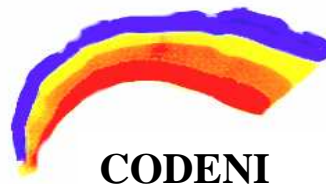
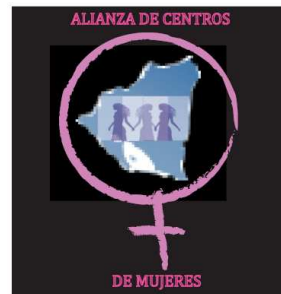


Human Rights Violations in NICARAGUA

SHADOW REPORT TO THE HUMAN RIGHTS COMMITTEE RECOMMENDATIONS

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A Project presented by



Human Rights Violations in Nicaragua

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RECOMMENDATIONS

The coalition of NGOs would like to recommend to Nicaragua to:

General Context:

- End with limitation imposed to the citizens' participation and maintain direct participation spaces for the citizens;
- Apply the constitutional disposition which foresees the consultation of the relevant civil organizations for the election of the Magistrates of the Supreme Court and the Supreme Electoral Council;
- Ensure that the Supreme Electoral Council meets its constitutional mandate with independence and impartiality and that its behaviour does not continue affecting the freedom to form and join a political party, the right to elect and be elected and the equality of all Nicaraguans in the exercise of their political rights;
- Reform the Electoral law in order it remains in accordance with the political pluralism and the democracy; the reform required in the Decision of the Inter-American Court of Human Rights in the case Yatama must be implemented;
- Restitute the legal personality of the Movimiento Renovador Sandinista and the Partido Conservador and indemnize for the damages and prejudices due to the resolution of the Supreme Electoral Council;
- Accredite as soon as possible the national electoral observation and invite the international observation for the municipal elections of 9th November 2008 and for the next elections;

The legal and institutional framework:

- Ratify the Facultative Protocol of the International Covenant of civil and political Rights related to the death penalty; effectively implement the Facultative Protocol of the Convention against Torture, recently ratified;
- Ensure that the institutions in charge of the promotion and defence of the constitutional guarantees of the citizens and of their human rights meet their mandate independently and out of the existing bi-partism;

Legal and institutional system related to **women:**

- Maintain and promote the places of direct participation of women at the national and local level in the decision making process related to violence against women and ensure their participation and representation by civil society, including by NGOs recognized by their experience on this issue, in the new institutions;
- Ensure the independence of the State institutions for the protection of women's human rights; Grant them sufficient resources in order to be more efficient;

Legal and institutional system related to **children:**

- Effectively apply the whole framework of legislations related to the protection of children and young people; especially, implement the legislation related to the protection and follow-up of victims of violence and continue with the efforts in fighting against impunity;
- Re-establish with the necessary budget and powers the National Council of attention and integral protection to children and adolescents;

Article 2§3:

- Grant the necessary budget to the police in order it ensures the adequate attention to victims of violence;
- Analyse which adjustment must be realize in the Procedural Criminal Code to avoid the victims and their families' rights to be affected by a regime put in place; especially, deal with the slowness in the process of investigation and with the lack of criminal action, among other obstacles, which cause legal insecurity and a perception of impunity;

Women's rights to effective remedies:

- Allow an effective access to justice for women victims of violations of their rights by an application of the existing legislation, and especially of the Protocol of action in case of family violence or sexual violence;
- Change with the behaviours of the Police, including within the Police station specialized for receiving women (Comisaría de la Mujer), by education and information on women's rights and gender violence, in order to end with the re-victimization and the attempts of mediation in case of violence; implement an office of attention and follow-up for victims of family violence and sexual violence within the Public Ministry;
- Act in order the faculty given to the public prosecutor (Fiscalía) to reject less serious offense does not let in practice women who denounce violence without any access to justice and obliged to look for a private legal council; introduce into legislation the obligation for the public prosecutor to give notice of the necessary appeal which guaranties the access to justice;

Children's rights to effective remedies:

- Follow with the efforts made to nominate public prosecutors specialized in the offenses against children, especially in rural zone;
- systematize the formation of functionaries in contact with children on thematic related to children's Rights and violence against them, especially in order to desjudicialize the process and to meet the superior interest of the children;

Articles 3, 25 y 26:

- Implement the dispositions of the Law of Equal Opportunities and grant the Institutions responsible for its application with the necessary resources, including the sensitization and education of the functionaries and the creation of the instances foreseen in the Law;

Artículo 6:

- Protect the life and integrity of all persons against the excessive use of the police and army force which lead to an arbitrary privation of life, and order quick and effective investigations in these cases; sanction the persons responsible for such violations;
- Protect people from violations of their Rights to life, especially by the adoption of adequate measures of protection, in the framework of its obligation of due diligence;

The women's right to life:

- Revise the Criminal Code in order to reconstitute the therapeutic abortion and take all necessary measures to prevent clandestine abortions, including in the area of family planning and contraception; ensure to the victims of rape the possibility to legally, safely and unconditionally abort;
- Consider the femicide as an independent offence; collect and analyze information on this particular phenomenon in order to deal with this issue and find effective solutions, inform the population and the professionals;

The children's rights to life:

- Protect the life and integrity of all children, including against the excessive use of police force and order quick and effective investigations in these cases, especially in the homicide of children, and sue the responsible persons;

Article 7:

