



Convention on the Rights of the Child

Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts

Initial reports of States parties due in 2007

Nicaragua *

[17 June 2008]

Initial report of the Republic of Nicaragua

General explanation of the measures adopted to implement the provisions of the Optional Protocol

(Ratified by the National Assembly of Nicaragua, March 2003)

Introduction

1. On 17 March 2005, Nicaragua submitted to the United Nations its instrument of ratification in respect of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.
2. In accordance with article 8 of the Optional Protocol, the Government of Nicaragua herewith presents to the Committee on the Rights of the Child a general report which contains an explanation of the measures adopted by the State to implement the provisions of this important legal instrument.
3. Before discussing the provisions of the Protocol, it is worth reviewing briefly the history of armed conflict in Nicaragua.
4. The dictatorship of General Anastasio Somoza was overthrown in 1979, following a long liberation struggle that cost many lives. Thus began a new era for a country ravaged by war.
5. A Revolutionary Government was formed, led by the Government Junta for National Reconstruction. Shortly thereafter, Nicaragua was once again plunged into a serious confrontation that resulted in armed conflict situations in various parts of the country, predominantly rural areas. A number of National Guard members, who called themselves Contreras, started a war against the Sandinista Government, which made it necessary to introduce patriotic military service from the age of 16.
6. The war obstructed communications, used up resources and caused great deprivation. In 1984, elections were held, monitored by international observers, and Commander Daniel Ortega Saavedra was elected President of Nicaragua.
7. The Central American peace accords resulted in new elections in 1990, which were won by a right-wing coalition, the *Unión Nacional Opositora* (National Opposition Union) (UNO). The Contreras officially demobilized in 1990 as a result of the elections, though sporadic armed uprisings continued to affect some of the more remote areas of the country until the middle of this decade.
8. Because of the armed conflicts in Nicaragua, in the 1980s it was considered one of the most heavily mined countries in the western hemisphere.
9. It is good to be able to report that there are now no armed conflicts in Nicaragua, and the rules in the legally constituted Armed Forces do not permit the admission of persons under the age of 18.
10. In January 2007, President Daniel Ortega Saavedra took office and brought Cardinal Miguel Obando y Bravo, the most senior prelate in the Nicaraguan Catholic Church, into his Government to coordinate the Peace and Reconciliation Council, whose aim is to promote effective policies in support of the emotional, spiritual and financial recovery of the communities and families affected by the armed conflicts of the past.
11. The establishment of the Council is one example of the policies that have been adopted to provide practical means of attaining the set objectives in a reasonable time.

Legal measures related to the Armed Forces

12. The Nicaraguan State is examining its legislation and practices in light of the provisions of the Optional Protocol to ensure that they conform to the obligations set forth there, even though this was also done prior to ratification. The preparation of this report has thus provided an opportunity for a thorough examination of domestic legislation, regulations, procedures and administrative practices, which comply as far as possible with the provisions of the Optional Protocol.

13. The Nicaraguan Constitution has fully recognized the Convention on the Rights of the Child since 1990, and that is the basis for its recognition of the provisions of the Optional Protocol.

14. In terms of the Optional Protocol, an important legal step was taken in 1995, when a new constitutional provision did away with compulsory military service and prohibited all forms of forced recruitment to the Nicaraguan Army and the National Police. There is therefore no forced recruitment.

15. The Nicaraguan Army is the only legally recognized, armed military body in Nicaragua. It is indivisible, national, non-partisan, non-political and professional. In accordance with the Constitution, the Nicaraguan Army is the armed institution responsible for the defence of the nation's sovereignty, independence and territorial integrity.

16. The National Police is an armed, civilian, professional, non-political and non-partisan corps with no deliberative remit. It is governed strictly in line with the Constitution, which it is required to uphold and obey.

17. It is Nicaragua's only police force and its mission is to protect the life, integrity and security of persons, and the free exercise of the rights and freedoms of citizens. It is also responsible for preventing and prosecuting crime, maintaining the domestic public and social order, and ensuring respect for and preservation of the property of the State and of individuals, among other important functions. Professional training and development for aspiring police officers and those already in active service is provided by the National Police Academy.

18. There are no reserves in the Armed Forces of Nicaragua. According to the Constitution, there can be no armed bodies or military ranks within national territory other than those established by law.

19. Both institutions observe the legal prohibition on admission of persons under the age of 18 into the Armed Forces.

20. Act No. 228 on the National Police, and its regulations, and the Military Code of Nicaragua, which governs the Nicaraguan Army, establishes the documents to be produced to verify a person's age before admission.

21. Police officers are public servants who, by virtue of their appointment and in the exercise of their duties, serve the national community on a permanent basis.

