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Nicaragua

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. 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), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. Background and framework

A. Scope of international obligations¹

<i>Core universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	15 Feb. 1978	None	Individual complaints (art. 14): No
ICESCR	12 Mar. 1980	None	-
ICCPR	12 Mar. 1980	None	Inter-State complaints (art. 41): No
ICCPR-OP 1	12 Mar. 1980	None	-
ICCPR-OP 2	25 Feb. 2009	None	-
CEDAW	27 Oct. 1981	None	-
CAT	5 Jul. 2005	None	Inter-State complaints (art. 21): No Individual complaints (art. 22): No Inquiry procedure (art. 20): No
OP-CAT	25 Feb. 2009	None	-
CRC	5 Oct. 1990	None	-
OP-CRC-AC	17 Mar. 2005	Binding declaration under art. 3: 18 years	-
OP-CRC-SC	2 Dec. 2004	None	-
ICRMW	26 Oct. 2005	Yes (art. 43 (3))	Inter-State complaints (art. 76): Yes/No Individual complaints (art. 77): Yes/No
CRPD	7 Dec. 2007	None	-
<i>Core treaties to which Nicaragua is not a party: OP-ICESCR,³ OP-CEDAW, CRPD-OP (signature only, 2008) and CED.</i>			
<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>		
Convention on the Prevention and Punishment of the Crime of Genocide	Yes		
Rome Statute of the International Criminal Court	No		
Palermo Protocol ⁴	Yes		
Refugees and stateless persons ⁵	Yes, except 1954 and 1961 Conventions		
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁶	Yes		
ILO fundamental conventions ⁷	Yes		
UNESCO Convention against Discrimination in Education	Yes		

1. The Committee against Torture (CAT) recommended that Nicaragua ratify CED⁸, and the Committee on the Elimination of Discrimination against Women (CEDAW) that it ratify OP-CEDAW.⁹

B. Constitutional and legislative framework

2. In 2008, the Committee on the Elimination of Racial Discrimination (CERD) noted that ICERD has the status of ordinary law in Nicaragua and recommended considering the

possibility of including ICERD in the list of international treaties contained in article 46 of the Constitution.¹⁰

3. In 2008, the Committee on Economic, Social and Cultural Rights (CESCR) welcomed Act No. 475 on citizen participation and Act No. 655 on the protection of refugees.¹¹ The Human Rights Committee (HR Committee)¹² and the United Nations Country Team (UNCT)¹³ highlighted the adoption in 2008 of the Equal Rights and Opportunities Act promoting equality between men and women. The Special Rapporteur on the right to food¹⁴ and UNCT¹⁵ stressed the importance of the 2009 Law on food and nutrition sovereignty and security. According to UNCT, the adoption of laws such as those referred to, together with the ratification of instruments such as OP-CAT, have produced substantive improvements in the legal framework for the recognition and protection of human rights.¹⁶

C. Institutional and human rights infrastructure

4. In 2008, CESCR,¹⁷ the HR Committee¹⁸ and UNCT¹⁹ noted the approval in 1995 of Act No. 212 on the office of the human rights ombudsman and, in 1999, the appointment of the first ombudsman. In 2006, the *Procuraduría para la Defensa de los Derechos Humanos* was accredited with “A status” by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.²⁰

5. In 2008, CERD recommended that Nicaragua ensure that the National Commission for the Elimination of Racial Discrimination be officially recognized as the body responsible for developing and implementing a State policy to combat racism, assigning to it the financial and technical resources required for it to function properly.²¹

6. In 2008, the HR Committee welcomed the introduction of special *procurators* for children and adolescents; women; indigenous peoples and ethnic communities; persons with disabilities; persons deprived of their liberty; and for civic participation.²²

7. UNCT indicated that in 2008, the Government established the Autonomous Regional Education System (SEAR), for which provision had been made by the 2006 Act; the System recognizes the right of indigenous peoples and ethnic communities on the Caribbean coast to intercultural education in their own language. It also noted the creation of the Office of the Special Coordinator for the Procurator for the Defence of the Rights of Indigenous Peoples and Ethnic Communities. These constitute unquestionable steps forward which deserve to be highlighted.²³

D. Policy measures

8. In 2009, CAT noted with appreciation the National Plan of Action for the Prevention of Domestic and Sexual Violence.²⁴

9. In 2008, CESCR²⁵ and UNCT²⁶ noted the “Zero Hunger, Zero Usury, Food Sovereignty and Security for Life” programmes; the “Yes I Can – Free from Illiteracy” programme, and the implementation of the Human Development Plan 2009–2012. UNCT noted that since 2007, the Government had been implementing the programme to combat poverty and achieve food and nutritional security, known as “Zero Hunger”, which assigns priority to poor rural families and marginal urban population and distributes food vouchers which are used by women.²⁷

10. In 2008, CEDAW regretted the lack of information about results achieved in the implementation of the first part of the National Education Plan 2001–2015, and recommended strengthening monitoring of progress.²⁸ In 2005, Nicaragua adopted the Plan of Action (2005–2009) for the World Programme for Human Rights Education focusing on the national school system.²⁹

