



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/NIC/4
22 October 2007

ENGLISH
Original: SPANISH

COMMITTEE ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS**

**Third periodic reports submitted by States parties under articles
16 and 17 of the Covenant**

NICARAGUA^{*}, ^{}**

[20 June 2007]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

** Annexes may be consulted in the files of the Secretariat.

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ACRONYMS

ACAN	Association of Nicaraguan Composers and Authors
ACDI	Canadian International Development Agency
ADD	Acute diarrheic disease
AGRAMCAS	Granada Association of Musicians, Composers and Musical Arrangers
AIDS	Acquired immunodeficiency syndrome
AIEPI	Integrated Care of Prevalent Childhood Diseases
AMUNIC	Association of Municipalities of Nicaragua
ANIBIPA	Nicaraguan Association of Librarians and Related Professionals
ANSNIC	Nicaraguan National Association of the Deaf
AP	Drinking water
APEO	Post-obstetric event contraception
APP	People's property area
ARI	Acute respiratory disease
AS	Sanitary sewerage
ASCAN	Association of Nicaraguan Singer-Songwriters
ASNIC	Nicaraguan Association for Community Integration
CAM	Maternal Houses
CCAD	Central American Commission for Environment and Development
CDI	Child Development Centre
CECC	Central American Educational and Cultural Coordination Mechanism
CECNA	German-Nicaraguan Training Centre
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CEFNI	Netherlands Nicaraguan vocational training centre
CELADE	Latin American Statistical Centre
CENEAPAC	Nicaraguan Centre for the Teaching of the Arts
CENIDH	Nicaraguan Centre for Human Rights
CETA	Agricultural technical training centre
CIC	Community canteens for children
CICO	Community child centre
CIDH	Inter-agency Committee on Human Rights
CISS	Inter-American Conference on Social Security
CN	Constitution of Nicaragua
CAN	Children and adolescents code
CNAM	National council for the elderly
CNEPTI	National commission for the progressive eradication of child labour and protection of the adolescent worker
CNLCD	National Council for Drug Control
CNSM	National minimum wages committee
CNU	National Council of Universities
CNV	National housing board
COE	Emergency obstetric care
COMISCA	Central American Ministers of Health Council
CONAPAS	National council for drinking water and sanitary sewerage
CONAPINA	National Council for the Comprehensive Care and Protection of Children and Young Persons

CONARE	National Council for Rehabilitation
CONICYT	National Council for research, science and technology
CONIPROSIT	Nicaraguan Committee for an Information Society for All
CONSIDA	National Multisectoral AIDS Commission
COSEP	Supreme Council of Private Enterprise
COSUDE	Swiss Office of Cooperation for Development
COSUP	Higher council of private universities
COTESAN	Technical committee for food and nutritional security
CPN	Pre-natal control coverage
CPS	Centres for Service Providers
CRECI	Centre for Educational Resources for the Blind
CSEM	Centre for Higher Military Studies
CT	Labour code
CZF	Free Zones Corporation
DAIA	Committee to Ensure Supply of Contraceptive Items in Nicaragua
DAS	Directorate of unions
DGME	Department of Migration and Alien Affairs
EAP	Economically active population
ECMAC	Community Delivery of Contraceptive Methods Economic Crimes Unit of the
EGI	Comprehensive national strategy
EIAG	International Agricultural and Livestock School
EIP	Economically inactive population
EMP	Social security medical enterprise
EMVN	National household survey for standard of living assessment
ENACAL	Nicaraguan Aqueduct and Sewage Company
ENDESA	Nicaragua Demography and Health Survey
ENDIS	Nicaraguan Survey of Persons with Disabilities
ENMA	National agricultural mechanization school
ERCERP	Enhanced economic growth and poverty reduction strategy
FECODENI	Nicaraguan coordinating federation
FENUP	Nicaraguan federation of private universities
FONMAT	Fund for Safe Motherhood and Childhood
FOSOVI	Social Housing Fund
GDP	Gross domestic product
GT	Technical group
GT-DENGUE	National Dengue Technical Group
GTZ	German Technical Cooperation
HIPC	Heavily Indebted Poor Countries initiative
HIV	Human immunodeficiency virus
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICF	International Classification of Functioning, Disability and Health
IDB	Inter-American Development Bank
IDR	Rural Development Institute
IEAS	Friendly and Healthy Schools Initiative
IESM	Survey of Mental Health in Nicaragua
ILCOMP	Latin American Computer Science Institute
ILO	International Labour Organization

