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Summary prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1

Nicaragua*

The present report is a summary of 12 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

* The present document was not edited before being sent to the United Nations translation services.

I. Background and framework

A. Scope of international obligations

1. The Nicaraguan Centre for Human Rights, the World Organization Against Torture and the International Federation of Human Rights Leagues (JS1) regretted that Nicaragua had still not ratified ILO Convention No. 169 on indigenous peoples,² and that it had not yet ratified OP-CEDAW.³

B. Constitutional and legislative framework

2. JS1 reported that although the 2008 Criminal Code contains a definition of torture, the definition does not fully correspond to that in CAT. In addition, the Military Criminal Code does not include the offence of torture, but simply abuse of authority and inflicting bodily harm, implying that accused persons benefit from a more favourable norm.⁴

3. A joint submission by 53 organizations, the Nicaraguan Federation of NGOs Working with Children and Adolescents (CODENI), noted that one of the most important reforms in the 2005 Constitution was the recognition of the full validity of the CRC as a national norm. CODENI recommended the approval of the draft Family Code and the draft Civil Registry Law as soon as possible.⁵

C. Institutional and human rights infrastructure

4. CODENI indicated that the “*Procuraduría para la Defensa de los Derechos Humanos*” lacks autonomy, independence and impartiality, and has an insufficient budget.⁶

D. Policy measures

5. CODENI noted that while Nicaragua has adopted numerous policies, strategies and national plans related to children’s rights, these have not been useful tools for advancing the fulfilment of the rights of children. It also reported that in 2007, the Executive branch ended the functions of the National Council on the Comprehensive Care and Protection of Children (CONAPINA), which coordinated and monitored national policy on children’s rights.⁷

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

N/A

B. Implementation of international human rights obligations

1. Equality and non-discrimination

6. JS1 noted that women face hurdles affecting their access to decent work, to loans, to land ownership and to basic social services.⁸

7. La Procuraduría para la Defensa de los Derechos Humanos (PDDH) (Office of the Human Rights Procurator) noted that the abrogation of article 204 of the Criminal Code and the adoption of articles penalizing discrimination on grounds of sexual orientation were signs of progress. Nevertheless, the Office recognized that discrimination persisted in access to decent work, education free of prejudice, access to justice and recognition for gender identity.⁹

8. CODENI noted that a study conducted in 2005 revealed that almost half a million Nicaraguans have disabilities. Only 6 per cent of the population with disabilities receive some type of care, and only 3 per cent know that Law 202 protects the rights of persons with disabilities.¹⁰

2. Right to life, liberty and security of the person

9. JS1 said that there were cases in which the police made disproportionate use of force, comparable to torture or ill-treatment, particularly at the moment of arrest and exceptionally during investigation. It reported that conditions of detention in some detention facilities could also be assimilated to inhuman and degrading treatment.¹¹

10. Amnesty International (AI) expressed serious concerns at the high prevalence of rape and incest in Nicaragua. In more than half of the rape cases reported in 2008, the victims are girls below the age of 18, according to the records of the Women's Police Unit and the Nicaraguan Forensic Institute.¹² In 2007, the Inter-American Commission on Human Rights (IACHR) noted a general increase in the criminalization of sexual crimes and rape within marriage, as well as an expansion of the definition and sanction of rape.¹³

11. JS1 indicated that violence against women was not classified as a separate crime in Nicaragua, but simply as domestic violence, thereby helping to conceal the gender-based violence affecting women. Nor was femicide classified as a separate crime, making it impossible to investigate, prosecute or punish it.¹⁴ JS1 reported that women who lodged complaints were not entitled to protection to ensure their own and their children's safety as protective measures were slow to be applied. In addition, there were no shelters for them, and the special police stations for women dealt with cases of domestic violence through mediation and it was their practice to require victims to transmit the summons to their aggressor.¹⁵

12. The IACHR noted that in Nicaragua, the authority receiving the original complaint on violence against women — generally the police — asks the victim to undergo examination by the Institute of Legal Medicine and by a psychologist so that they can use their expert opinions as evidence. In general, however, these people are discredited by the assailant, who orders that other tests be taken.¹⁶ The IACHR also cited an analysis of 1,077 verdicts delivered in criminal cases involving violence against women in Nicaragua, which found that more than half ended in acquittals; in only eight cases were protective measures ordered pursuant to existing laws.¹⁷