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<i>Treaty body</i> ³⁰	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	2007	Feb. 2008	Overdue since Feb. 2009	Fifteenth to seventeenth reports due in 2011
CESCR	2007	Nov. 2008	-	Fifth report due in 2013
HR Committee	2007	Oct. 2008	Overdue since Oct. 2009	Fourth report due in 2012
CEDAW	2005	Jan. 2007	-	Seventh and eight reports due in 2010
CAT	2007	May 2009	Due in May 2010	Second report due in 2013
CRC	2003	Jun. 2005	-	Fourth report overdue since 2007, submitted in 2008, not yet scheduled for consideration
OP-CRC-AC	-	-	-	Initial report overdue since 2007, submitted in 2008, not yet scheduled for consideration
OP-CRC-SC	-	-	-	Initial report overdue since 2007, submitted in 2008, not yet scheduled for consideration
CMW	-	-	-	Initial report overdue since 2007

2. Cooperation with Special Procedures

<i>Standing invitation issued</i>	Yes
<i>Latest visits or mission reports</i>	Working Group on arbitrary detention (15 to 23 May 2006), ³¹ Special Rapporteur on the right to food (6 to 12 September 2009) ³²
<i>Visits agreed upon in principle</i>	Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (tentative July 2006 – postponed)
<i>Visits requested and not yet agreed upon</i>	Working Group on enforced and involuntary disappearances (in October 2006 and in June 2008), independent expert on minority issues (in 2007), independent expert on human rights and extreme poverty (in 2008), Working Group on arbitrary detention (in 2008 for follow-up visit).
<i>Facilitation/cooperation during missions</i>	The Working Group on arbitrary detention expressed its gratitude to the Government of Nicaragua for their assistance with substantive and logistical elements of the organization and conduct of the Group's visit. ³³ The Special Rapporteur on the right to food welcomed the cooperative spirit in which his mission took place. ³⁴
<i>Follow-up to visits</i>	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, five communications were sent concerning inter alia particular groups and 12 women. Nicaragua replied to two communications, representing replies to 40 per cent of communications sent.
<i>Responses to questionnaires on thematic issues</i> ³⁵	Nicaragua responded to two of the 16 questionnaires sent by special procedures mandate holders, ³⁶ within the deadlines. ³⁷

B. Cooperation with the Office of the High Commissioner for Human Rights

11. At the end of 2007, with the support of the Action 2 Global Programme, OHCHR deployed a human rights adviser (HRA) to UNCT.³⁸ The work of the HRA allowed the Government to complete most overdue reports to the treaty bodies. Following advocacy and awareness-raising by the HRA, Nicaragua ratified OP-CAT and ICCPR-OP 2, and formally announced its intention to ratify CRPD-OP. As a result of the HRA's work to integrate a human rights-based approach into the work of UNCT, United Nations agencies have strengthened the human rights perspective in their programming. For example, the United Nations Development Programme (UNDP)-Nicaragua is starting a project on prison conditions, and work relating to the Declaration on the Rights of Indigenous Peoples will be included in UNDP-Nicaragua's subregional programme.³⁹

12. Nicaragua is a regular donor to OHCHR activities.⁴⁰

C. Implementation of international human rights obligations

1. Equality and non-discrimination

13. In 2007, CEDAW was concerned about the long delay in enacting a comprehensive legal framework to eliminate discrimination against women and urged Nicaragua to bring national legislation into line with CEDAW.⁴¹ In 2008, CESCR was concerned at the continuing discrimination against women in the political, social and economic spheres, and recommended, alongside the HR Committee, that Nicaragua should meet the targets set in the Equal Rights and Opportunities Act.⁴²

14. In 2008, CERD was also concerned at the double discrimination against women belonging to the indigenous peoples and communities of African descent.⁴³ CEDAW encouraged Nicaragua to accelerate the improvement of their conditions in all spheres of life.⁴⁴

15. CERD was concerned that the new Criminal Code does not provide for sanctions against organizations that promote racial discrimination and urged Nicaragua to characterize as criminal every act that promotes and incites racial discrimination.⁴⁵

16. CERD recommended the adoption of appropriate measures to combat racial prejudice in both the public and private media channels and to ensure the effective implementation of the Autonomy Statute.⁴⁶

17. UNCT noted that the new Criminal Code, which came into force in mid-2008, abolished the crime of sodomy. A decision taken by the Ministry of Health in August 2009 prohibits health workers from discrimination against people on the grounds of their sexual orientation.⁴⁷

18. UNCT noted that an estimated 10 per cent of the population lives with some form of disability, in many cases as a result of the armed conflict. In 2003, the illiteracy rate among the disabled population was twice the national average.⁴⁸ In 2005, CRC encouraged Nicaragua to ensure that policies and practices in relation to children with disabilities take due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities.⁴⁹

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

19. In 2009, CAT was concerned about the increased number of murders of women over the past few years as part of a wider problem of gender violence, particularly domestic and sexual violence.⁵⁰ In 2008, the HR Committee was also concerned at the increase in killings of women and that attackers appear to go unpunished.⁵¹ UNCT noted that so far in 2009, 45

women had died as a result of domestic violence and ordinary crimes.⁵² CESCER and the HR Committee urged Nicaragua to take immediate steps to put a halt to killings of women and in particular conduct investigations and punish attackers.⁵³ CAT called for the full implementation of legislation on violence against women and recommended that ongoing training be organized for police officers.⁵⁴ CESCER and the HR Committee urged Nicaragua to allow the victims of gender violence effective access to justice, provide police protection, and set up shelters for victims.⁵⁵

