying whether the detainee is under investigation or has been formally charged or convicted, and in the space for the name of the authority into whose charge the detainee was handed. The intake register also provides a space for the name of the authority responsible for taking the individual into custody. As a way of improving or supplementing the information contained in the register, the arrest record must specify the basis for the arrest, namely, an observed crime, a police order or an arrest warrant, and an indication of the detainee's legal status.

177. Regarding the recommendation to improve the system of registers and to include the date and time of the arrest, the National Police has a duplicate record of this information, given that, at the time of the arrest, a record is made on the spot, not only of this information but also of the reason for the arrest, the fact that the detainee's constitutional rights were read to him or her, and very importantly, the detainee's full name and signature. Later, when the detainee enters the police lockup, this data is recorded in the detention intake register, which contains not only this information but also the place of the arrest.

178. With reference to the recommendation to improve the registers by recording the date and time at which the Public Prosecution Service was notified of the arrest and the time at which the detainee was physically brought before a judge, this data is recorded in the register kept by the National Police of case files that are transferred to the Public Prosecution Service. It is also contained in the police report by means of which the file is formally submitted to the Public Prosecution Service so that the latter can decide whether to initiate criminal proceedings. These registers not only document the transfer of the case file from one authority to another for a decision on whether to initiate criminal proceedings but also indicate whether a person has been taken into custody and, if so, contain the arrest record. In terms of physically bringing the detainee before the competent authority, this is recorded in the register of cases transferred to the courts, which is kept by the Public Prosecution Service, and in the Nicarao System as a result of the filing of formal charges and the holding of a preliminary hearing.

179. With regard to the recommendation to notify the detainee's family, at the time the detainee is placed in the cell, the name of the contact family member is recorded in the detention intake register. An indication must subsequently be made in the arrest record that notification was given to the family member, which must be done within three hours of the arrest.

180. In conclusion, we can confirm that the State of Nicaragua is complying with the aforementioned recommendation, since all the data concerning arrests are recorded in detention intake registers, arrest records and police reports, added to the fact that it keeps other registers, such as those for the transfer of accused persons to prison and for release orders, which contain more data than those referred to in the recommendation.

### **Recommendation contained in paragraph 21 (CAT/C/NIC/CO/1)**

181. The State of Nicaragua has made significant progress in improving the infrastructure, physical conditions and level of hygiene in detention centres around the country, which has helped to reduce overcrowding.

182. During the period 2008–2018, Nicaragua invested a total of C\$ 1.5 billion in infrastructure construction, extension, refurbishment and improvement of the various facilities run by the National Prison Service.

183. Noteworthy among the developments during this period are the construction and outfitting of the new Maximum Security Prison and the new Integrated Prison for Women, both in the Department of Managua, and the new Bluefields prison in the Costa Caribe Sur autonomous region.

184. The new Bluefields prison has an installed capacity of 800 inmates of both sexes, who are housed in a three-storied building. It is equipped to provide humane and decent treatment, since it meets the standards set by national and international instruments on the human rights of persons deprived of their liberty. For instance, it has cells for small groups of inmates that have adequate lighting and ventilation and are equipped with individual concrete bunks, each with its own mat. In addition, each cell has its own sanitary facilities and shower. The prison also provides facilities for prisoners to exercise the right to have contact with the outside world, including family waiting areas, family visiting areas and conjugal visit rooms, as well as a special maternity area that is equipped with beds and cribs to accommodate and care for pregnant women or nursing mothers.

185. Other spaces within the new Bluefields prison include the kitchen and dining hall, playing field, medical and psychological clinic, classrooms where inmates can take part in various educational programmes, and vocational training workshops in carpentry, computer studies, electricity and vehicle painting, among others. These last two spaces are of vital importance in allowing inmates to engage in activities geared to optimizing their time in prison and preparing them for reintegration into society.