13. JS1 pointed out that the State failed to address the issues of rehabilitation, reinsertion and mental rehabilitation in cases involving violence against children. A further problem was the lack of State shelters to accommodate child victims of violence. All the existing centres depend on NGOs.¹⁸ CODENI recommended strengthening the institutions responsible for justice (the police, public prosecutor's offices, and the courts) so that they fulfil their responsibility to prevent, attend to and sanction all forms of violence against children and adolescents, as specified in the Child and Adolescent Code and the Penal Code.¹⁹

14. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) reported that corporal punishment is lawful in the home. The Penal Code punishes domestic violence "except in such cases in which the right to disciplinary punishment is exercised".

In 2008 a Draft Family Code was under discussion which provided that fathers, mothers and guardians should, “discipline their sons and daughters adequately and moderately without risking their health and personal dignity.” While it prohibits corporal punishment in schools, under the General Education Law, and in the penal system, there is no explicit prohibition of corporal punishment in alternative care settings.²⁰ JSI commended the ministerial decision to prohibit corporal punishment and humiliating treatment in schools.²¹

15. JSI pointed out that although sexual harassment is widespread in Nicaragua, it is difficult to record or prove cases. Women working in *maquilas* (in-bond assembly plants) are subjected to blackmail and sexual harassment as well as working under psychologically harmful conditions.²²

16. JSI noted that trafficking and sexual exploitation of children is a very preoccupying phenomenon. Approximately one half of women sex workers are under 18 years of age. The State has not assigned priority to combating trafficking in women and children and the penalties laid down in the Criminal Code are not enforced.²³ CODENI highlighted the recent inclusion of a sanction for human trafficking, commercial sexual exploitation and other connected crimes in the Penal Code, and the creation of a Coalition against Human Trafficking as an arena where the State and civil society can link efforts to address this problem.²⁴

17. JSI said that child labour still persists in Nicaragua under conditions that endanger the life, physical integrity and development of children.²⁵ CODENI noted that despite efforts by the Labour Ministry to prevent and monitor child labour, its inspections are mainly concentrated in the formal sector, leaving children working in the informal sector completely defenceless. Some 76 per cent of these young people are working in the informal sector of the economy as non-remunerated family labourers.²⁶

18. PDDH said that it was necessary to improve the physical conditions in preventive detention cells in Nicaragua.²⁷ It also noted that the closure of the prison officers’ training facility and the elimination of the gradual parole system had resulted in a worsening of the human rights situation of detainees, their families as well as for prison officers and their families. There is currently a shortage of space for detainees.²⁸

3. Administration of justice, including impunity

19. International PEN (PEN) said that the judicial system is biased at all levels in Nicaragua because of the partisan arbitrariness of its structures. PEN cited the “Acuerdo o Pacto” (agreement or pact) between the party now in power and the party formerly in power from 1996 to 2001, as a result of which institutions are split up between parties “*partidarización*” and the judicial and electoral authorities used for partisan purposes, with officials being chosen for public office on the basis of their party affiliations.²⁹

20. PDDH said that while the National Police Force is the institution against which the highest number of complaints of human rights violations are lodged, it is also the institution which reports the highest number of corrective, reparatory and punitive measures for confirmed infringements.³⁰ JSI nevertheless considered that the proportion of cases that come before the courts and which lead to the appropriate penalties being handed down is very small; according to the police only 4 per cent of the various types of ill-treatment have been referred to the Prosecution Service.³¹

21. PDDH thought that the political decision to establish a new type of court, together with the introduction, without proper preparation, of the New Criminal Code and Code of Criminal Procedure had undermined the quality of and access to justice, as was apparent from the lack of specialization of the courts. PDDH considered that the failure of the National Council on Judicial Administration and the Legal Profession to act was a major

shortcoming. PDDH said that it had no small number of complaints concerning corruption of judicial officials.³²