22. The Voluntary Police is an auxiliary support body for the National Police, administratively attached and subordinate to police stations. Its members are Nicaraguan citizens, who go through a selection, preparation and swearing-in process, and agree to serve on a voluntary, temporary and unpaid basis.

23. Members of the Voluntary Police may be admitted to the National Police. To be admitted they must be above 18 years of age, among other important requirements.

24. The main task of the Voluntary Police is one of support, prevention, surveillance, public safety and traffic duty.

25. Under the Military Code, the members of the Army are Nicaraguans who volunteer to enlist in accordance with the law. The members of the military are required to abide strictly by the Constitution and the law, to comply with rules, ordinances and military regulations, to serve their country without thought for themselves, to spare no effort in the performance of their duty and to give their lives if necessary. They must be loyal to the military and their commanding officers and must steadfastly endure any difficulties and hardships involved in the performance of their duty.

26. Citizens who enlist in the army as military personnel must swear allegiance to the Constitution and the Nicaraguan flag and sign an official document to that effect. They may lose their military status or be discharged only under the conditions and circumstances established in the military regulations — the Army's constitution — and with the proper documentation.

27. The age for enrolment in the Academy is between 18 and 20, while graduates are aged from 22 to 24 and move into section commander posts or the equivalent, with the rank of lieutenant. The period of service for officers is 30 years, up to the rank of colonel.

28. For non-commissioned officers the length of service at a given rank will depend on the nature of their post. In technical, service-related or similar posts, it could equal the entire period of active military service.

29. The time spent at the ranks of sergeant and sergeant-major will depend on the nature of the post and the levels of military, technical and specialist training the sergeants have reached. The age for enrolment in the School for Sergeants is between 18 and 20 and they graduate at age 19–21.

30. The time spent in posts for enlisted soldiers or sailors will depend on the nature of the post. In the case of soldiers assigned to combat units, the age of admission to training is 18, and they will be given posts of marksman/markswoman or equivalent.

31. In accordance with the Protocol, the Children and Adolescents Code states in article 79, on special protection measures that "anyone who incites children or adolescents to participate in armed conflicts or armed activities of any kind shall be subject to criminal sanctions, as established by law".

32. In 1999, Nicaragua ratified, with no reservations or declarations, the Protocols Additional to the Geneva Conventions of 12

August 1949, and relating to the protection of victims of armed conflicts.

Legal measures to support war victims

Social security benefits for fallen combatants and their families (Decree No. 58, August 1979)

33. In accordance with this Decree, the Nicaraguan Social Security Institute grants benefits under the workplace accident and occupational disease insurance including medical care, incapacity allowance, disability pension, prostheses and treatment of illness, injury, mutilation, and any other type of incapacity resulting from participation in armed conflicts for the liberation of Nicaragua, paramilitary attacks or repressive actions.

34. Pensions under occupational hazard insurance are also granted to the parents, widows or children of those who have died as a result of armed conflict or who have been left in vulnerable situations.

35. The Nicaraguan Social Security Institute handles the procedures to establish beneficiaries' rights.

36. In accordance with Act No. 119, the Act on Aid to War Victims, of January 1991, the Nicaraguan Social Security Institute also grants all benefits under workplace accident and occupational disease insurance, including temporary incapacity allowance, compensation or lifetime pensions for permanent incapacity, prostheses, and physical and vocational rehabilitation services, to Nicaraguan war victims who suffer from illness, injury, mutilation and any other type of incapacity as a result of participation in the war.

37. The wife or partner of orphans and other dependents of those who died as a result of participation in the war also have the right to a survivor's pension for life, in the amount stipulated by the regulations to the Social Security Act.

38. The regulations to the Act (Decree No. 481 of January 1991) also state that the pensions to which former members of the Nicaraguan Resistance and their families are entitled shall be granted as from the date of their mobilization. Medical care, prostheses and orthopaedic aids necessary for medical treatment are the responsibility of the Ministry of Health, while prostheses necessary for physical or vocational rehabilitation in cases of partial or total disablement are provided by the Nicaraguan Social Security Institute.

39. Physical and vocational rehabilitation services are provided by the Nicaraguan Social Security Institute in coordination with the NGOs involved in those services.

40. Under the regulations, the Nicaraguan Social Security Institute is required to establish, as far as its budget permits, plans to provide welfare coverage to civilian victims of war, along the same lines as the social welfare programmes promoted, developed and implemented by the Institute for the benefit of the uninsured population who have been left unprovided for or in vulnerable situations.

41. Decree No. 177 of April 1986 states that orphaned children of parents from the ethnic groups of the Caribbean coast who died in combat are entitled to pensions from the Nicaraguan Social Security Institute. The first pensions were dated from 1 March 1986, for children already orphaned at that date, and subsequently from the date of death.