186. The conditions in the new Bluefields prison contrast with the precarious situation in which persons serving sentences in the Costa Caribe Sur had previously found themselves, given that, for more than 30 years, they had been held in the former premises of the departmental headquarters of the National Police. Those premises had been adapted to function as a prison, despite failing to meet the minimum requirements for housing persons deprived of their liberty, thereby resulting in continuous overcrowding and violations of human rights, especially that of the right to health.

187. Before the construction of the new prison complex, the lack of a facility within the National Prison Service in the Costa Caribe Sur autonomous region had necessitated the transfer of certain inmates to prisons in Managua, Juigalpa, Matagalpa and other departments of the country. That, in turn, had led to an increase in the disintegration of prisoners' families and to their cultural and social alienation, since they had to serve their sentence in a distant location with little or no family contact and in an environment that was foreign to their own particular customs, food and language.

188. The construction of the Integrated Prison for Women alleviated the situation that had existed in the old La Esperanza prison, whose buildings were dilapidated and did not provide the minimum conditions for accommodating women prisoners, thus allowing for significant progress to be made in ensuring such prisoners decent and safe conditions.



189. The Integrated Prison for Women has dormitories with beds, mattresses and sanitary services that meet the required standards and conditions. It also has a medical care facility, classrooms, a recreation room, family visit lounges, conjugal visit rooms, a dining hall, and a production area where bakery, cosmetology, and sewing and crafts workshops are held. It also has an area the size of approximately 10 blocks for vegetable gardening and poultry and pig farming.

190. During the reporting period, the Maternity House at the Integrated Prison for Women was built and outfitted; it can accommodate up to 15 women inmates and their breastfeeding children, and is equipped with three bedrooms with beds and with cribs for the children, a television room, a dining hall, a kitchen and a laundry, and other spaces where women can be with their children in a family environment.

191. The outfitting of maternity areas in the Bluefields prison represents progress in giving effect to rule 28 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which prescribe the inclusion of such areas in correctional facilities where women are deprived of their liberty.

192. During the period 2008–2018, the installed capacity was increased in 7 of the 9 penal institutions of the country through the construction of 28 wings, each with a capacity of 234 inmates and equipped with water, light, sanitary services and beds.

193. Structural improvements to the Tipitapa prison during the period 2008–2018 included the following: the refurbishment of eight wings, visitors' lounges, an inspection area, a reception area, a service counter and a visitors' pedestrian walkway; the construction of a semi-open and open production facility; the refurbishment of the multifunctional hall; the renovation of the prison's electrical system; the installation of an information transfer system (structured cabling) and fibre optic link in order to enable data transmission interconnectivity, fluidity and speed and deal with family members; and the replacement and expansion of the security systems.

194. During this same period, 98 conjugal visit rooms were built throughout the country: 40 in the Tipitapa prison, 18 in the Estelí prison, 10 in the Matagalpa prison, 10 in the Juigalpa prison, 10 in the Granada prison, 5 in the Chinandega prison and 5 in the Integrated Prison for Women.

195. Noteworthy among the improvements made in the areas of health care, sanitation and hygiene are the following: the construction of a treatment centre for drug addicts in the Tipitapa prison; the rehabilitation of laboratories and improvement of ventilation in clinics for the treatment of persons with tuberculosis in the Estelí, Chinandega, Tipitapa, Granada, Juigalpa and Matagalpa prisons; the renovation of water and sanitation systems in the Tipitapa, Matagalpa, Juigalpa, Granada and Estelí prisons; and the acquisition of special technical (Vactor) equipment for the maintenance of septic tanks (removal of solid waste) in the country's prisons.

196. The State of Nicaragua, through the Ministry of the Interior, has plans to build five new prisons; these will be in León, Bilwi, Nueva Guinea, Rivas and Managua (in the case of the latter, with capacity for 2,500 persons awaiting trial). The feasibility study for the construction of the León prison has already been completed.

197. With regard to staffing and measures to strengthen the care, treatment, supervision and security of the prison population, during the period 2008–2018, 1,318 new jobs for prison officers were created, more than doubling the number on the payroll in 2017, which was 1,214. In addition, 81 transportation vehicles were provided in order to carry out the institutions' operational and management activities.