22. JS1 noted that in spite of the provision made by the Children's and Young Persons' Code for inclusion of the necessary budget items in the general budget, the required investment in the human, financial and technical resources for the structures and actions required for full application of the Special Criminal Courts for Young Persons is still lacking. Physical conditions in cells in all the national centres holding young persons are still far from satisfactory. It also said that the juvenile court system still makes insufficient use of alternatives to detention.³³

23. CODENI reported that only half of the specialized penal courts required in the Child Code have been set up. The right to defence by adolescents who are accused of breaking the law is limited, since the Interior Ministry's Legal Aid Office does not have enough trained public defenders. There is a notable lack of up to date information about the juvenile population in conflict with the law and its situation. CODENI reported however some progress including the creation of the specialized Public Prosecutor's Office for Women, Children and Adolescents and the creation of crime prevention commissions whose members include adolescents by the National Police. These have led to concrete results such as the dismantling of gangs and the social reinsertion of their members.³⁴

4. Right to privacy, marriage and family life

24. CODENI indicated that according to official estimates, 30 per cent of all children do not possess an identity document, which places them at a complete social and legal disadvantage.³⁵ JS1 pointed out that one of the fundamental problems affecting Nicaraguan children is the irresponsibility of fathers who fail legally to recognize their children. The protection provided by the Responsible Parenthood Act has not been put into practice because of a shortage of funds for reporting and the lack of technical resources for DNA tests. The agencies for which the Act provides have not been established, nor has the population received the relevant training and information.³⁶

25. CODENI indicated that approximately 10 per cent of Nicaraguans live outside of Nicaragua, which negatively impacts a child's right to family protection. Thousands of children and adolescents are being cared for by grandmothers, uncles and aunts, siblings and other people, often exposed to mistreatment and the violation of basic rights. It recommended that the State allocate sufficient financial, material and human resources to the Ministry of the Family so that it can fulfil its functions as the institution responsible for social protection policies.³⁷

26. CODENI noted that between 2006 and 2007, there were public complaints of corruption and irregularities in the adoption of children but that these complaints were never sufficiently investigated or sanctioned.³⁸

27. The Fundación Mundial Déjame Vivir en Paz (FMDVP) said that it was necessary for Nicaragua to recognize the right of gay persons to marry and to adopt children.³⁹

28. FMDVP noted that the crime formerly classified as "sodomy" had been decriminalized.⁴⁰

5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

29. JS1 said that the possibilities for exercising freedom of expression had shrunk since 2007. Citizens desiring to exercise their right to demonstrate had in general been attacked and intimidated by pro-Government gangs, armed with clubs, stones, mortars and even machetes, while the police looked on indifferently.⁴¹ JS1 said that the National Police had

so far failed to investigate or to arrest anybody for the repeated acts of violence that occurred whenever citizens and civil society organizations were attacked as they tried freely to express themselves and peacefully to demonstrate.⁴² JS1 said that it was unacceptable for the police authorities to claim that in order to protect itself as an institution, it could not provide information on the penalties handed down to officers who had failed to act when members of the *Coordinadora Civil* (Civic Coordination) had been beaten up in August 2009.⁴³

30. JS1 reported that freedom of opinion has been affected by the frequent reprisals against anyone who criticizes the actions of the President or the Government party.⁴⁴ A joint submission by Article 19, the Nicaraguan Centre for Human Rights, the Centre of Investigation and Communication, and the Violeta Barrios de Chamorro Foundation (JS2) indicated that according to their data, there were over thirty attacks against human rights defenders, five attacks against journalists, and three attacks against radio stations, in 2008.⁴⁵ AI said that in the weeks following the municipal elections in November 2008, at least 20 journalists were physically attacked; many were beaten. The majority of the attacks were reportedly carried out by groups of supporters of the Sandinista Liberation Front Party. The premises of at least five independent media outlets were vandalized.⁴⁶ JS2 noted a pattern of attacks against journalists working for media that follow an independent or critical editorial line. It said journalists and media organisations, particularly those working in the provinces, are exposed to repercussions if they address sensitive themes such as drug trafficking, and corruption.⁴⁷

