

QUICK GUIDE TO ADDRESSING SEXUAL RIGHTS ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON NICARAGUA

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- The full text of those paragraphs
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.

References in the two working languages of the Council (English and French) have been kept in their original language.

Issues are highlighted-References in the National Report are *in Italics*.

Recommendations -including those from UN treaty-monitoring bodies, are at the end of the document.

All sexual rights issues that do not relate specifically to women are referred to in this Guide. Sexual rights' issues referring specifically to women -as well as other women's issues- are referred to in the Guide on Women's Issues

OP-CRC-SC (Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography) ratified.

ISSUE	N Report	Compilation	Summary
Children in prison		See recommendations, CAT (36)	
Criminalization of same-sex consensual practices		Decriminalization of sodomy (17)	Decriminalization of sodomy (28)
HIV/AIDS	ARV treatments (61)	Increasing rates (55)	Increasing rates. Mother-child transmission (45)
Right to marry			See Recommendations (27)
Sexual orientation and gender identity	Decriminalization of same-sex relations (80) Prohibition of discrimination based on sexual orientation to health agents (17)		Elimination of Art. 204 of Penal Code. Penalization of discrimination. Persistence of discrimination in access to employment, education, access to justice and gender identity recognition. (7)
Trafficking Forced prostitution	Map of trafficking routes (28)		New sanctions in Penal Code. Creation of Coalition against Trafficking (16) Lack of typification of migrant trafficking (59)
Trafficking/sexual exploitation /violence against children	Specialized department for victims' assistance (28)	For sexual exploitation (28) Increased number of street children (29)	Lack of shelters and rehabilitation / psychological services for victims (13). Not a priority: lack of measures and application of penal

		sanctions (16)
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Children in prison

See recommendations, CAT (36)

Criminalization of same-sex consensual practices

The United Nations Country Team (UNCT) indicó que el **nuevo Código Penal** que entró en vigencia a mediados de 2008 **eliminó el delito de sodomía** (Para 17, Compilation). FMDVP indicó que recientemente se **despenalizó el delito de la "sodomía"**, como se llamaba anteriormente (Para 28, Summary)

HIV/AIDS

*() En 2008, se garantizó **tratamiento antirretroviral** para 734 personas portadoras del virus VIH, que lo requerían, de ellos a 54 embarazadas para **evitar la transmisión a sus hijos** (Para 61, NR)*

El UNCT mencionó que la **tasa de incidencia** (HIV/AIDS) **incrementó** del 7,7 por ciento en 2005 al 13,3 por ciento en 2008 (Para 55, Compilation)

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** (Para 45, Summary)

See Recommendations, CRC (55, 76)

Right to marry

See Recommendations, Fundación Mundial Déjame Vivir en Paz - FMDVP (27)

Sexual orientation and gender identity

*El nuevo Código Penal, ha otorgado el **libre derecho a la orientación sexual**, ya que se ha **despenalizado las relaciones entre personas del mismo sexo** (Para 80, NR)*

UNCT indicó que una resolución del Ministerio de Salud de agosto 2009 **prohíbe al personal de salud discriminar a una persona por su orientación sexual** (Para 17, Compilation)

La Procuraduría para la Defensa de los Derechos Humanos (PDDH) señaló como avances la **derogación del artículo 204 del Código Penal** y aprobación de artículos que **penalizan la discriminación por razones de orientación sexual**. No obstante, dijo que **persiste discriminación en** el acceso al trabajo digno, educación libre de prejuicios, acceso a la justicia y el reconocimiento a la identidad de género (Para 7, Summary)

Trafficking /Forced prostitution

*() Se elaboró un **mapeo de las rutas** utilizadas para la trata de personas (Para 28, NR)*

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 (Para 16, Summary). JS1 indicó que la **tipificación del delito de tráfico de migrantes** en el Código Penal aún no supera la utilización del término "ilegal" para referirse a la persona migrante con estatus migratorio irregular, y con este tipo penal se sigue **criminalizando al migrante** en lugar del traficante. De igual forma, el Código Penal **no establece dentro de la tipificación el carácter transnacional e internacional** de este delito y tampoco hace distinción

entre las redes del tráfico de migrantes y el mero "coyotaje" o paso de frontera (Para 59, Summary)

Trafficking/sexual exploitation/violence against children

() Se creó un Departamento Especializado, para () la Niñez (), que brinda atención psicosocial, especializada y preventiva a las víctimas de Trata de Personas y explotación sexual (Para 28, NR)

Although The Committee on Economic, Social and Cultural Rights (CESCR) noted that trafficking in persons is defined as a criminal offence in the new Criminal Code, it regretted the existence of trafficking of () children for the purpose sexual exploitation (Para 28, Compilation). The Committee on the Rights of the Child (CRC) was concerned at the growing number of street children, especially in Managua (Para 29, Compilation). JS1 señaló que las cuestiones de rehabilitación, de reinserción y de recuperación psicológica en caso de violencia contra niñas y niños tampoco son temas tratados por el Estado. Otro problema es la falta de albergues estatales para recibir los niños y niñas víctimas de violencia. Todos los centros existentes dependen de las ONG (Para 13, Summary) JS1 indicó que el tráfico y la explotación sexual de niños y niñas es una realidad muy preocupante () El Estado no está priorizando la lucha contra la trata de niños y las sanciones no son aplicadas según lo dispuesto en el Código Penal (Para 16, Summary)

See Recommendations, CRC (29, 76); HRC (28); CODEMI (13)

Suggested questions and recommendations

CAT

§ That minors should be separated from adults (in prison) (Para 36, Compilation)

CRC

- § To increase efforts to prevent the spread of HIV/AIDS (Para 55, Compilation)
- § To provide street children with recovery, adequate nutrition, housing, necessary health care and educational opportunities (Para 29, Compilation)
- § To seek technical assistance in regard to: HIV/AIDS, children living on the street, sexual exploitation and trafficking (Para 76, Compilation)

Human Rights Committee

§ To make trafficking in and the sexual exploitation of children a criminal offence (Para 28, Compilation)

CODENI

§ To strength the institutions responsible for justice (the police, public prosecutor's offices, and the courts) so that they fulfill 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 (Para 13, Summary)

FMDVP

§ Reconocer el derecho al matrimonio y adoptar niños a las personas gay (Para 27, Summary)

SRI

- § To enact a legal framework which guarantee non-discrimination against sexual orientation in civil, economic, social and cultural spheres; giving special attention to ensure equal access to justice.
- § To open a political and social dialogue -including legislative, administrative and judicial spheres- that enable the recognition of the human right status of identity rights.