198. Another measure that has helped to reduce levels of overcrowding in the country's prisons has been to grant the legal privilege of family cohabitation to 4,266 inmates of Nicaraguan nationality and to transfer to their countries of origin 530 inmates of other nationalities.

199. During the period 2008–2018, the National Police carried out projects to build or renovate police stations by means of 252 initiatives, which were funded from the national budget in the amount of C\$ 1,973,609,690.17.

200. As part of the above-mentioned infrastructure projects, priority was given to investments in the construction, maintenance, refurbishment and improvement of police

lockups, mainly those of the National Legal Cooperation Directorate and those of police stations in Costa Caribe Sur, Costa Caribe Norte, Siuna, Rosita, León, Matagalpa and District V of Managua.

201. Improvements in the physical condition of police lockups around the country have contributed significantly to reducing rates of overcrowding and lack of hygiene. Currently, the overpopulation rate of persons deprived of their liberty in cells is a mere 3.38 per cent.

202. During this period, construction took place on the new facilities of the National Legal Cooperation Directorate, which cover an area of 3,520 m<sup>2</sup> and have an investment of C\$ 183 million. These facilities contain the following: a holding cell area, consisting of individual cells to be used only when admitting individuals following their arrest; a lockup facility for small groups of persons (six per cell), in which separation by category of detainee is ensured, and which have concrete bunks with mattresses and bedding, and sanitary facilities; identification areas for victims and witnesses; as well as offices for interviews between detainees and their lawyers and for family visits.

203. Other measures have been introduced with the aim of reducing overcrowding and overpopulation in police lockup facilities around the country through inter-institutional coordination efforts. These include the following: expediting the review of the situation of convicted prisoners and those awaiting trial in police lockups; coordinating efforts with urban and rural judicial facilitators resolve complaints of less serious and minor offences using prior mediation as a means of reducing the number of detainees in holding cells; overseeing and coordinating with the Directorate for Alternative Conflict Resolution of the judicial branch to complete the installation of mediation rooms in departmental police stations for cases involving less serious and minor offences and strengthening coordination with the Public Defender Service for resolving those cases.

### **Recommendation contained in paragraph 22 (CAT/C/NIC/CO/1)**

204. With regard to this recommendation, first of all, it is worth noting that our national legal order stipulates that any prison in the country may be considered a mixed facility, with designated areas for women and for adolescents that are separate from those for men.

205. The second paragraph of article 39 of the Nicaraguan Constitution stipulates that convicted women must be housed in prison facilities that are separate from those for men and that the guards attending to them must be female. This is also stipulated in article 9 of the Prisons Regulation and Sentence Enforcement Act (No. 473).

206. Articles 111 and 227 of the Code on Children and Adolescents stipulate that adolescents deprived of their liberty have the right to be placed in a facility devoted exclusively to adolescents; this is reproduced in article 35 of the Prisons Regulation and Sentence Enforcement Act (No. 473).

207. Article 44 of Act No. 473 provides that, without prejudice to the existence of women's prisons, and while specialized centres for adolescents are being built, existing correctional facilities are to be considered mixed, while maintaining the separation and categorization of the prison population according to sex and age. This was also provided for in article 44 of the Regulations of Act No. 473 (Executive Decree No. 16-2004). Along the same lines, article 139 of Act No. 473 stipulates that, so long as there are no special centres for adolescents, suitable conditions for meeting that objective must be created.

208. There are eight prison complexes in Nicaragua; these are located in Chinandega, Estelí, Matagalpa, Tipitapa, Granada, Chontales and Bluefields, and include the Maximum Security Prison and the Integrated Prison for Women. These eight prisons are consistent with the requirements laid down in the domestic legal order, in that they are considered to be mixed prisons in which separate areas have been designed and accommodated for women and for adolescents. These areas are removed from those intended for male prisoners with a view to affording women and adolescents differentiated treatment and designating the prison staff who will attend to them.