31. JS1 reported that the conditions under which human rights activists operate have deteriorated considerably.⁴⁸ PEN reported that violent gangs loosely affiliated to political parties have developed; they include the *Consejos del Poder Ciudadano* (civic power councils), the *Comités de liderazgo sandinista* (Sandinista leadership committees) and party union organizations which mobilize to oppose any protests, demonstrations or even various opposition publications and activities.⁴⁹ JS2 said Nicaragua's Constitution limits criticism directed at the State to that which is deemed constructive.⁵⁰ According to JS2 defamation (libel and slander) remains a criminal offence pursuant to the 2008 Penal Code.⁵¹ PEN said that it is impossible for any branch of public opinion to attempt to exercise the right to criticize or to demand respect for civic rights without running the risk of being openly or covertly intimidated by the Government, and this has given rise to a climate of fear and self-censorship.⁵²

32. JS1 reported that investigations by journalists into corruption and actions to uphold the rights of women had resulted in newspapers being persecuted in reprisal.⁵³ AI noted that the accusation when, by whom? against nine women human rights defenders contends that by assisting a 9 year old rape victim to access abortion services and by expressing their opinions and organizing demonstrations in favour of access to "therapeutic abortions", they are guilty of conspiracy, incitement and public defence of a crime.⁵⁴ JS2 also made reference to accusations by the State of "fraud" against 17 human rights organisations. The Attorney-General also brought charges of fraud and corruption against a newspaper and its editor-in-chief in 2008.⁵⁵

33. According to JS2, Nicaragua suffers from severe media concentration.⁵⁶ JS2 considers that laws fail to promote public interest broadcasting, establishing instead a system of public tendering for licences, requiring applicants to meet certain technical and financial criteria. This does not allow for the promotion of diversity and renders access to the airwaves impossible for many.⁵⁷ JS2 indicated that there are plans to reform the current legislation to establish an independent regulatory body to promote the development of public interest broadcasting. The proposed reforms are potentially an opportunity to promote pluralism and access to the media according to JS2.⁵⁸

34. JS2 said that although a progressive Access to Information Law was adopted in 2007, a culture of transparency has not yet developed in Nicaragua. Most requests for information are made by journalists and NGOs often do not receive satisfactory responses. JS2 highlighted shortcomings in the Law, noting that it does not allow for an independent appeals mechanism; includes some blanket exceptions; excludes personal information; fails to provide protection to those who give out information in good faith.⁵⁹

35. JS1 said that although the right of the communities on the Atlantic Coast to live and organize their lives within societies that correspond to their historic and cultural traditions is recognized by the Constitution and law, Nicaragua continues to impose a model that prevents indigenous peoples' organizations from participating in elections.⁶⁰ In 2005 the Inter-American Court for Human Rights found that the State violated the rights of several indigenous candidates to participate in the municipal elections of November 2000. The Court also found that the right to a fair trial of these candidates was violated. It ordered the State, *inter alia*, to adopt, within a reasonable time, the necessary legislative measures to establish a simple, prompt and effective recourse to contest the decisions of the Supreme Electoral Council that affect human rights; and necessary measures to ensure that members of indigenous and ethnic communities may participate in the electoral processes effectively and according to their traditions, practices and customs.⁶¹

36. In 2007, the IACHR considered admissible a petition alleging irregularities related to the voting system, which negatively affected the "principle of authenticity" of the elections held in Nicaragua in 1996. The Commission noted the absence of an effective domestic judicial remedy under Nicaraguan law that petitioners can invoke to challenge decisions of the Supreme Electoral Council.⁶²

37. JS1 noted that women are poorly represented in official positions, and at a low level.⁶³

6. Right to work and to just and favourable conditions of work

38. JS1 reported that there has been a significant deterioration in the right to a decent standard of living because of increased unemployment, a drop in remittances to Nicaraguans from relatives who work abroad and cutbacks in international cooperation.⁶⁴

39. CODENI reported that the economic crisis has increased unemployment among adults, which affects families' purchasing power and increases migration. These phenomena are accompanied by other consequences: family disintegration, violence, and the labor exploitation of children and adolescents.⁶⁵