20. CAT recommended the adoption of a definition of torture which covers all the elements of torture fully in line with article 1 of the Convention.⁵⁶ It also recommended amending the Military Criminal Code to include the offence of torture.⁵⁷ UNCT raised similar concerns. UNCT added that the introduction of administrative and judicial changes to provide clear records and immediate investigations in cases involving complaints of ill-treatment, especially in police stations as a means of combating impunity in such cases was still pending.⁵⁸

21. CAT was deeply concerned by the general prohibition of abortion in the Criminal Code, even in cases of rape, incest or apparently life-threatening pregnancies that in many cases are the direct result of crimes of gender violence.⁵⁹ CAT⁶⁰ and UNCT⁶¹ urged Nicaragua to review its legislation on abortion, as previously recommended by CEDAW, the HR Committee and CESCER, and to consider the possibility of providing for exceptions to the general prohibition of abortion in cases of therapeutic abortion, and pregnancy resulting from rape or incest.⁶² The HR Committee and CAT recommended that Nicaragua avoid penalizing medical professionals in the conduct of their professional duties.⁶³

22. The HR Committee was concerned that detainees continue to suffer ill-treatment at the hands of law enforcement personnel, especially in prisons, and recommended immediate and effective steps to end such abuse.⁶⁴ CAT recommended, *inter alia*, strengthening special training in the detection of signs of torture and ill-treatment.⁶⁵

23. In 2008, the Working Group on Enforced or Involuntary Disappearances⁶⁶ noted that 103 cases remained outstanding in Nicaragua.

24. CAT was concerned about ill-treatment of children and urged the intensification of efforts to deal with this issue and to strengthen mechanisms for combating all forms of violence.⁶⁷ In 2005, CRC made a similar recommendation.⁶⁸

25. CRC expressed concern that the legislation prohibiting all forms of violence against children, including corporal punishment, does not seem to be interpreted as prohibiting all forms of corporal punishment and that the latter is still widely accepted in society.⁶⁹ UNCT noted that Ministerial Agreement 134/2009 by the Ministry of Education prohibited ill-treatment, abuse and physical, moral or mental punishment of children in schools.⁷⁰ CRC recommended the explicit prohibition of all forms of corporal punishment of children and that awareness-raising and public education campaigns against corporal punishment be conducted.⁷¹ The HR Committee made a similar recommendation.⁷²

26. The HR Committee was concerned about alleged instances of wrongful arrests in connection with public protests and recommended that Nicaragua protect the lives and safety of all individuals and consider reforming the Code of Criminal Procedure, which allows the police to detain people without a warrant.⁷³

27. CAT⁷⁴ and the HR Committee⁷⁵ were concerned at the serious problem of overcrowding and other unsatisfactory detention conditions. CAT recommended Nicaragua to, *inter alia*, strengthen independent procedures for prison inspection.⁷⁶ UNCT noted that generally speaking, in places of detention there was serious overcrowding, unsuitable infrastructure and restrictions on access to physical and mental health and food.⁷⁷

28. Although CESCER noted that trafficking in persons is defined as a criminal offence in the new Criminal Code, it regretted the existence of trafficking of women and children for the purpose of sexual exploitation.⁷⁸ The HR Committee recommended making

trafficking in and the sexual exploitation of women and children a criminal offence.⁷⁹ CESCR, the HR Committee and CEDAW recommended that Nicaragua combat trafficking in women and children⁸⁰ and step up prosecutions and adequate punishment of offenders.

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.⁸¹

3. Administration of justice, including impunity, and the rule of law

30. In 2006, the Working Group on Arbitrary Detention noted that the Code of Criminal Procedure had replaced the former inquisitorial approach with an adversarial system which had made it possible to shorten processing times and to reduce the number of detainees held in pretrial custody.⁸²

31. The Working Group noted the growing failure to comply with the time limits stipulated in the Criminal Procedural Law. It also noted the special category of detainees forgotten by the justice system and who have no contact with the outside world and no possibility of availing themselves of the remedies to which they are entitled. They call themselves “*los Donados*” (“the donated ones”), those who have been effectively dumped as “gifts” to the prison system.⁸³ CAT recommended the adoption of measures to guarantee the right to any person deprived of liberty to be defended, and that priority attention be given to the *donados*.⁸⁴

32. In 2009, CAT shared the concern of the Working Group on Arbitrary Detention regarding the lack of effective, clear and systematic registers in police stations, and recommended substantial improvements in this regard.⁸⁵

33. CAT was concerned about the lack of impartiality and independence in the judicial system, in particular about alleged irregularities in the appointment of judges, corruption, and delays in the administration of justice. It recommended that Nicaragua guarantee the full independence of the judiciary and combat corruption.⁸⁶

34. CAT recommended that Nicaragua establish that detentions must conform to fair trial standards, ensure that time limits for preventive detention are respected, and act in a manner that allows justice to be administered within a reasonable period of time.⁸⁷

