

QUICK GUIDE TO ADDRESS WOMEN'S 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.
- A reference to "gaps", that is, issues on which the National Report should/could have applied a gender perspective but failed to do so.
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.
- In all cases we have included suggested questions and recommendations

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

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

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

All women's rights issues (included sexual rights' issues related specifically to women) are referred to in this Guide. Other sexual rights issues are referred to in the Sexual Rights Guides for each state under review

CEDAW ratified. OP-CEDAW not ratified. Rome Statute not ratified. Palermo Protocol ratified.

Gaps

The National Report should/could have applied a gender perspective -that is, make reference to how the issue affects women and men in particular ways- but failed to do so in the following sections: Derecho a la seguridad jurídica (17-19), Sistema penitenciario (22-24), Ejército (34-36), Lucha contra la Pobreza (49-52), Derecho a la alimentación (53), Derecho a la salud (58-59), Derecho al trabajo (62-63), Derecho a la Vivienda (66), Derecho a la seguridad social (67-68), Lucha contra la Discriminación y Grupos vulnerables específicos (73 y 75-79)

ISSUE	N Report	Compilation	Summary
Abortion		General prohibition by criminal code without exception (21)	Laws affect poor and marginalized women. No provisions for exceptions. Health care workers at risk (44)
Access to justice	Public Defender and Judicial Procurators (21)	Lack of access, esp. for violence /trafficking victims (35)	
Defenders of human rights / women's rights			Media investigations, journalists, women's rights defenders accused of conspiracy, fraud and corruption. Defenders of "therapeutic abortions" face persecution and accusations on "defense of crime" (32)

Economic rights/ Right to development			Difficulties faced in access to employment, credits, land possession and social basic security services (6)
Equality and Non discrimination	Constitutional Status (6)	Equal rights and opportunities Act (3) Special procurators (6) Lack of legal framework. Discrimination in political, social and economic spheres (13)	
HIV/AIDS	ARV treatments, including pregnant women (61)		
Illiteracy	Campaigns (54)	Campaigns (9)	Decreased rates by campaigns (56)
Indigenous women		Double discrimination (14) Obstacles in access to health services. Language barriers and prejudices of health agents (66)	
Maternal mortality /maternal health	Decreased rates (60)		One of highest rate in the region. High girls and adolescents mortality rates in rural areas. Systematic increase of obstetric deaths (43)
OP-CEDAW			Not ratified (1)
Participation in public and political life		Decreased rate in parliament (44)	Low representation in relevant public posts (37)
Reproductive health/rights			Traditional and religious influence on gender, sexuality and reproduction ideas in education (54)
Rights of girls		See sexual violence (10)	Lack of shelters and rehabilitation services for victims of violence (13). See also Maternal Mortality (43) and Trafficking (16)
Right to education	Free access (54)	New general law and policies (56). Lack of information about national plan implementation (10)	
Sexual Violence			Criminalization of sexual crimes, widest definition and sanction of rape. Prevalence of rape and incest (10) Widespread sexual harassment. Women working in maquilas victims of harassment and extortion (15)

State Institutions/ Plans of Actions	First gender policy (74)	Feeding plan (9)	
Trafficking of women/ Forced prostitution	Specialized department for victims' assistance (28)	For sexual exploitation (28)	Half of sexual workers are minors. New sanctions in Penal Code. Creation of Coalition against Trafficking (16)
Violence against Women /Gender Violence	Comisaría de la Mujer y Niñez. Assistance and victims' data registration (28) Unit of Gender violence. Penalization of domestic violence acts. Free legal access (29)	National Plan (8) Increased number of murders. Attackers go unpunished (19). Need for judicial and administrative changes to allow data registration and immediate investigations on ill treatment reports (20)	VAW and femicide not typified. Lack of adequate protection measures and shelters for victims. Mediation in domestic violence (11) Authorities ask for medical tests as proof. Most cases end in acquittals (12)
Women in prison	New wings for women and adolescents (27)		

Abortion

The Committee Against Torture (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 (Para 21, Compilation)

El Programa Feminista Centroamericano La Corriente and The Sexual Rights Initiative (PFCLC-IDS) reported that laws prohibiting abortion, including therapeutic abortion, affect poor and marginalized women in a drastic way. Amnesty International (AI) reported that since July 2008, abortion is a criminal offence in all circumstances and noted that the total ban on abortion makes no provision for exceptions where the life or health of the woman is at risk. IPAS Central America (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 (Para 44, Summary)

See Recommendations: CAT, United Nations Country Team -UNCT-, The Committee on the Elimination of Discrimination against Women -CEDAW-, The Human Rights Committee, The Committee on Economic and Social and Cultural Rights -CESCR- (21); CODENI¹ (44)