Administrative measures and inter-institutional coordination

42. The anti-personnel mine is a weapon that has been banned because it does not discriminate between civilians and military personnel or between children and adults. The existence of killing devices of this kind has had serious consequences for the economy, society and the safety of the population, including children and adolescents.

43. To address this problem, the Nicaraguan Army began the process of demining in 1989, though this has been limited by economic constraints.

44. In 1993, with support from the international community, Nicaragua began the National Programme for Humanitarian Mine Clearance to aid in the massive task of removing and destroying mines.

45. In December 1997 Nicaragua signed the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, known as the Ottawa Convention, and ratified it on 30 November 1998. In order to fulfil its obligations under that Convention, in 1998 the National Mine-Clearance Commission was established by Executive Decree No. 84-98.

46. The National Mine-Clearance Commission is a government body chaired by the Ministry of Defence; its primary objective is to fulfil Nicaragua's obligations and intentions under the Ottawa Convention.

47. The Commission's primary purpose is to contribute to and promote action to support the National Mine-Clearance Programme established by the Government of Nicaragua and implemented in the field by the Nicaraguan Army. The Commission also has a mandate to formulate the national demining policy through the Ministry of Defence.

48. The National Mine-Clearance Commission is made up of three Subcommissions:

- (a) The Subcommission on Mine Clearance;
- (b) The Subcommission on Medical Care and Rehabilitation;
- (c) The Subcommission on Education, Awareness-raising, Prevention and Rehabilitation.

49. Each subcommission has a specific task related to the destruction of anti-personnel mines, preventive education, care for victims or victims' reintegration in society. Several projects have been developed to eliminate mines, provide specialist care to victims, and above all to carry out awareness-raising and preventive education campaigns for the general public on the issue of landmines.

1. SubCommission on Mine Clearance

50. This subcommission is coordinated by the Ministry of Defence and, through the Army, is responsible for clearing mines throughout the country.

51. Its tasks include locating and demarcating mine fields and removing and destroying any anti-personnel mines found.

52. So far more than 2 million people living near minefields in the north-central region of the country have benefited from this effort, primarily in the departments of Nueva Segovia and Jinotega.

2. SubCommission on Medical Care and Rehabilitation

53. Under its constituting Decree, the National Mine-Clearance Commission is required to set up social programmes for the rehabilitation of anti-personnel mine victims. To meet this requirement, the Sub-Commission on Medical Care and Rehabilitation was established; it is coordinated by the Ministry of Health and is charged with creating plans of action each year for specialist care and rehabilitation for mine victims.

54. This body meets the need for support for anti-personnel mine survivors and for enhanced medical provision at the national level and, thus augments the comprehensive care cycle.

55. There are an estimated 1,500 victims of mines or explosive devices in Nicaragua, 1,061 of whom are officially registered as victims.

56. It has been verified that in Nueva Segovia and Jinotega, there are 74 mine fields and 1,156 communities, comprising around 35,000 people, living within 5 kilometres of them.

57. Since it was established in Nicaragua in 1997, the Support Programme for Victims of Mines and Explosive Devices has helped more than 937 anti-personnel mine survivors out of the estimated 1,500 victims.

58. Relevant data includes:

(a) Number of victims identified: 1,061;

(b) Number of victims served: 354;

(c) Number of consultations: 1,591.

59. These figures include 63 children, representing 6 per cent of the total number of people affected, and 361 adolescents, or 34 per cent.

3. Subcommission on Education, Awareness-raising, Prevention and Rehabilitation

60. In 2003 the National Mine-Clearance Commission began organizing the various institutions working in the field of education, in order to coordinate and structure their efforts and set some fixed goals with broader scope, based on outcome monitoring and evaluation, thereby reducing the risk of accidents from anti-personnel mines and explosive devices in the affected communities, giving priority to those who live in high-risk zones.

61. It is for this purpose that the Subcommission on Education, Awareness-raising, Prevention and Rehabilitation was established under the coordination of the Ministry of Education. Its task is to promote safe behaviour and offer alternatives to the ingrained habits observed in some communities, involving mine survivors from the affected communities at every stage as promoters, with the backing of community leaders, children's groups, and schoolteachers in the affected areas.

62. The goal of the programme is to provide technical vocational training to mine victims who have already received physical and psychological rehabilitation. The project also establishes an accountable, flexible mechanism for reintegrating victims in the labour market on completion of their vocational training. Since 2002, a total of 300 mine survivors have been reintegrated.

Education, awareness-raising and prevention

63. Through the Subcommission on education and landmine accident prevention, the National Mine-Clearance Commission has reduced the risk of landmine accidents, especially for the sector of the population living in high-risk zones. From its establishment in 2001 to mid-2007 it has achieved the following:

(a) Awareness-raising: 249,377 people;

(b) Communities: 229;

(c) Municipalities: 15;

(d) Departments: 5.