7. Right to social security and to an adequate standard of living

40. CODENI noted that Nicaragua is a nation of profound social inequity. Close to half of the population lives in poverty, and 15 per cent in extreme poverty. Generalized poverty is greatest in the Central and Caribbean regions, affecting six out of every ten inhabitants, and 70 per cent of the inhabitants in rural zones.⁶⁶

41. JS1 noted that the Government has made some efforts, reflected in some improvement in health and education. However, Government programmes are overwhelmed by the scale of social and economic problems and by the lack of political will to give priority to social expenditure and to cut back on current expenditure.⁶⁷ PDDH drew attention to the restoration, in 2006, of the right of Nicaraguans to free health care, following the privatization of health care in 1990.⁶⁸

42. CODENI noted that as a result of the Expanded Programme of Immunizations (EPI), all vaccination coverage has improved significantly, with 77 per cent of children having completed the vaccination programme for their age group. However, the rates of

preventable diseases such as diarrhea, dengue and respiratory infections continue to increase. A Nicaraguan child's right to health is limited by numerous factors, including the insufficient coverage and quality of health services, the inadequate allocation of resources to child health programmes, the deterioration of the health infrastructure, lack of medicines, geographic barriers to access, and lack of qualified human resources. All of these conditions impact most seriously on the population living in rural and isolated zones.⁶⁹

43. Human Rights Watch (HRW) indicated that Nicaragua has one of the highest rates of maternal mortality in the region, with 170 maternal deaths per 100,000 live births⁷⁰ CODENI noted that close to 40 per cent of maternal deaths in rural zones are among girls and adolescents younger than 19 years of age.⁷¹ IPAS Central America (IPAS) reported that statistics for the past three years show a systematic increase in indirect obstetric deaths.⁷² CODENI noted that the maternal mortality rate among women living in the autonomous regions is 2.1 times higher than in the rest of the country; infant mortality is 14 percentage points higher than the national average. Chronic malnutrition affects 33.7 per cent of Miskito children, and one hundred percent of Ramas suffer from chronic malnutrition. In the Pacific and Central regions, 24 per cent of children and adolescents do not have access to growth and development control services. 100 per cent of all Ramas and 55.7 per cent of all Miskitos do not receive these services.⁷³

44. The Programa Feminista Centroamericano La Corriente and the Iniciativa por los Derechos Sexuales (PFCLC-IDS) said that laws prohibiting abortion, even for therapeutic purposes, are having a dramatic impact on poor and marginalized women.⁷⁴ AI reported that since July 2008, abortion is a criminal offence in all circumstances⁷⁵ and noted that the total ban on abortion makes no provision for exceptions where the life or health of the woman is at risk.⁷⁶ IPAS made reference to the Penal Code articles which protect "those to be born", thus placing all health-care workers at risk of being charged, tried and imprisoned if they end a pregnancy at any stage.⁷⁷ CODENI recommended the reform of the Penal Code.⁷⁸

45. CODENI said HIV incidence increased from 2.52 to 12 cases per 100,000 inhabitants between 2000 and 2008. Approximately 4 per cent of the new cases detected in 2008 are children who were infected by mother-child transmission.⁷⁹

46. PDDH reported that since 2006, the Nicaraguan Government has given priority to the right to food.⁸⁰ According to CODENI, although Nicaragua has adopted a food security law, insufficient resources are assigned to ensuring that it is applied. The population living in 59 municipalities of the Pacific and Central regions and in the two autonomous Caribbean regions live in conditions of "extreme" and "very high" food insecurity. The socio-economic situation of families tends to increase the risk of malnutrition in childhood.⁸¹

47. PDDH said that Nicaragua is currently experiencing a period of stability in the area of land ownership as a result of the decision to bring corruption under control and prevent continuation of the large-scale seizure of land from small farmers. Litigation over the ownership of 243 estates has been settled for the direct benefit of 4,762 families, and deeds have been granted to 39,014 properties in the last three years.⁸²

48. PDDH reported that water resources had been privatized in the early 1990s. Since 2006, the Government of Nicaragua has been taking steps effectively to restore State ownership of water, by taking effective regulatory measures and making investments to extend the supply network to communities neglected by the previous Governments.⁸³ CODENI reported that only 20 per cent of the indigenous population has access to potable water.⁸⁴