35. UNCT noted that access to justice was still pending for most Nicaraguan women, and especially for those experiencing or who had experienced violence or who had been the victims of trafficking.⁸⁸

36. CAT recommended that minors should be separated from adults⁸⁹ and that the juvenile justice system be fully brought into line with CAT and other United Nations standards relating to juvenile justice.⁹⁰ CRC recommended the establishment of specialized family courts and that family law procedures be conducted without undue delay.⁹¹ CAT recommended that Nicaragua ensure that women and men are held in separate facilities.⁹²

37. CAT recommended that Nicaragua ensure the immediate and impartial investigation of any complaints of torture or other cruel, inhuman or degrading treatment or punishment, and that the necessary investigations and sanctions to prevent and combat impunity be guaranteed.⁹³

38. CAT recommended that redress, compensation and rehabilitation be guaranteed to all victims of torture, both in law and in practice.⁹⁴

39. UNCT noted that a proper adjustment of the State justice system and that of the indigenous peoples and peoples of African descent should avert any kind of distortion of the role of the community structure, and specifically of the functions of the *Wihta* or traditional judge and of the community council; it also highlighted that the current Criminal Code took account of decisions by the *Wihta* in respect of minor offences.⁹⁵

40. The Working Group on Arbitrary Detention noted the severity of criminal penalties handed down for offences relating to the use and sale of narcotics which appeared disproportionate to the crime. It noted the unreasonable fine for such offences that could be converted to an additional year of imprisonment in case of non-payment.⁹⁶

4. Right to marriage

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.⁹⁷

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

42. CAT and the HR Committee recommended that Nicaragua combat alleged cases of systematic harassment, persecution and death threats directed at human rights defenders in general and female defenders of women's rights in particular; ensure that those responsible are duly punished; and guarantee these organizations the right to freedom of expression and association.⁹⁸ CAT also recommended that members of the political opposition, their sympathizers and representatives of NGOs be provided with adequate protection in connection with peaceful demonstrations.⁹⁹

43. CERD recommended that Nicaragua ensure the full participation of indigenous peoples and communities of African descent in public affairs at all levels.¹⁰⁰

44. In 2007, CEDAW called upon Nicaragua to accelerate the process of increasing women's full and equal participation in public life, including through the use of temporary special measures and awareness-raising campaigns.¹⁰¹ A 2009 United Nations Statistics Division source indicated that the proportion of seats held by women in the national parliament decreased from 20.7 per cent in 2006 to 18.5 per cent in 2009.¹⁰²

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

45. In 2008, the ILO Committee of Experts on the Application of Conventions and Recommendations requested Nicaragua to amend the Trade Union Act so as to secure the right of workers to establish and join organizations of their own choosing at all levels outside the existing trade union structure.¹⁰³

46. In 2008, CESCR recommended that Nicaragua, inter alia, increase funding for, and ensure regularization of the unstructured labour market; amend its labour legislation to combat contractual insecurity;¹⁰⁴ guarantee the rights of workers in the *maquila* industry; and effectively prevent and punish the exploitation and abuse of workers.¹⁰⁵

47. The Special Rapporteur on the right to food noted that in accordance with the 2008 law, the minimum wage should be raised gradually and revised on a regular basis to reflect the evolution of the price index for basic commodities.¹⁰⁶ He indicated that he will follow the adoption of a labour law on subcontracting¹⁰⁷ and the decisions of the national tripartite council established to encourage dialogue between Government, employers and workers' unions.

48. The HR Committee recommended the intensification of efforts to combat discrimination against women in employment.¹⁰⁸ CESCR encouraged Nicaragua to ensure equal remuneration for work of equal value.¹⁰⁹ CEDAW called upon Nicaragua to: increase women's opportunity to transition from informal to formal sector employment; fully enforce existing labour legislation; prevent and punish violations of the rights of women working in the *maquiladora* industries; address the lack of adherence to safety and health standards in those industries; and enhance women workers' access to justice and legal assistance.¹¹⁰

49. CRC was concerned at the increase in child labour in Nicaragua and recommended all feasible measures be taken for its eradication.¹¹¹

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

50. CESCR urged Nicaragua to expand social security coverage for all workers; ensure the application of minimum compulsory contributions to obtain social security benefits and to include unemployment insurance in the new social security scheme.¹¹² CESCR also encouraged the adoption of a welfare programme for elderly persons.¹¹³ UNCT noted that there are more than half a million people aged over 55 years in Nicaragua and that less than 10 per cent of them have any social security coverage.¹¹⁴

51. The Special Rapporteur on the right to food encouraged the promotion and institutionalization of Nicaragua's policies under the framework of the 2009 Law on food and nutrition sovereignty and security.¹¹⁵ CESCR recommended that Nicaragua guarantee the effective implementation and sustainability of the "Zero Hunger" programme,¹¹⁶ as also encouraged by the Special Rapporteur.¹¹⁷