INAA	Nicaraguan Institute of Water Supply and Sewerage
INATEC	National Technological Institute
INCINE	Nicaraguan Institute of the Cinema
INETER	Nicaraguan Territorial Studies Institute
INIFOM	Nicaraguan Institute for Municipal Development
INIM	Nicaraguan Institute for Women
INIMEI	Nicaraguan Institute for Women
INRA	Nicaraguan agrarian reform institute
INSS	Nicaraguan Social Security Institute
INSSBI	Nicaraguan Social Security and Welfare Institute
INTAE	National institute for administration and the economy
INTECFOR	Technical and forestry institute
INVICTA	Institute for war victims
INVUR	Nicaraguan Institute for Urban and Rural Housing
IPADEN	Agroindustrial polytechnic institute of the North
IPAS	International Projects Assistance Service
IPB	Boaco polytechnic institute
IPBC	Bartolomé Colón polytechnic institute
IPCC	Cristóbal Colón polytechnic institute
IPEC	International Programme for the Elimination of Child Labour
IPJ	Jinotepe polytechnic institute
IRC	Chronic kidney failure
IRO	Western regional institute
ISSA	International Social Security Association
IVM	Disability, old age and death
IVM-PR	Disability, old age, death and occupational hazards
JICA	Japan International Cooperation Agency
LGE	General Law on Education
MAG	Ministry of Agriculture
MAGFOR	Ministry of Agriculture and Forestry
MARENA	Ministry of the Environment and Natural Resources
MAS	Ministry of Social Welfare
MECD	Ministry of Education
MEIC	Ministry of the Economy, Industry and Trade
MHCP	Ministry of Finance
MIDINRA	Ministry of Agricultural Development and Agrarian Reform
MIFAMILIA	Ministry of the Family, Children and Adolescents
MIFIC	Ministry of Development, Industry and Trade
MINSA	Ministry of Health
MITRAB	Ministry of Labour
MNLAE	Luisa Amanda Espinoza Nicaraguan Women's Association
Movistar	Cell phone enterprise
MTI	Ministry of Transport and Infrastructure
NICASALUD	Nicaraguan health system federation
NNA	Children and adolescents
OAS	Organization of American States
OCI	Office for compensation assessment

OEI	Organization of Ibero-American States
OISS	Ibero-American Social Security Organization
OOT	Land management office
OUT	Urban land title awards office
PAHO	Pan American Health Organization
PAINAR	Programme for the comprehensive care of children and adolescents socially at risk
PAININ	Programme for the comprehensive care of Nicaraguan children
PBSS	Basic Package of Health Services
PCT	Common work programme
PEBI	Bilingual Intercultural Education Programme
PESA	Specific food- and nutritional-security project
PMSS	Programme of Modernization of the Health Sector
PN	National police
PND	National development plan (of the Government)
PND-O	National programme for gender equity
PRGF	Property Reduction and Growth Facility
PROCOSAN	Community Health and Nutrition Programme
PRODEP	Property management project
PRUTD	Single, comprehensive and final payment plan
RAAN	North Atlantic Autonomous Region
RAAS	South Atlantic Autonomous Region
RBC	Community-based rehabilitation
RP	Occupational hazard
RPS	Social protection network programme
SACSN	Union of Circus and Associated Performers of Nicaragua
SARED	Programme of Reproductive Health Equity and Rights
SETEC	Technical Secretariat of the Presidency
SGD	Performance Management System
SILAIS	Local Comprehensive Health-care System
SIMINSA	Information system
SINAP	National Postgraduate System
SINAP	National System of Protected Areas
SINAPRED	National System for Disaster Prevention, Mitigation and Response
SINEVI	National Vital Statistics System
SISCAPNOM	Public Employee Payroll System
SISSAN	Food and nutritional security monitoring information system
SPN	National prison system
SR	Sex ratio
SWAP	Sector-wide approach to urban and rural water supply and sanitation
TCC	Treaty on Technical Cooperation
TNE	Net Schooling Rate
UACH	University of Chinandega
UAM	Autonomous American University
UCA	Central American University
UCAN	Autonomous Christian University of Nicaragua
UCATSE	Luis Espinoza Pineda Catholic Agricultural College