49. PDDH reported that since 2006, the Government of Nicaragua has been implementing programmes designed to satisfy the human right to housing, and drew attention to the building of more than 4,000 low-cost homes and the distribution during the

last four years of more than half a million galvanized sheets and tools and the introduction of a non-profit microcredit scheme.⁸⁵ CODENI said Nicaragua has a deficit of half a million homes. CODENI reports that in the more marginal neighborhoods of cities and in rural communities, thousands of children and adolescents live in precarious structures built in locations which are extremely vulnerable to natural disasters, and lack access to basic services such as potable water.⁸⁶ CODENI noted that overcrowded living conditions affects 61.9 per cent of Miskito families, in comparison to 38.1 per cent of the rest of the population.⁸⁷

50. PDDH said that since 2006, the Government had brought back into operation the normative and regulatory machinery responsible for energy production, sale and distribution in Nicaragua, for the benefit of the average consumer.⁸⁸

8. Right to education

51. PDDH reported that a second National Literacy Campaign had been under way since 2006; it has culminated with the award by UNESCO, for the second time in less than 30 years, of certification declaring Nicaragua a “land free from illiteracy”, on this occasion because illiteracy has been reduced from 22 per cent to 3.58 per cent after having risen during the 1990s following the privatization of education.⁸⁹

52. PDDH noted that the National Education System is currently implementing programmes designed both to increase school enrolment and reduce the dropout rate. It cited the return of free education and the abolition of school autonomy, under whose guise education had been privatized during the period 1990 to 2005.⁹⁰ CODENI said although some progress has been made in education, it is unlikely that Nicaragua will achieve the goal of universal basic education by the year 2015. Despite improvements in school attendance rates, the educational system still suffers from significant deficits that affect thousands of children and adolescents.⁹¹

53. CODENI also noted that adolescents have extremely limited access to technical training programmes. It recommended to double investments in education in a sustained manner, in order to achieve the goal of universal basic education; to place highest priority on educating children in rural areas and in the Caribbean Coast region; and to carry out concrete efforts to generalize the new curriculum, provide more training and higher salaries to teaching personnel, and supply sufficient textbooks.⁹²

54. PFCLC-IDS said that despite the provision in the Constitution declaring education to be non-denominational, throughout its history the State has pursued education policies which have been influenced by conservative ideas — mainly linked to religious ideology — in respect of gender, sexuality and reproduction.⁹³ PFCLC-IDS recommended that religious interference should be avoided in proposals and decisions concerning State education policy and planning, particularly where sex education and reproductive health are concerned; it also recommended that a health and education policy that meets the needs of men and women and enables them to lead sexually responsible lives free from any form of discrimination should be agreed upon with civil society, including women’s and feminist organizations.⁹⁴

9. Minorities and indigenous peoples

55. PDDH noted that the Act concerning the Communal Property Regime of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and of the Bocay, Coco, Indio and Maíz Rivers had been adopted in 2002; it had been inspired by the Act on Autonomy which had set forth and put into practice the 1987 “Autonomy Statute of the Atlantic Coast Region”. In the last four years,

deeds of ownership have been granted to nine indigenous territories covering an area of more than 10,000 square kilometres and home to 53,580 people and 121 communities.⁹⁵

56. JS1 said that the process of determining the boundaries of all the indigenous territories has been completed. The deed of ownership to the Mayangna de Awes Tingni indigenous territory has finally been awarded, although the process in respect of other communities such as the Rama people has not yet been completed. Moreover, the problem of indigenous peoples' property rights also involves land colonizers or settlers who are currently occupying land already designated as indigenous.⁹⁶

57. According to CODENI, the decision by the Human Rights Ombudsman's Office in 2005 to eliminate the Special Ombudsman's Office on Indigenous Rights and to replace the indigenous person holding this position with three non-indigenous people, to whom a variety of new tasks were assigned, was a clear violation of indigenous peoples' rights.⁹⁷

10. Migrants, refugees and asylum-seekers

58. JS1 pointed out that current legislation on migration and aliens fails to meet human rights standards because it adopts a selective approach to migration and even applies restrictive measures on grounds of public health and national security. The focus of the draft law currently being considered is as a whole more concordant with human rights, although it still contains a number of provisions that might be questionable, because they are based on punitive and supervisory considerations.⁹⁸