209. The Integrated Prison for Women was established as a way of improving the conditions of accused or convicted women and adolescents, and of ensuring that the guards who attend to them are female. Similarly, at the Bluefields prison, a facility for adolescents is currently in the final stages of construction.

210. The National Police operate regional, departmental and district police stations, which currently have at their disposal a total of 468 cells. In order to maintain the separation of detainees in those cells, article 10 of the internal manual on the functions of officials responsible for overseeing detainees and transfers in the departmental, municipal, regional and district National Police stations provides that detainees must be placed in separate cells based on sex (women), age (adolescents), type of offence and sexual preference.

211. In each of the existing police stations in the country, cells have been designed and accommodated for women and for adolescent detainees.

212. On the basis of the foregoing, we wish to note that, in all prisons and in all police stations, there are separate areas for women and for adolescents. This attests to the fact that the State is complying with its obligation to place women and adolescents in separate facilities.

213. As to the recommendation that the State party should strengthen independent procedures for prison inspection, this is addressed in the response to the recommendation contained in paragraph 12 under the section on independent inspection.

### **Recommendation contained in paragraph 23 (CAT/C/NIC/CO/1)**

214. The police education system is part of the national education system and is recognized by national institutions accordingly. The Walter Mendoza Martínez Police Academy is the institute of higher learning, which serves as the policymaking body of the police education system with regard to the processes of planning, organizing, directing and overseeing the education and training of candidates and active members. It is a university dedicated to teaching, research and extension education, and is inspired in its organization and operation by the principles and values inherent in its role as an educational establishment and by the values set forth in police doctrine. The objective underlying its mission, vision and policy is to apply what is known as the “Total School” educational model.

215. According to this model, every police station is an integral part of the police education system and serves as a continuous process for perfecting the skills of the individual, consistent with the vision of institutional and individual development.

216. The education and training of police officers begins with their admission to the Walter Mendoza Martínez Police Academy and is pursued throughout their police career. The concept of “Total School” does not refer to a structure, but rather to an attitude underlying the performance and duties of the National Police – it is an educational model that is given effect when police officers act.

217. The educational system of the National Police of Nicaragua is composed of three subsystems, and respect for human rights constitutes one of its cross-cutting themes.

218. It provides quality academic training to candidates for the police force, who will go on to become active members of the institution, as well as to staff members who are not active police officers and to auxiliary staff. This training is competency-based and in line with the values and principles set forth in the police educational model.

219. These staff members take part in training at the following levels: basic, technical associate, and bachelor’s degree in police science.

220. Training is imparted to active police officers and auxiliary staff in order to provide them with skills needed to improve their performance in the specific area corresponding to their position.

221. During the reporting period, the budget for the development of the academic function amounted to C\$ 12,454,544.

222. At the Walter Mendoza Martínez Police Academy, human rights are included as a subject in study plans at all levels (basic, technical associate, bachelor’s, postgraduate and master’s), and represents a cross-cutting theme of the educational curricula. The study of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is one of the subjects included in training courses.

223. The Deputy Commander Alfonso Quiroz Gómez School of Prison Studies offers comprehensive training to members of the National Prison Service with the aim of providing better service to the public. Its training courses are certified by the National Institute of Technology.

224. The Deputy Commander Alfonso Quiroz Gómez School of Prison Studies is allocated an annual budget of C\$ 1.5 million in order to reinforce the teacher training process, food, educational materials and building maintenance. The number of teacher positions was increased to 13, and correctional and human rights subjects are currently taught in classes at the induction, qualification, advanced training and specialization levels.

225. The School of Prison Studies, in coordination with the Office of the Human Rights Advocate, provides training in human rights, the Manual of Ethics for Public Servants and the Prisons Regulation and Sentence Enforcement Act (No. 473). In the period from 2008 to 2018, a total of 134 courses were conducted, with training provided to a total of 4,449 participants, of whom 3,648 were male and 801 were female. These courses included such subjects as the Nelson Mandela Rules, human rights, human relations, the Code of Ethics for Public Servants and gender.