Access to justice

La Corte Suprema de Justicia (CSJ), a efectos de facilitar el acceso a la justicia, de () en especial - grupos vulnerables como mujeres () - ha desarrollado proyectos como el de Defensoría Pública y los Facilitadores Judiciales. En los años 2007- 2008 se nombró 65 nuevos Defensores Públicos, aumentando a 150, con presencia en 71 Delegaciones, asistieron 62,522 causas, entre el 2006 y 2008 () (Para 21, NR)

UNCT indicó que el acceso a la justicia sigue siendo un tema pendiente para la mayoría de las mujeres nicaragüenses, en particular para aquellas que viven o han vivido violencia o han sido víctimas de trata (Para 35, Compilation)

¹ CODENI Joint submission by 53 organisations - Nicaraguan Federation of NGOs Working with Children and Adolescents, Managua; Nicaragua

Defenders of human rights / women's rights

JS1² señaló que **investigaciones periodísticas** que denuncian la corrupción así como la defensa de los derechos de la mujer han ameritado como represalia la **persecución institucional**. 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**. JS2³ 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 (Para 32, Summary)

See Recommendations, CAT and HR Committee (42); HR Committee (74)

Early / forced marriage

See Recommendations, Committee on the Rights of the Child (41)

Economic rights/Right to development

JS1 indicó que las mujeres enfrentan obstáculos para tener **acceso a un trabajo en condiciones dignas, a los créditos, a la tenencia de la tierra y a servicios sociales básicos** (Para 6, Summary)

Equality and non-discrimination

*La Constitución de 1987 y sus reformas establecen normas de derechos humanos, dentro de las cuales destacan () **la prohibición expresa de cualquier forma de discriminación** (Para 6, NR)*

The HR Committee and UNCT highlighted the adoption in 2008 of the Equal Rights and Opportunities Act **promoting equality between men and women** (Para 3, Compilation). In 2008, the HR Committee welcomed the introduction of **special procurators for women** (among others) (Para 6, Compilation)

In 2007, CEDAW was concerned about the **long delay in enacting a comprehensive legal framework** to eliminate discrimination against women (). In 2008, CESCR was concerned at the **continuing discrimination** against women in the **political, social and economic spheres** (Para 13, Compilation)

See recommendations, CEDAW (13), CESCR (13)

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)*

Illiteracy

*Se desarrolló la Campaña Nacional de Alfabetización De Martí a Fidel que **redujo drásticamente el analfabetismo** del 22 por ciento al 3.58 por ciento entre el año 2007 al 2009 (Para 54, NR). In 2008, CESCR and UNCT noted the "Yes I Can - Free from Illiteracy" programme (Para 9, Compilation). El UNCT indicó que la tasa de analfabetismo **disminuyó** del 20 por ciento en 2005 a*

² 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)

³ 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)

menos del 5 por ciento en 2009 como consecuencia de la campaña de alfabetización. (Para 56, Compilation)

See Recommendations CEDAW (57)

Indigenous women

In 2008, The Committee on the Elimination of Racial Discrimination (CERD) was also concerned at the double discrimination against women belonging to the indigenous peoples and communities of African descent (Para 14, Compilation). El UNCT indicó que existen barreras de acceso a la salud de las mujeres indígenas y afrodescendientes debido al monolingüismo, a enfoques de salud de la cultura predominante y ciertos prejuicios en el personal que presta servicios de salud (Para 66, Compilation)

See Recommendations CEDAW (14, 58)

Maternal mortality/maternal health

Se logró una reducción de la mortalidad materna de 90 en 2006 a 64 en 2008 () (Para 60, NR)
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 births. 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. IPAS reported that statistics for the past three years show a systematic increase in indirect obstetric deaths. 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 ()(Para 43, Summary)

See Recommendations CDESCR (54), CRC (54), CERD (54)

OP-CEDAW

JS1 lamentó que Nicaragua aún no ratifique el OP-CEDAW (Para 1, Summary)

See recommendations, CEDAW (1)

Participation in public and political life

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 (Para 44, Compilation). JS1 indicó que existe poca representación de la mujer en cargos públicos de relevancia (Para 37, Summary)

See Recommendations, CEDAW (44)

Reproductive health/rights

El Programa Feminista Centroamericano La Corriente y la Iniciativa por los Derechos Sexuales (FCLC-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 (Para 54, Summary)

See Recommendations CEDAW (54), CDESCR (54), PFCLC-IDS (54)