59. JS1 said that the definition used by the Civil Code to classify the offence of trafficking in migrants has not yet dispensed with the term "illegal" to describe migrants whose migratory status is irregular, thereby still criminalizing migrants rather than the traffickers. Likewise, the definition in the Criminal Code fails to establish the transnational and international nature of the offence, nor does it distinguish between migrant trafficking networks and mere "coyotaje" (alien smuggling) or helping them to cross borders.⁹⁹

60. JS1 drew attention to the difficulties involved in deporting migrants to their country of origin: the country of origin might refuse to recognize their nationality because they have no identity documents; it might not have any diplomatic relations with Nicaragua or there might be no funds to cover the cost of return; deportation is a slow process and there are difficulties ensuring that an interpreter is present during interviews.¹⁰⁰

III. Achievements, best practices, challenges and constraints

61. CODENI stressed that Nicaragua is extremely vulnerable to natural disasters. The greatest recent tragedy was caused by Hurricane Felix in 2007, which left 214 deaths and more than 749 orphaned children and adolescents in its wake.¹⁰¹

IV. Key national priorities, initiatives and commitments

A. Pledges by the State

N/A

B. Specific recommendations for follow-up

N/A

V. Capacity-building and technical assistance

N/A

Notes

- ¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: <http://www.ohchr.org>. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council. Two asterisks denote a national human rights institution with “A” status.

Civil society

AI	Amnesty International, London, UK*;
CODENI	Joint submission by 53 organisations — Nicaraguan Federation of NGOs Working with Children and Adolescents, Managua; Nicaragua;
FMDVP	Fundación Mundial Dejame Vivir En Paz, San José, Costa Rica;
GIEACPC	Global Initiative to End All Corporal Punishment of Children;
HRW	Human Rights Watch, New York, USA*;
IPAS	IPAS Central America, Managua, Nicaragua;
JS1	Joint submission by the Centro Nicaragüense de Derechos Humanos (CENIDH), la Organización Mundial contra la Tortura (OMCT), y la Federación Internacional de Derechos Humanos (FIDH);
JS2	Joint submission by Article 19, the Nicaraguan Centre for Human Rights (CENIDH), the Centre of Investigation and Communication (CINCO), and the Violeta Barrios de Chamorro Foundation (FVBCH);
PEN	International PEN, London, UK*;
PFCLC-IDS	Joint submission by Programa Feminista Centroamericano La Corriente y la Iniciativa por los Derechos Sexuales.

National human rights institution

PDDH	Procuraduría para la Defensa de los Derechos Humanos de Nicaragua, Managua, Nicaragua**.
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Regional intergovernmental organization

IACHR	Inter-American Commission on Human Rights, Washington DC, USA. <ul style="list-style-type: none"> • Annex 1: Access to Justice for Women Victims of Violence in the Americas; • Annex 2: Admissibility Report N° 1/07, Petition 11.878, Azucena Ferrer Echaverry, Rommel Antonio Martínez Cabezas, Carlos Alberto Jirón Bolaños, Constantino Raúl Velásquez, Julio César Roca López, Bayardo Ramón Altamirano López, Jorge Ulises González Hernández and Manual Martínez José vs. Nicaragua • Annex 3: Admissibility Report N° 3/09, Petition 4408-02, V.R.P. and V.P.C. vs. Nicaragua • Annex 4: Admissibility Report N° 54/07, Petition 4614-02, Wilmer Antonio González Rojas vs. Nicaragua • Annex 5: Inter-American Court of Human Rights, Case of Yatama vs. Nicaragua, Judgment of June 23, 2005
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² JS1, p. 7.

³ JS1, p. 6.

⁴ JS1, p. 3.

⁵ CODENI, p. 1, 2.

⁶ CODENI, p. 2.

⁷ CODENI, p. 2, 3.

⁸ JS1, p. 6.

⁹ PDDH, p. 5.

¹⁰ CODENI, p. 4.

¹¹ JS1, p. 3.