- Ensure the legislative development to facilitate the indemnization of victims of torture or other ill treatments which is only foreseen in general term in the Constitution;
- Act against cases of torture or ill treatments applied by the police which occur essentially at the moment of the arrest, by investigating, judging and sanctioning, not only administratively, the persons

responsible for and compensating the victims; act against the cases of ill treatments or intimidation which occur in the penitentiary system;

The prohibition of torture and other ill treatments against **women**:

- Fight against the phenomenon of violence against women, by including violence against women as an independent offence; distinguish in the criminal legislation the domestic violence against women from other forms of family violence;
- Take measures of prevention and sensitization on gender violence; to that respect, implement campaigns of information to the population to end with traditional visions and stereotypes which maintain violent behaviours;
- Implement measures of immediate protection to protect women from retaliation and give to NGOs the necessary support to the running of the shelters;
- Act against the delays or lacks in the investigations or in the adoption of sanctions against the persons responsible for violence against women;

The prohibition of torture and other ill treatments against **children**:

- Take measures of prevention against all forms of violence, especially by campaigns of sensitization to end with the social imaginary which perceives the children as object and not as law subject;
- Put in practice the Protocol of acting on offences of family ill treatment and sexual abuses, initiated by the Supreme Court, in order to improve the process in these cases;
- Introduce into the criminal code, explicitly, the prohibition of corporal punishment in all situations and contexts, included within the family;
- Develop educative campaigns at the national level for the prevention and sanction of corporal punishment and humiliating treatments against children;
- Meet its responsibilities regarding the protection, either by the creation of shelters to welcome children victims of violence or by a centralized running of these centres to avoid the abuses y risk of re-victimization which occur in some cases;
- Take measures regarding the rehabilitation, reinsertion and psychological recuperation of children victims of violence;

Article 7, 19 y 21:

- End with the closing of political areas, the retaliation against opponent to the government, the violation to the right of demonstration, the violent reactions against demonstrators and the various initiatives aimed at reduce the freedom of expression of the population;
- Take the necessary legislative measures to avoid that, in the future, the freedom of expression be restricted by the way of the reject of renewal of licenses for the use of the radio-electric space;
- End with the campaigns of discredit and judicial persecution against women's human rights defenders; declare without effect the complaint against the Red de Mujeres contra la Violencia and against leaders of feminist organizations;

Article 8:

- Grant more resources and personal to the institutions responsible for the fight against trafficking in persons, especially to the Police;
- Educate the functionaries on the issue of trafficking and sexual exploitation;
- Implement shelters in order to receive and project victims of exploitation;

Article 9:

- Act with due diligence against cases of abusive arrest which occur essentially in the context of social demonstration;
- Respect the procedural guarantees due in case of arrest, such as the adoption of a detention order, the respect for the three month deadline for pre-trial detention or the periodic and opportune revision of the situation of each detainees; revise the Procedural Criminal Code which allows the Police to detain someone without a judicial order, using the judicial validation, after the said judicial action;

- Ensure the right to obtain reparation to all persons who have been illegally detained;

Article 10:

- Raise the budget of the prison system, in order the conditions of detention respect the detainees' dignity; in particular, deal with the overcrowding, the bad sanitary conditions, the basic necessities and the prevention of riots;
- Act in conformity with the law regarding the detainees who suffer from mental disease and grant them an adequate attention, including by the construction of specialized centres;
- Take urgent measures to deal with the worrying situation in the Northern and Southern Autonomic Regions of the Atlantic, especially by the construction of penitentiary centres;

Conditions of detention of **women**:

- Take measures regarding the overcrowding in the places of detention welcoming women;
- Take measures to ensure safe conditions of detention, especially resolving the problem of septic tank in the Prison of Esperanza;
- Grant a budget adapted to the detainees population with respect to medical care and food;
- Revise, according to the new criminal code, as soon as possible, the cases of women detained because of drug;

Conditions of detention of **juveniles**:

- Guarantee conditions of detention, especially regarding the infrastructure of the cells, the sanitary conditions and the alimentation, in accordance with the special needs of juveniles, as required in the Code on children and adolescent; this requires that a sufficient budget be assigned;
- Ensure that the separation from adults in case of detention in the police cells be respected;
- Fight against the overcrowding, first by using the privation of liberty only as a measure of last resort against children, especially the pre-trial detention, and secondly developing alternative measures to detention; only after having considered these possibilities, construct special centres for adolescents, if this appears necessary;

Article 14:

- Guarantee the independence and professionalism of the Judicial Power by the implementation of the Law of Judicial Career; Take all the necessary measures to avoid that the judicial power be instrumentalized by interests other than justice;
- Carry out the necessary adjustments to the model of judicial desk running to avoid that the equality between the parties and the other guarantees are not respected;
- Raise the number of public legal councils, taking into account the difficulty to meet the help needed by citizens with limited resources and the number of public prosecutor;

Administration of the **Juvenile Justice**:

- Grant a budget more appropriate to the whole implementation of the system of juvenile justice in order to facilitate the creation of the specialized judges and the appointment of interdisciplinary teams as required and foreseen in the Code on children and adolescents;
- Ensure an intensive strategy of education to the judges and to the functionaries who work with children in conflict with the law, on juvenile justice and on children's rights;

Articles 24 y 26:

- Take necessary measures in order to deal with the profound breaches of equality which affect particularly children from rural areas, indigene populations and ethnic group, especially regarding the access to services.