UCC	University of Commercial Sciences
UCEM	University of Entrepreneurial Sciences
UCN	Central University of Nicaragua
UCYT	Nicaraguan University of Science and Technology
UdeM	University of Managua
UDO	Occidental University
UENIC	Martin Luther King Evangelical University of Nicaragua
UHispan	Hispanic-American University
ULAM	University of the Americas
UNA	National Agricultural University
UNACAD	Management, Business and Customs University
UNADENIC	Adventist University of Nicaragua
UNAG	National Union of Farmers and Livestock Breeders
UNAN-León	National Autonomous University of Nicaragua at León
UNAN-MANAGUA	National Autonomous University of Nicaragua
UNDCC	United Nations Convention to Combat Desertification
UNFPA	United Nations Population Fund
UNI	National Engineering University
UNICA	Redemptoris Mater Catholic University
UNICEF	United Nations Children's Fund
UNICIT	Ibero-American University of Science and Technology
UNIDES	International University of Sustainable Development,
UNIJAR	Jean Jacques Rousseau University
UNIMET	Metropolitan University
UNITEC	University of Technology and Commerce
UNIVAL	International University of Latin American Integration
UNN	University of Northern Nicaragua
UNODC	United Nations Office on Drugs and Crime
UPF	Paulo Freire University
UPOLI	Polytechnic University of Nicaragua
UPONIC	Popular University of Nicaragua
URACCAN	University of the Autonomous Regions of the Caribbean Coast of Nicaragua
USAID	United States Agency for International Development
USCI	International agreements follow-up unit
USTOM	University of Santo Tomas de Oriente y Medio Dia
UTM	Thomas More University
UTN	Universidad Tecnológica Nicaragüense
VIS	Low-cost housing
WB	World Bank
WFP	United Nations World Food Programme

INTRODUCTION

Pursuant to articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Republic of Nicaragua presents its second, third and fourth periodic reports, combined in one document covering the period 1990-2005.

The report evaluates the situation and progress made in the country in respect of the exercise of the rights provided for in ICESCR. It examines in detail the disparities in each period, describes the efforts and achievements that took place up to 2005 and the new challenges that must be met in order to improve the life of the population.

The information provided in this report shows that the neoliberal model and the economic measures imposed by the financial organizations have not been successful enough to improve the standard of living of Nicaraguans. The country's economic, social and cultural rights have been constantly infringed as a result of the social and economic conditions in which it is plunged. Yet progress, although slow, has been made in the economic, social and cultural areas in the period considered.

The Government of reconciliation and national unity has made poverty reduction a pillar of national policy. In that context, international cooperation has played and will continue to play a key role in achieving that objective.

The Government renews its commitment to strengthening the human rights system in Nicaragua, focusing in particular on the population's economic, social and cultural rights.