### **Recommendation contained in paragraph 24 (CAT/C/NIC/CO/1)**

226. Since the entry into force of the Code on Children and Adolescents (Act No. 287), the Supreme Court has established 17 district criminal courts for juveniles nationwide; it has also set up specialized interdisciplinary teams and specialized technical offices to monitor the measures taken. This protects the rights of adolescents who are subject to the special criminal courts for juveniles in all departments and autonomous regions of the country and is evidence of the fact that we have already complied with the recommendation contained in paragraph 24 (a).

227. The cost of establishing the district criminal courts for juveniles nationwide is C\$ 15,310,916.51, while that of setting up the interdisciplinary teams is C\$ 7,889,317.86.

228. In the Tipitapa prison complex, a facility was built exclusively for adolescents. The latter are completely separated from the adult prison population, with prison staff who have been designated to provide them with differentiated attention and treatment in coordination with the Specialized Office for Juvenile Supervision. In the other prisons, adolescents are housed in the same wings as adults but in separate cells, with a view to providing them differentiated treatment. In the case of the Bluefields prison, a facility for adolescents is currently in the final stages of construction. This means that effect has already been given to the recommendation contained in paragraph 24 (b).

229. Taking into account the fundamental rights and guarantees of adolescents set forth in the Code on Children and Adolescents, the National Police has taken measures to ensure better conditions of detention for young people, including the following: if they are taken into custody, adolescents over the age of 15 and under the age of 18 years are placed in cells exclusively for adolescents; cell conditions have improved; and young people are ensured communication with their family members, legal assistance, mats, cleaning supplies and ventilation. This demonstrates that effect has already been given to the recommendation contained in paragraph 24 (c).

230. In accordance with article 97 (6) of the Prisons Regulation and Sentence Enforcement Act (No. 473), adolescents deprived of their liberty have the right to submit petitions and complaints to the prison administration, the Office for the Enforcement and Monitoring of Criminal Penalties for Juveniles, the competent judicial authorities, the Office of the Human Rights Advocate and human rights organizations. If, on the basis of the investigations conducted, there is evidence of the commission of an offence against an adolescent deprived of liberty, this should be brought to the attention of the competent authorities in order to ensure the victim's access to justice and the lack of impunity.

231. The Government of Reconciliation and National Unity, through the authorities of the National Prison Service, ensures respect for this right, in accordance with article 97 of Act No. 473, which provides that, during the enforcement of the precautionary measures of deprivation of liberty, adolescents have the right to receive information on the form and means available for communicating with the outside world, on leave permits and on the

visitation schedule. Similarly, article 105 of the Regulations of Act No. 473 provides that adolescents must submit to the individual plan established by the Prison Service, which is supervised and monitored by the Office for the Enforcement and Monitoring of Criminal Penalties for Juveniles, which takes into account as a key principle the best interests of the adolescent for the purpose of reintegration into his or her family and society.

232. The National Prison Service, as part of rehabilitative treatment, ensures family visits once a week and marital visits every two weeks. These are authorized by the competent juvenile court judge, owing to the underage status of the prisoner and his or her spouse. This visitation schedule allows for more frequent visits than the one for adult prisoners, in the interest of attending to the special needs of adolescents, which demonstrates that effect is being given to the recommendation contained in paragraph 24 (e).

### **Recommendation contained in paragraph 25 (CAT/C/NIC/CO/1)**

#### **Information on applicable procedures for the rehabilitation and compensation of victims of torture and their families, along with an indication as to whether those procedures are available only to nationals or also to other groups, such as refugees**

233. In recognition of the rights of victims of gross violations of international human rights law to obtain legal remedies, compensation and, where possible, the restitution of their rights, the State of Nicaragua, through the Code of Criminal Procedure, stipulates that the procedure to be followed is that established for criminal and civil proceedings,<sup>4</sup> respectively. In these proceedings, either the accusation or the criminal complaint must expressly indicate the claim being made for restitution, reparation of harm or compensation for damages, with an itemized assessment of the proportion corresponding to the various categories of compensatory damages (Code of Criminal Procedure, art. 82 (4)). This includes the responsibility of law enforcement officials as victimizers or victims, in conformity with article 64 of the Act on the Organization, Functions, Career and Special Social Security Scheme of the National Police (No. 872).