52. The Special Rapporteur on the right to food¹¹⁸ welcomed the strengthening of the storage capacities of *Empresa Nicaraguense de Alimentos Básicos*. He noted that the poverty-reducing impacts of the distribution of basic grains at subsidized prices would be significantly improved if a voucher system was put in place, prioritizing access of the poorest households to such benefits. CESCR urged Nicaragua to review its overall strategy for the eradication of poverty and to step up efforts to combat poverty¹¹⁹ and inequality.¹²⁰

53. CESCR requested the allocation of sufficient resources to the implementation of programmes aimed at granting security of tenure and accessible dwellings; improving the supply of water and sanitation services;¹²¹ solving the problem of homelessness; and providing access to credit and housing subsidies for low-income families, marginalized and disadvantaged groups.¹²²

54. CEDAW urged Nicaragua to enhance women's access to health care.¹²³ CESCR strongly encouraged the reduction of maternal and infant mortality and recommended the adoption of a law on sexual and reproductive health compatible with the provisions of ICESCR,¹²⁴ as well as the adoption of a global health policy.¹²⁵ CRC recommended that basic health care and services be accessible to all children. It called on Nicaragua to urgently address the problem of malnutrition and the grievous issue of infant, child and maternal mortality.¹²⁶ CERD urged combating maternal mortality in the Atlantic autonomous regions, where it continues to be much higher than the national average.¹²⁷

55. CRC recommended that Nicaragua increase efforts to prevent the spread of HIV/AIDS.¹²⁸ UNCT mentioned that the incidence rate increased from 7.7 per cent in 2005 to 13.3 per cent in 2008.¹²⁹

8. Right to education and to participate in the cultural life of the community

56. UNCT mentioned that in Nicaragua there was a new General Education Act, adopted in 2007, together with educational policies.¹³⁰ It noted that thanks to the literacy campaign, the illiteracy rate fell from 20 per cent in 2005 to less than 5 per cent in 2009.¹³¹

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

9. Minorities and indigenous peoples

59. In 2008, CERD urged Nicaragua to accelerate the process of adoption of the act relating to the indigenous peoples of the Pacific, central and northern regions of Nicaragua, and the appointment of a special *procurator* for them.¹³⁸

60. CESCR¹³⁹ and the HR Committee¹⁴⁰ recommended that consultations be conducted with indigenous peoples before granting concessions for the economic exploitation of the lands where they live. CERD, CESCR and the HR Committee urged Nicaragua to proceed immediately with the delimiting, demarcating and granting of land to the Awas Tingni community.¹⁴¹ CESCR and the HR Committee recommended the prevention and halt to unlawful activities by third parties in the lands of the Awas Tingni community. It also called for investigations and sanctions for those responsible for unlawful activities.¹⁴²

61. In 2009, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples stated that he will continue to monitor progress towards ensuring that the rights of Awas Tingni to their lands are fully respected by third parties.¹⁴³

62. In 2005, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples,¹⁴⁴ together with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, sent an urgent appeal concerning the plight of the Mayangna indigenous community of Awas Tingni, on the Atlantic coast of Nicaragua. According to the information received, the failure to demarcate or grant title to the community lands in compliance with the judgement of 31 August 2001 of the Inter-American Court of Human Rights, had led to violations of their property rights. It had also threatened the cultural integrity and physical survival of the Awas Tingni community.

63. UNCT indicated that since 2007, compliance with Act 445 on the granting of ownership of indigenous territories and territories of people of African descent on the Caribbean Coast had been promoted.¹⁴⁵

64. CERD recommended that Nicaragua guarantee the right of indigenous peoples to use their languages in judicial proceedings, as provided for in the Act on Official Use of the Languages of the Communities of the Caribbean Coast, and — where necessary — interpreters.¹⁴⁶

65. The HR Committee recommended reforms to the Elections Act to ensure that indigenous and ethnic communities in the autonomous regions can take effective part in elections with due regard for their traditions, conventions and customs.¹⁴⁷

66. The HR Committee recommended that Nicaragua, inter alia, guarantee access by all indigenous peoples to adequate health services.¹⁴⁸ CERD urged Nicaragua to provide indigenous peoples and communities of African descent with financial and institutional support for the practice of, and access to, traditional indigenous medicine.¹⁴⁹ UNCT indicated that there were barriers affecting access by indigenous women and women of African descent on account of monolingualism, health focuses attributable to the dominant culture and certain prejudices among staff providing health services.¹⁵⁰

10. Migrants, refugees and asylum-seekers

67. UNCT mentioned that the number of extra-regional migrants, intermingled with flows of irregular economic migrants intercepted on Nicaragua's Caribbean Coast, had increased considerably in 2009. There were disturbing reports of attacks against those persons, who as a rule have no identity documents and no support network. In spite of the effort made by the authorities to ensure they are humanely treated, they are detained in overcrowded and unhygienic conditions.¹⁵¹

III. Achievements, best practices, challenges and constraints

68. UNCT indicated that generally speaking, a noteworthy effort is being made to provide universal coverage of some social services, in particular health and education.¹⁵²

69. CESCR noted that the socio-economic problems experienced as a result of natural disasters have had an adverse impact on the effective implementation of ICESCR.¹⁵³ CESCR noted with concern that 82 per cent of the population, i.e. more than 4.2 million, are living below the poverty line and more than 2.1 million in extreme poverty.¹⁵⁴