Work of the National Mine-Clearance Commission as it relates to the Convention on the Rights of the Child

64. The aim of the National Mine-Clearance Commission is to promote the respect for life and above all the respect for the human rights of anti-personnel mine victims.

65. In this context, the Commission has developed a plan of action whereby primary and secondary schools include prevention of accidents from landmines or explosive devices as a subject on their curriculum.

66. School curricula already include courses on human rights and humanitarian rights, and so emphasis has been placed on that aspect from the outset, primarily in schools in the north central region of the country, and in all communities affected by anti-personnel mines and explosive devices.

67. Data is available on the number of students, schools, and rural and urban areas where these subjects are taught. So far awareness-raising has reached 249,377 people in 15 municipalities and 304 communities. Most important, work has been done with 215 rural schools located in high-risk mine areas.

68. Other beneficiaries include 7,195 students from five municipalities, 4,789 of them primary students and 2,406 are secondary students.

(a) Las Sabanas: 11 schools in 11 communities (669 students);

(b) San José de Cusmapa: 28 communities: 28 primary schools (1,147 children) and two secondary schools (7,730 adolescents);

(c) San Lucas: 16 primary schools (1,032 children);

(d) Telpaneca: 16 schools in 13 communities: 13 primary schools (1,119 children trained in the danger of mines and explosive devices and on human and humanitarian rights) and three secondary schools (584 adolescents, some training);

(e) Sixteen primary schools (822 children) and two secondary schools (1,303 adolescents): training planned in aforementioned subjects.

Physical and psychological rehabilitation services; social and economic reintegration of children

69. The National Mine-Clearance Commission has established coordination at a national level to answer mine survivors' needs through the Subcommission on Medical Care and Rehabilitation, which is made up of government agencies, NGOs and organizations for persons with disabilities due to anti-personnel mines.

70. This is done through a rehabilitation programme that is designed to provide care for all mine victims and their families, men, women, children or older persons.

71. All anti-personnel mine survivors have access to physical and psychological rehabilitation through a network of medical services that includes 23 rehabilitation units located in department capitals and 38 physiotherapy units located in various health centres throughout the country.

72. There are estimated to be 1,500 mine victims in Nicaragua: the majority of them are men, since a large number of accidents occur during farm work. Six per cent of the total are children and 24 per cent adolescents.

73. On the basis of this information, Nicaragua has created a programme for vocational rehabilitation and reintegration into productive social life, with the participation of government institutions, municipal and community authorities and international organizations such as the Organization of American States (OAS), which has played an important role in implementing this programme.

Technical training programme and microprojects

74. The reintegration programme provides vocational training for mine survivors, in the form of a nine month internship at one of Nicaragua's specialist centres, the National Institute of Technology (INATEC).

75. To date seven training cycles have been completed, for 222 people. Four cycles of macroprojects (108 people) have also been financed, giving a total of 330 mine survivor beneficiaries from 13 different departments.

76. Children living in communities affected by anti-personnel mines are one of Nicaragua's priorities, as many of them fall victim to these lethal devices. Preventive education programmes are maintained in schools so that they continue to receive prevention training and an understanding of human and humanitarian rights, so as to prevent more mine accidents.

77. The Institute for War Victims was established by Decree No. 792 of 14 February 1992 under the Ministry of the Presidency in order to provide support for war victims. Its primary objective was to coordinate, monitor and follow up on the policies, programmes and projects of the various government agencies to benefit those widowed, orphaned or disabled by war.

78. In 2007 the Government of Reconciliation and National Unity, in coordination with the National Institute of Technology (INATEC) and the Nicaraguan Army, provided training and materials through workshops on starting a small business, under the OAS-funded programme for war victims, which has helped more than 197 victims and which, in its demining work, receives international cooperation from European countries, the United States of America and the Federative Republic of Brazil. This programme makes it possible to reintegrate persons with disabilities (war and mine victims) and to provide psychological and social

support, training, working capital, courses in business administration and organization, and follow-up support.

79. To date in 2008 the programme has benefited 98 more people in 140 communities, notably Jinotega, Nueva Segovia and Matagalpa. There are still 51 mine fields located mainly in the border areas of various municipalities in Nueva Segovia and Jinotega.

80. The Government of Reconciliation and National Unity has also increased the pensions for war victims to US\$ 70 and has adjusted the family pensions granted to more than 21,165 war victims. A 39 per cent increase is also planned for the pension of US\$ 26 given to mothers of those fallen in combat.

81. This decree is one way in which the Government of Reconciliation and National Unity intends to restore Nicaraguans' social rights, as part of the social programmes it has carried out in order to restore families' right to permanent support from the Government.