Rights of girls

JS1 señaló que las cuestiones de **rehabilitación, de reinserción y de recuperación psicológica en caso de violencia contra niñas** tampoco son temas tratados por el Estado. Otro problema es la **falta de albergues estatales** para recibir niñas víctimas de violencia. Todos los centros existentes dependen de las ONG (Para 13, Summary)

Right to education

*La Constitución estipula que, "Los nicaragüenses tienen derecho a la educación y a la cultura." El GRUN, el 11 de enero de 2007, eliminó la "Autonomía Escolar" y restableció la **gratuidad absoluta de la educación** (Para 54, NR). El UNCT mencionó que Nicaragua cuenta con una **nueva Ley General de Educación**, aprobada en 2007, y políticas educativas (Para 56, Compilation)*

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. (Para 10, Compilation)

See recommendations, CEDAW (10, 57); CRC (57)

Right to work

See Recommendations, CEDAW (48); CESCR (48); HR Committee (48)

Sexual Violence

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** (Para 10, Summary)

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 (Para 10, Summary). JS1 hizo notar que la **incidencia de acoso sexual en Nicaragua es generalizada**, pero estos casos no son fáciles de registrar y probar. Las mujeres que trabajan en las maquilas son víctimas de **chantaje y acoso sexual**. Ellas además laboran en condiciones de maltrato psicológico (Para 15, Summary)

State Institutions/Plans of Actions

*El Instituto Nicaragüense de la Mujer (INIM), promueve la **primera Política de Género de Gobierno**. Ha realizado procesos de **capacitación y sensibilización** en diferentes municipios e instituciones; asociaciones, sindicatos y poder ciudadano, que les permitan la apropiación del modelo, **restitución y empoderamiento de sus derechos**, como plataforma para la defensa de los mismos. Tiene plena vigencia la Ley de Igualdad de Derechos y Oportunidades, Ley de Responsabilidad Paterna y Materna (Para 74, NR)*

El UNCT indicó que desde el 2007, el Gobierno implementa el Programa para **Combatir la Pobreza y Alcanzar la Seguridad y la Soberanía Alimentaria y Nutricional**, denominado "Hambre Cero", que da prioridad a las **familias rurales pobres y los sectores marginales urbanos**, entregando un bono productivo que debe ser administrado por las mujeres (Para 9, Compilation)

Trafficking of women/Forced prostitution

*En el tema de Género, se creó un **Departamento Especializado, para la Mujer** (), que brinda atención psicosocial, especializada y preventiva a **las víctimas de Trata de Personas y explotación sexual**. (Para 28, NR)*

Although CESCR noted that trafficking in persons is defined as a criminal offence in the new Criminal Code, it regretted the existence of trafficking of women () for the purpose sexual exploitation (Para 28, Compilation). Alrededor de la mitad de las mujeres que realizan prácticas sexuales remuneradas son menores de 18 años. El Estado no está priorizando la lucha contra la trata de mujeres () y las sanciones no son aplicadas según lo dispuesto en el Código Penal. 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)

See Recommendations CESCR, HR Committee and CEDAW (28)

Violence against Women/Gender Violence

Se han realizado 4 campañas de sensibilización contra la violencia en perjuicio de la mujer. La Comisaría de la Mujer y Niñez, creó 12 delegaciones más desde el 2005 a la fecha, por lo que cuenta con 38 delegaciones a nivel nacional, donde se da atención a las víctimas de violencia intrafamiliar y sexual en todas sus expresiones, cuenta con 1350 promotoras y se lleva un registro de las víctimas (Para 28, NR). La Fiscalía General de la República ha creado la Unidad Especializada de Violencia de Género. Es política institucional ejercer siempre la acción penal en los delitos de violencia intrafamiliar o doméstica, quedando obligado a la tramitación oficiosa del proceso aún cuando la víctima abandone la acusación particular. Se garantiza el principio de gratuidad, y se amplió con 2 Fiscales más la cobertura de la Unidad Especializada de Omisión deliberada de prestación de alimentos y el desacato () (Para 29, NR)

In 2009, CAT noted with appreciation the National Plan of Action for the Prevention of Domestic and Sexual Violence (Para 8, Compilation)

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. In 2008, the HR Committee was also concerned at the increase in killings of women and that attackers appear to go unpunished. El UNCT indicó que en lo que va del año 2009, 45 mujeres han muerto por violencia familiar y delitos comunes (Para 19, Compilation). El UNCT añadió que queda pendiente la realización de cambios administrativos y judiciales que permitan contar con registros claros e investigaciones inmediatas en casos de denuncias de malos tratos, especialmente en los destacamentos policiales, para combatir la impunidad en estos casos. (Para 20, Compilation)