70. In 2006, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context stressed that tragic events such as Hurricane Mitch have shown the need to integrate human rights standards into relief and rehabilitation efforts.¹⁵⁵

IV. Key national priorities, initiatives and commitments

A. Pledges by the State

71. In 2007, Nicaragua pledged to improve living conditions and cover basic services such as free education and health care, clean drinking water and sanitation, food, housing and employment. It committed to using the law to preserve, promote and protect the culture of indigenous peoples and ethnic communities. It pledged to submit reports under human rights treaties and expected to follow up any observations, and/or comments and reaffirmed its open invitation to all special procedures.¹⁵⁶

B. Specific recommendations for follow-up

72. In 2009, CAT requested that Nicaragua provide information, within one year, on the implementation of recommendations regarding the definition of torture, or other cruel, inhuman or degrading treatment or punishment; shortcomings in the administration of justice; corruption; violence against women; and ill-treatment of children.¹⁵⁷

73. In 2008, CERD requested, within one year, information on the implementation of recommendations relating to the National Commission for the Elimination of Racial Discrimination; the demarcation and titling of the lands of the Awas Tingni community; and the right to public health, medical care, social security and social services for indigenous peoples and communities of African descent, particularly in the Atlantic autonomous regions.¹⁵⁸

74. In 2008, the HR Committee requested that Nicaragua provide information, within one year, on the implementation of recommendations relating to killings of women; the ban on abortion; conditions in detention; and systematic persecution and death threats against human rights defenders, particularly against those working on women's rights.¹⁵⁹

75. In 2006 the Working Group on Arbitrary Detention recommended that Nicaragua, inter alia: ensure that the police comply strictly with the requirement to bring every detainee before a judge within a maximum period of 48 hours following arrest; take steps to improve substantially the system for booking detainees in police stations; and urgently review the situation of detainees in Bluefields.¹⁶⁰

V. Capacity-building and technical assistance

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

77. UNCT indicated that the United Nations system had developed a Common Country Assessment with a focus on human rights as a first step towards defining a United Nations Development Assistance Framework 2008–2012, with five thematic areas.¹⁶²

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>.

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities
CED	International Convention for the Protection of All Persons from Enforced Disappearance

³ Adopted by the General Assembly in its resolution 63/117 of 10 December 2008. Article 17, paragraph 1, of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant.”

⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁵ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

⁶ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal

Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

- ⁷ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ⁸ Concluding observations of the Committee against Torture, CAT/C/NIC/CO/1, para. 27.
- ⁹ Concluding comments of the Committee on the Elimination of Discrimination against Women, CEDAW/C/NIC/CO/6, para. 33.
- ¹⁰ Concluding observations of the Committee on the Elimination of Racial Discrimination, CERD/C/NIC/CO/14, para. 14.
- ¹¹ Concluding observations of the Committee on Economic, Social and Cultural Rights, E/C.12/NIC/CO/4, para. 4 (b).
- ¹² Concluding observations of the Human Rights Committee, CCPR/C/NIC/CO/3, para. 10.
- ¹³ United Nations Country Team (UNCT) in Nicaragua submission to the UPR, p. 3.
- ¹⁴ Press release of 11 September 2009 by the Special Rapporteur on the right to food available at: <http://www.unhchr.ch/hurricane/hurricane.nsf/view01/88742BB6D7A29B4DC1257631003B4FFA?opendocument> (consulted on October 28, 2009).
- ¹⁵ UNCT submission, p. 3.
- ¹⁶ *Ibid.*, p. 2.
- ¹⁷ E/C.12/NIC/CO/4, para. 4 (g).
- ¹⁸ CCPR/C/NIC/CO/3, para. 8.
- ¹⁹ UNCT submission, pp. 1–2.
- ²⁰ For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/10/55, annex I.
- ²¹ CERD/C/NIC/CO/14, para. 16.
- ²² CCPR/C/NIC/CO/3, para. 8.
- ²³ UNCT submission, p. 6.
- ²⁴ CAT/C/NIC/CO/1, para. 17.
- ²⁵ E/C.12/NIC/CO/4, para. 5.
- ²⁶ UNCT submission, p. 2.
- ²⁷ *Ibid.*, pp. 2–3.
- ²⁸ CEDAW/C/NIC/CO/6, paras. 25 and 26.
- ²⁹ See General Assembly resolution 59/113B, 14 July 2005, and Human Rights Council resolution 6/24, 28 September 2007. See also letters from the High Commissioner for Human Rights dated 9 January 2006 and 10 December 2007, available at <http://www2.ohchr.org/english/issues/education/training/Summary-national-initiatives2005-2009.htm> (accessed on 31 August 2009).
- ³⁰ The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child
- ³¹ A/HRC/4/40/Add.3.
- ³² Press release by the Special Rapporteur on the right to food, 11 September 2009, at: <http://www.unhchr.ch/hurricane/hurricane.nsf/view01/88742BB6D7A29B4DC1257631003B4FFA?opendocument>.
- ³³ A/HRC/4/40/Add.3, para. 3.

