Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Nicaragua - 7th Session - 2010
8th February, 3pm to 6pm

National Report

28. In the area of gender, a dedicated department for women and children has been established to provide specialist and preventive psychosocial support to victims of human trafficking and sexual exploitation. A map of the routes typically used for trafficking in persons has been drawn up and four campaigns to raise awareness of violence against women have been conducted. Twelve new offices of the Special Police Unit for Women and Children have been set up since 2005, taking the nationwide total to 38. Backed by a network of 1,350 outreach workers, these centres provide assistance to victims of all forms of domestic and sexual violence, besides maintaining a register of victims.

29. A specialist unit dealing with gender violence has been created within the Public Prosecutor's Office. Institutional policy is to initiate criminal proceedings in all cases of domestic or family violence and informal proceedings are obligatory even in cases where the victim discontinues private prosecution. The principle of free justice is guaranteed, and two additional prosecutors have been appointed to extend the coverage of the unit specializing in cases of deliberate failure to pay maintenance and contempt of court, as a way of guaranteeing children’s right to food.

30. As a State party to the United Nations Convention on the Rights of the Child, Nicaragua has added the following text to its Constitution: “Children shall enjoy special protection and all the rights that their status may require. To that effect, the international Convention on the Rights of the Child shall be fully applicable.” It has also promulgated a Children and Young Persons Code.

31. As a result, a new juvenile criminal justice system designed to guarantee due process and to reintegrate adolescents in the family and in society has been established. As of 2007–2008, Nicaragua relinquished its former punitive paternalistic system in favour of a juvenile criminal justice system with a restorative focus. The country can thus affirm that adolescents are punished for the offence they commit and not for the underlying causes that lead them to offend.

32. The Global Operational Plan of the Supreme Court had three main priorities: (a) improving conditions of pretrial detention for children and young persons; (b) expanding the coverage provided by the courts and facilities envisaged in the Children and Young Persons Code; and (c) fostering specialization among justice system officials. In the first area, the Court has coordinated its work with that of the National Council for the Comprehensive Care and Protection of Children and Young Persons. In the second area, work has included the creation of 17 district criminal courts for juveniles and 1 court, by operation of law, in Siuna, with the support of UNICEF. With regard to the third area, the specialization of justice system officials has been achieved through the provision of training at the Judicial Training College, the production of a procedural handbook for juvenile criminal court judges, and the development of a training module on the system of criminal responsibility for juveniles.

Compilation of UN Information

29. CRC was concerned at the growing number of street children, especially in Managua, and recommended that Nicaragua provide street children with recovery, adequate nutrition, housing, necessary health care and educational opportunities.

41. In 2005, CRC reiterated its recommendation that Nicaragua rapidly adopt and implement the new draft civil code to increase the minimum age for marriage and set it at the same age for boys and girls.
49. CRC was concerned at the increase in child labour in Nicaragua and recommended all feasible measures be taken for its eradication.111

55. CRC recommended that Nicaragua increase efforts to prevent the spread of HIV/AIDS.128 El UNCT mencionó que la tasa de incidencia incrementó del 7,7 por ciento en 2005 al 13,3 por ciento en 2008.129

57. CEDAW recommended that Nicaragua ensure equal access for girls and young women to all levels of education, to retain girls in school and to improve the literacy level of girls and women.132 CRC recommended, inter alia, the elimination of the discrepancy in access to education between urban and rural areas and the allocation of more resources to education in the national budget.133

58. CESCR and the HR Committee recommended effective guarantees for the right to education of indigenous peoples.134 CERD135 and CESCR136 encouraged the reduction of illiteracy, especially in the North Atlantic Autonomous Region. CEDAW called upon Nicaragua to ensure that indigenous women and women of African descent have full access to appropriate education.137

76. CRC recommended that Nicaragua seek technical assistance in regard to: HIV/AIDS, children living on the street, sexual exploitation and trafficking, education, economic exploitation of children, child labour and juvenile justice.161

**Stakeholder information**

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 JS1 valoró positivamente la decisión ministerial de prohibir el castigo corporal y el trato humillante en las escuelas.21

22. JS1 indicó que falta la inversión de recursos humanos, económicos, materiales y técnicos para la creación de las estructuras y acciones necesarias para el total cumplimiento de la Justicia Penal Especial para Adolescentes, a pesar que el Código de la Niñez y la Adolescencia prevé la inclusión en el presupuesto general de las partidas presupuestarias adecuadas. Las condiciones físicas de las celdas de todos los centros a nivel nacional aún no garantizan a los adolescentes en privación de libertad, buenas condiciones. También se menciona que las medidas alternativas a la privación de libertad todavía no son suficientemente utilizadas dentro del sistema de justicia juvenil.33

23. CODENI reported that only half of the specialized penal courts required in the Child Code have been set up. The right to defense 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

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 señaló que una de las problemáticas fundamentales que afligen a la niñez nicaragüense es la irresponsabilidad paterna en cuanto al reconocimiento legal. La protección prevista en la Ley de Paternidad y Maternidad Responsable no ha sido puesta en práctica por la falta de recursos para las notificaciones y la falta de tecnología para practicar las pruebas de ADN. Las instancias previstas en dicha ley no han sido creadas, y falta capacitar e informar a la población sobre el particular.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 fulfill 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

51. La PDDH señaló que a partir del año 2006 se llevó a cabo una segunda Campaña Nacional de Alfabetización, la cual habría culminado con la certificación de la UNESCO por segunda ocasión, en menos de treinta años, declarando “Nicaragua territorio libre de analfabetismo” esta vez por haber reducido el analfabetismo del 22 per cent al 3.58 per cent tras una regresión causada por la privatización de la educación en los años noventa.89

52. La PDDH dijo que actualmente se implementa en el Sistema Nacional de Educación, programas que apuntan tanto al aumento de la matrícula como a la retención escolar. Citó la restitución de la “Gratuidad de la Enseñanza” y la eliminación de la “autonomía escolar”, a través del cual se privatizó el derecho a la educación en el periodo de 1990 al 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 dijo que aún cuando la Constitución estipula que “La educación en Nicaragua es laica.”, históricamente las políticas públicas de educación que desarrolla el Estado nicaragüense han estado influenciadas por ideas conservadoras –principalmente ligadas a expresiones e ideas religiosas- acerca del género, la sexualidad y la reproducción.93 PFCLC-IDS recomendó evitar la ingerencia religiosa en las propuestas y decisiones de políticas y planes estatales, particular y especialmente en materia de educación sexual y salud sexual y reproductiva y consensuar con la sociedad civil, incluyendo las organizaciones de mujeres y feministas una estrategia de salud y educación que responda a las necesidades de hombres y mujeres para el ejercicio de una sexualidad responsable, y libre de toda forma de discriminación.94

**Final Report and Recommendations - To follow**