O JS1 indicó que la violencia contra la mujer no existe como delito independiente en Nicaragua sino como violencia intrafamiliar, presentando una clara invisibilidad de la violencia que sufren las mujeres por su condición de género. El femicidio tampoco existe como un delito independiente, lo cual no permite su persecución, investigación y sanción. JS1 señaló que las mujeres que denuncian no gozan de protección que garantice su seguridad y la de sus hijos e hijas ya que las medidas cautelares se demoran. Tampoco existen albergues. Además, las Comisarías de la Mujer utilizan la mediación para los casos de violencia doméstica y la práctica de que sea la víctima quien transmita la citatoria al agresor (Para 11, Summary). 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. 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 8 cases were protective measures ordered pursuant to existing laws. (Para 12, Summary)

See recommendations, CAT (19, 72); CESCR (19)

Women in prison

() Se mejoraron las celdas preventivas creando nuevos pabellones, para mujeres y adolescentes (Para 27, NR)

See Recommendations, CAT (36)

Suggested questions and recommendations

CAT

- § The full implementation of **legislation on violence against women** and recommended that ongoing training be organized for police officers. (Para 19, Compilation)
- § To ensure that women and men (in prison) are held in **separate facilities** (Para 36, Compilation)
- § To provide information, within one year, on the implementation of recommendations regarding **violence against women** (Para 72, Compilation)

CEDAW

- § To ratify **OP-CEDAW** (Para 1, Compilation)
- § To strength monitoring of progress in the implementation of the first part of the **National Education Plan 2001-2015** (Para 10, Compilation)
- § To bring national **legislation into line with CEDAW** to eliminate discrimination against women (Para 13, Compilation)
- § To accelerate the improvement of the conditions of women belonging to the **indigenous peoples and communities of African descent** in all spheres of life (Para 14, Compilation)
- § To ensure that indigenous women and women of African descent have full access to appropriate **education** (Para 58, Compilation)
- § 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 (Para 44, Compilation)
- § 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** (Para 48, Compilation)
- § To enhance women's access to **health care** (Para 54, Compilation)
- § To 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 (Para 57, Compilation)

CERD

- § To combat **maternal mortality** in the Atlantic autonomous regions, where it continues to be much higher than the national average (Para 54, Compilation)

CESCR

- § To ensure **equal remuneration** for work of equal value (Para 48, Compilation)
- § 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, as well as the adoption of a global health policy (Para 54, Compilation)

CRC

- § To 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 (Para 41, Compilation)
- § To urgently address the problem of () child and maternal mortality (Para 54, Compilation)
- § 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 (Para 57, Compilation)

The HR Committee

- § To make trafficking and sexual exploitation of women a criminal offence (Para 28, Compilation)
- § The intensification of efforts to combat discrimination against women in employment (Para 48, Compilation)
- § To 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 (Para 74, Compilation)

CAT and the HR Committee

- § To 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 (Para 42, Compilation)
- § To avoid penalizing medical professionals in the conduct of their professional duties (especially in cases of therapeutic abortion and pregnancy resulting from rape or incest) (Para 21, Compilation)

CAT and UNCT

- § To review its legislation on abortion, as previously recommended by CEDAW, the HR Committee and CESCR, 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 (Para 21, Compilation)

CESCR and The HR Committee

- § To meet the targets set in the Equal Rights and Opportunities Act to eliminate discrimination against women (Para 13, Compilation)
- § To take immediate steps to put a halt to killings of women and in particular conduct investigations and punish attackers. (Para 19, Compilation)
- § To allow the victims of gender violence effective access to justice, provide police protection, and set up shelters for victims. (Para 19, Compilation)

CESCR, CEDAW and The HR Committee

- § To combat trafficking in children and step up prosecutions and adequate punishment of offenders (Para 28, Compilation)

CODENI

- § The reform of the Penal Code (since July 2008, abortion is a criminal offence in all circumstances) (Para 44, Summary)

PFCLC-IDS

- § To avoid the religious interference, in the proposals and state decisions of policies and plans, particularly and especially in sexual education and sexual and reproductive health issues, and to agree with the civil society -including feminists and women's organizations- a strategy of health and education that responds to the needs of men and women for the exercise of a responsible sexuality, free of all forms of discrimination (Para 54, Summary)

SRI

- § Ask Nicaragua which measures have been taken to reduce the high and increasing maternal mortality rates.
- § To takes all necessary steps to address teenage pregnancies, including the provision of adequate and wide access to scientifically based reproductive health education and services.
- § To adopt a legal framework to protect women from domestic and sexual violence, including the definition and penalization of such crimes in the legal instruments, and promoting the access of victims to criminal justice system and to compensation.