- ³⁴ Press release of the Special Rapporteur on the right to food, 11 September 2009.
- ³⁵ The questionnaires included in this section are those which have been reflected in an official report by a special procedure mandate holder.
- ³⁶ See (a) report of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation sent in July 2005; (b) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs sent in July 2006; (c) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons sent in 2006; (d) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants sent in 2006; (e) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities sent in 2006; (f) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add.3), questionnaire on human rights policies and management practices; (g) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous people sent in August 2007; (h) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/7/8), questionnaire on assistance and rehabilitation programmes for child victims of sexual exploitation sent in July 2007; (i) report of the Special Rapporteur on the right to education (A/HRC/8/10), questionnaire on the right to education in emergency situations sent in 2007; (j) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/10/16 and Corr.1), questionnaire on trafficking in persons, especially women and children; (k) report of the independent expert on the question of human rights and extreme poverty to the eleventh session of the Council (June 2009) (A/HRC/11/9), questionnaire on Cash Transfer Programmes, sent in October 2008; (l) report of the Special Rapporteur on the right to education (June 2009) (A/HRC/11/8), questionnaire on the right to education for persons in detention; (m) report of the Special Rapporteur on violence against women, (June 2009) (A/HRC/11/6), questionnaire on violence against women and political economy; (n) report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (A/HRC/12/21), questionnaire on national legislation and initiatives addressing the issue of bonded labour; (o) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/12/23), questionnaire on measures to prevent and combat online child pornography; (p) report of the Special Rapporteur on the right to food to the twelfth session of the Council (A/HRC/12/31), questionnaire on world food and nutrition security.
- ³⁷ The report of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), and the report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31).
- ³⁸ OHCHR Annual Report 2007, p. 120.
- ³⁹ OHCHR Annual Report 2008, p. 142.
- ⁴⁰ *Ibid.*, p. 200.
- ⁴¹ CEDAW/C/NIC/CO/6, paras. 7 and 8.
- ⁴² E/C.12/NIC/CO/4, para. 13 and CCPR/C/NIC/CO/3, para. 10.
- ⁴³ CERD/C/NIC/CO/14, para. 26.
- ⁴⁴ CEDAW/C/NIC/CO/6, para. 32.
- ⁴⁵ CERD/C/NIC/CO/14, para. 17.
- ⁴⁶ *Ibid.*, paras. 27 and 12.
- ⁴⁷ UNCT submission, pp. 6–7.
- ⁴⁸ *Ibid.*, p. 8.
- ⁴⁹ Concluding observations of the Committee on the Rights of the Child, CRC/C/15/Add.265, paras. 45 and 46 (a).
- ⁵⁰ CAT/C/NIC/CO/1, para. 15.
- ⁵¹ CCPR/C/NIC/CO/3, para. 12.

- 52 UNCT submission, p. 5.
- 53 E/C.12/NIC/CO/4, para. 20 and CCPR/C/NIC/CO/3, para. 12 (a).
- 54 CAT/C/NIC/CO/1, para. 15.
- 55 E/C.12/NIC/CO/4, para. 21 and CCPR/C/NIC/CO/3, para. 12 (b) and (c).
- 56 CAT/C/NIC/CO/1, para. 10.
- 57 Ibid.
- 58 UNCT submission, p. 5.
- 59 CAT/C/NIC/CO/1, para. 16.
- 60 Ibid., para. 23.
- 61 UNCT submission, p. 2.
- 62 CAT/C/NIC/CO/1, para. 16.
- 63 CCPR/C/NIC/CO/3, para. 13 and CAT/C/NIC/CO/1, para. 16.
- 64 CCPR/C/NIC/CO/3, para. 14 (a).
- 65 CAT/C/NIC/CO/1, para. 23.
- 66 A/HRC/7/2, para. 260.
- 67 CAT/C/NIC/CO/1, para. 17.
- 68 CRC/C/15/Add.265, para. 41.
- 69 Ibid., paras. 43 and 44.
- 70 UNCT submission, p. 5.
- 71 CRC/C/15/Add.265, para. 44.
- 72 CCPR/C/NIC/CO/3, para. 15.
- 73 Ibid., para. 16.
- 74 CAT/C/NIC/CO/1, paras. 21 and 22.
- 75 CCPR/C/NIC/CO/3, para. 17.
- 76 CAT/C/NIC/CO/1, paras. 21 and 22.
- 77 UNCT submission, p. 5.
- 78 E/C.12/NIC/CO/4, para. 28.
- 79 CCPR/C/NIC/CO/3, para. 9 (a).
- 80 E/C.12/NIC/CO/4, para. 28, CCPR/C/NIC/CO/3, para. 9 and CEDAW/C/NIC/CO/6, para. 21.
- 81 CRC/C/15/Add.265, paras. 66 and 67 (b).
- 82 A/HRC/4/40/Add.3, p. 2.
- 83 Ibid.
- 84 CAT/C/NIC/CO/1, para. 13.
- 85 Ibid., para. 20.
- 86 Ibid., para. 14.
- 87 Ibid.
- 88 UNCT submission, p. 5.
- 89 CAT/C/NIC/CO/1, paras. 21 and 22.
- 90 Ibid., para. 24.
- 91 CRC/C/15/Add.265, para. 37 (c).
- 92 CAT/C/NIC/CO/1, para. 22.
- 93 Ibid., para. 11.
- 94 Ibid., para. 25.
- 95 UNCT submission, p. 5.
- 96 A/HRC/4/40/Add.3, p. 2.
- 97 CRC/C/15/Add.265, para. 26.
- 98 CAT/C/NIC/CO/1, paras. 18 and 19; CCPR/C/NIC/CO/3, para. 19.
- 99 CAT/C/NIC/CO/1, paras. 18 and 19.
- 100 CERD/C/NIC/CO/14, para. 20.
- 101 CEDAW/C/NIC/CO/6, para. 28.
- 102 United Nations Statistics Division coordinated data and analyses, available at <http://mdgs.un.org/unsd/mdg/Data.aspx> (accessed on 29 October, 2009).
- 103 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Abolition of Forced Labour Convention (No. 105), 2008, Geneva, doc. No. (ILOLEX) 062008EGY087, para. 3.