234. The Criminal Code provides for urgent measures of protection for victims and for the civil liabilities to which the offences and minor offences committed give rise, thus recognizing redress not only as a form of economic satisfaction but also as non-pecuniary restitution to the victim or group.

235. It is for this reason that article 117 of the Criminal Code empowers the judicial authority to determine, based on the nature and the personal and financial circumstances of the person shown to be responsible, that person's obligation to give, do or refrain from doing, either personally or at his or her expense.

236. Accordingly, for the purposes of suing for civil liability, article 81 of the Code of Criminal Procedure provides that, once the conviction has been made final and immunity from criminal responsibility, but not immunity from civil liability in accordance with the Criminal Code, has been declared, or once the court has conditionally stayed the criminal prosecution, the person who, pursuant to this Code, is deemed to be the victim or subject of the offence or, where appropriate, the Office of the Counsel General of the Republic, may apply to the court which gave the decision in the criminal matter seeking restitution, provided that an order for restitution and payment of damages, as appropriate, had not already been given in the decision.

237. The application must indicate the identity of the person convicted and any person who may appear as civilly liable in law or pursuant to a contractual relationship.

238. On 5 August 2015, convinced of the need to adopt an approach oriented towards human solidarity with the victims of human rights violations, the State of Nicaragua adopted the Code of Civil Procedure of the Republic of Nicaragua (Act No. 902). Article

<sup>4</sup> National Assembly, Criminal Code (Act No. 641), adopted on 13 November 2007, Official Gazette No. 232 of 3 December 2007, Managua, Nicaragua. Article 114 – Civil liability: The commission of an act defined by law as an offence or minor offence carries with it the obligation to provide redress, under the terms prescribed by law, for the damages and harm caused by that act. The procedure for determining civil liability in a criminal court is the one set forth in the Code of Criminal Procedure. The injured party may decide, in any event, to sue for civil liability before the civil courts.

472 of the Code stipulates that claims in which a party seeks protection of fundamental rights, or rights related to his or her honour and reputation, respect for the dignity of the human person, his or her privacy or the privacy of his or her family, shall be heard through the ordinary process of law.

239. With regard to individual and group compensation, articles 475 and 499 of Act No. 902 provide, respectively, as follows:

“There shall be a presumption of the existence of harm in relation to the protected rights wherever there is confirmation that those rights have been unlawfully infringed.

Compensation shall be extended to include non-pecuniary loss, which shall be evaluated on the basis of the circumstances of the case and the gravity of the harm actually caused, for which purpose, account shall be taken, as appropriate, of any public dissemination or the audience of the medium through which such public dissemination occurred, as well as of the benefit obtained as a result of the harm by the person who caused the harm, with the degree of impairment being specified proportionally in the judgment.”

“In the judgment ordering reparation for damages, the judicial authority, taking into account the specificity of the legal right impaired, the surface area of the territory affected and other circumstances deemed to be relevant, may determine, by means of judicial decree, the use to be made of the compensation, indicating clearly and precisely the measures that must be taken by the defendant to restore the affected property in order to minimize the harm or avoid repetition of the damage, as well as a reasonable time limit before which such measures must be completed.”

240. The procedures set forth in these national laws are applicable to all persons present in the territory. The State is therefore in compliance with the provisions of articles 27, 34 and 36 of the Nicaraguan Constitution.

**Information on the rehabilitation programmes that exist at the national level for victims of torture**

241. There are no rehabilitation programmes for victims of torture, given that the relevant judicial authority has not heard any cases involving the offence of torture.

**Examples of actual cases of compensation and rehabilitation, together with the relevant judicial and administrative decisions adopted**

242. Not applicable.

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