- ¹² AI, p. 6.
¹³ IACHR – Annex 1, p. 107.
¹⁴ JS1, p. 5.
¹⁵ JS1, p. 6.
¹⁶ IACHR – Annex 1, p. 55.
¹⁷ IACHR – Annex 1, p. 7.
¹⁸ JS1, p. 5.
¹⁹ CODENI, p. 4.
²⁰ GIEACPC, p. 2.
²¹ JS1, p. 5.
²² JS1, p. 6.
²³ JS1, pp. 4, 5.
²⁴ CODENI, p. 8.
²⁵ JS1, pp. 4, 5.
²⁶ CODENI, pp.7, 8.
²⁷ PDDH, p. 4.
²⁸ PDDH, pp. 3, 4.
²⁹ PEN, p. 2.
³⁰ PDDH, p. 4.
³¹ JS1, p. 2.
³² PDDH, p.1.
³³ JS1, p. 5.
³⁴ CODENI, p. 10.
³⁵ CODENI, p .3.
³⁶ JS1, p. 4.
³⁷ CODENI, p. 6.
³⁸ CODENI, p. 6.
³⁹ FMDV, pp. 1, 2.
⁴⁰ FMDV, pp. 1, 2.
⁴¹ JS1, p. 4.
⁴² JS1, p. 2.
⁴³ JS1, pp. 2, 3.
⁴⁴ JS1, p. 4.
⁴⁵ JS2, pp. 1, 2.
⁴⁶ AI, p. 7.
⁴⁷ JS2, p. 2.
⁴⁸ JS1, p. 7.
⁴⁹ PEN, p. 3.
⁵⁰ JS2, pp. 4, 5.
⁵¹ JS2, p. 4.
⁵² PEN, p. 1.
⁵³ JS1, p. 7. See details of cases cited.
⁵⁴ AI, p. 6.
⁵⁵ JS2, p. 4.
⁵⁶ JS2, p. 3.
⁵⁷ JS2, pp. 2, 3.
⁵⁸ JS2, p. 2.
⁵⁹ JS2, p. 3.
⁶⁰ JS1, p. 7.
⁶¹ IACHR – Annex 5, pp. 104, 105.
⁶² IACHR – Annex 2, p. 1.
⁶³ JS1, p. 6.
⁶⁴ JS1, p. 4.
⁶⁵ CODENI, p. 6.
⁶⁶ CODENI, p. 3.
⁶⁷ JS1, p. 4.

- ⁶⁸ PDDH, p. 2.
- ⁶⁹ CODENI, p. 5.
- ⁷⁰ HRW, p. 2.
- ⁷¹ CODENI, p. 5.
- ⁷² IPAS, p. 3.
- ⁷³ CODENI, p. 9.
- ⁷⁴ PFCLC-IDS, p. 5.
- ⁷⁵ AI, pp. 3, 4.
- ⁷⁶ AI, pp. 3, 4.
- ⁷⁷ IPAS, p. 2.
- ⁷⁸ CODENI, pp. 4, 5.
- ⁷⁹ CODENI, p. 5.
- ⁸⁰ PDDH, p. 2.
- ⁸¹ CODENI, p. 5.
- ⁸² PDDH, p. 3.
- ⁸³ PDDH, p. 2.
- ⁸⁴ CODENI, p. 9.
- ⁸⁵ PDDH, p. 3.
- ⁸⁶ CODENI, p. 5.
- ⁸⁷ CODENI, p. 9.
- ⁸⁸ PDDH, p. 5.
- ⁸⁹ PDDH, pp. 3, 4.
- ⁹⁰ PDDH, p. 4.
- ⁹¹ CODENI, p. 7.
- ⁹² CODENI, p. 7.
- ⁹³ PFCLC-IDS, p. 1.
- ⁹⁴ PFCLC-IDS, p. 6.
- ⁹⁵ PDDH, pp. 1, 2.
- ⁹⁶ JS1, p. 7.
- ⁹⁷ CODENI, p. 5.
- ⁹⁸ JS1, p. 6.
- ⁹⁹ JS1, p. 6.
- ¹⁰⁰ JS1, p. 6.
- ¹⁰¹ CODENI, p. 4.