- 104 E/C.12/NIC/CO/4, para. 14.
- 105 Ibid., para. 15.
- 106 Press release of the Special Rapporteur on the right to food, 11 September 2009.
- 107 Proyecto de ley reguladora de tercerización y subcontratación.
- 108 CCPR/C/NIC/CO/3, para. 11.
- 109 E/C.12/NIC/CO/4, para. 12.
- 110 CEDAW/C/NIC/CO/6, para. 24.
- 111 CRC/C/15/Add.265, paras. 64 and 65.
- 112 E/C.12/NIC/CO/4, para. 18.
- 113 Ibid., para. 22.
- 114 UNCT submission, p. 8.
- 115 Press release by the Special Rapporteur on the right to food, 11 September 2009.
- 116 E/C.12/NIC/CO/4, para. 23.
- 117 Press release by the Special Rapporteur on the right to food, 11 September 2009.
- 118 Ibid.
- 119 E/C.12/NIC/CO/4, para. 10.
- 120 Ibid., para. 33.
- 121 Ibid., para. 25.
- 122 Ibid., para. 24.
- 123 CEDAW/C/NIC/CO/6, para. 18.
- 124 E/C.12/NIC/CO/4, para. 27.
- 125 Ibid., para. 29.
- 126 CRC/C/15/Add.265, paras. 49 (b) and (c).
- 127 CERD/C/NIC/CO/14, para. 23.
- 128 CRC/C/15/Add.265, paras. 51 (a), (b) and (c).
- 129 UNCT submission, p. 3.
- 130 Ibid.
- 131 Ibid.
- 132 CEDAW/C/NIC/CO/6, para. 26.
- 133 CRC/C/15/Add.265, paras. 56 (a) and (b).
- 134 E/C.12/NIC/CO/4, para. 11 (a) and CCPR/C/NIC/CO/3, para. 21 (a).
- 135 CERD/C/NIC/CO/14, para. 24.
- 136 E/C.12/NIC/CO/4, para. 30.
- 137 CEDAW/C/NIC/CO/6, para. 32.
- 138 CERD/C/NIC/CO/14, para. 15.
- 139 E/C.12/NIC/CO/4, paras. 11 (a), (b), (c).
- 140 CCPR/C/NIC/CO/3, para. 21 (c).
- 141 CERD/C/NIC/CO/14, para. 21, E/C.12/NIC/CO/4, para. 11 (d) and CCPR/C/NIC/CO/3, para. 21 (d).
- 142 E/C.12/NIC/CO/4, para. 11 (d) and CCPR/C/NIC/CO/3, para. 21 (d).
- 143 A/HRC/12/34, para. 21.
- 144 E/CN.4/2006/78/Add.1, paras. 62–63.
- 145 UNCT submission, p. 6.
- 146 CERD/C/NIC/CO/14, para. 19.
- 147 CCPR/C/NIC/CO/3, para. 20.
- 148 Ibid., para. 21 (b).
- 149 CERD/C/NIC/CO/14, para. 22.
- 150 UNCT submission, p. 6.
- 151 Ibid., p. 8.
- 152 Ibid., p. 2.
- 153 E/C.12/NIC/CO/4, para. 9.
- 154 Ibid., para. 10.
- 155 E/CN.4/2006/41, para. 29.
- 156 Pledges and commitments undertaken by Nicaragua before the Human Rights Council, as contained in the letter dated on 30 March 2007 sent by the Permanent Mission of Nicaragua to the United Nations addressed to the President of the General Assembly, available at <http://www.un.org/ga/61/>

elect/hrc/ (accessed on 27 October 2009).

¹⁵⁷ CAT/C/NIC/CO/1, para. 30.

¹⁵⁸ CERD/C/NIC/CO/14, para. 34.

¹⁵⁹ CCPR/C/NIC/CO/3, para. 23.

¹⁶⁰ A/HRC/4/40/Add.3, p. 3.

¹⁶¹ CRC/C/15/Add.265, paras. 51 (g), 56 (k), 63 (f), 71 (e) and 74 (g).

¹⁶² UNCT submission, p. 1. See also United Nations Development Assistance Framework 2008–2012 for Nicaragua, 2007, pp. 4–5, available at <http://www.undg.org/docs/9525/UNDAF-final-spanish-version-.pdf> (accessed on 27 October 2009).