Method of work

This report was prepared through the active participation of the Inter-agency Committee on Human Rights (CIDH), whose membership comprises the following ministries, agencies and NGOs: Ministry of Agriculture and Forestry (MAGFOR), Ministry of Education (MECD), Ministry of the Family, Children and Adolescents (MIFAMILIA), Ministry of Development, Industry and Trade (MIFIC), Ministry of Health (MINSA), Ministry of Labour (MITRAB), Ministry of Finance (MHCP), Nicaraguan Institute for Women (INIM), Nicaraguan Security Social Institute (INSS), of the Urban and Rural Housing Institute (INVUR), National Statistical and Census Institute (INEC), Nicaraguan Institute of Culture (INC), National Technological Institute (INATEC), Nicaraguan Institute of Water Supply and Sewerage (INAA), Rural Development Institute (IDR), National Council for Comprehensive Care and Protection of Children and Adolescents (CONAPINA), National Commission for Scientific and Technological Research (CONICYT), National Council of Universities (CNU), Free Zones Corporation (CZF), Central Bank of Nicaragua (BCN), National Assembly (AN), Emergency Social Investment Fund (FISE), Land administration unit (IP), Department of Migration and Alien Affairs (DGME), State police (PN), National prison system (SPN), Office for the Development of the Autonomy of the Atlantic Coast of Nicaragua (ODACAN), Institute for Development and Democracy (IPADE); the Nicaraguan Association for Community Integration (ASNIC), a United Nations advisory committee; and the International agreements follow-up unit (USCI), Directorate for international bodies and conferences, Ministry of Foreign Affairs.

The Committee played a significant role in the collection of documents and the classification of information subsequent to early training and information provided from a human rights perspective to civil servants through a seminar offered by the United Nations High Commissioner for Human Rights. That process contributed significantly to building the capacities of the institutions concerned, particularly in view of future human rights work that their staff will be called upon to carry out.

The preliminary draft of the report was reviewed by the entire CIDH. All participating bodies were formally invited to contribute their observations, significantly enriching the report, which, as a result, reflects a diversity of views on reality.

In short, the report preparation process has been extremely satisfactory and produced results of significant value for drawing up national reports in the future.

Structure of the report

The report is divided into two parts. The first part is a background document containing information on the economic and social context of Nicaragua in the period 1990-2005.

The second part relates to articles 1, 2, 6-15 of the Covenant in accordance with the Committee's guidelines. The report comprises annexes with statistical tables and diagrams.

I. ARTICLE 1 – The peoples' right to self-determination

1. Nicaragua's legal framework for the protection of human rights relies mainly on the Constitution, in force since 1987, and the various amendments thereto. The fundamental principles of the Constitution include: Self-determination (art. 1), sovereignty and democracy (art. 2), peace (art. 3) and human development (art. 4).
2. The current Constitution is a legacy of the Nicaraguan Revolution of 1979. Earlier policies had been governed by two other basic texts: The Fundamental Statute of the Republic and the Statute of Rights and Guarantees of Nicaraguans.
3. As indicated in the background document, Nicaragua is a sovereign, free and independent republic.
4. Under article 1 of the Constitution, “independence, sovereignty and national self-determination shall be inalienable rights of the people and fundamental to the Nicaraguan nation. All foreign interference in the internal affairs of Nicaragua or any attempt to undermine these rights threaten the life of the people. It shall be the duty of all Nicaraguans to preserve and defend these rights”.
5. Under article 5 of the Constitution, “respect for the free self-determination of peoples” shall be a fundamental principle of the Nicaraguan nation (first paragraph); and “Nicaragua shall base its international relations on friendship and solidarity among the peoples and reciprocity among States. Consequently, all forms of military, economic, cultural and religious and political intrusion shall be forbidden and proscribed and constitute interference in the internal affairs of other States” (fifth paragraph).
6. Under articles 6 and 7 of the Constitution, Nicaragua shall be an “independent, free, sovereign, unitary and indivisible State” and constitute a “participatory and representative democratic Republic”.
7. Under article 130 of the Constitution, “the Nicaraguan nation shall be established as a social State under the rule of law. No office may give its occupant more powers than are conferred by the Constitution and the laws”.
8. Under article 5, third paragraph, of the Constitution, “the State shall recognize the existence of the indigenous peoples, who shall enjoy the rights and guarantees and share the obligations assigned, especially those related to maintaining and developing their identity and culture, practicing their own forms of social organization, administering their local affairs and having communal forms of land property and the enjoyment its use and yield, all according to law”.
9. Under article 8 of the Constitution, “the Nicaraguan people shall be multi-ethnic in nature”. For purposes of administration, the national territory shall be divided into municipalities, departments and autonomous regions of the Atlantic Coast. Under article 12 of the Constitution, “Managua shall be the capital of the Republic and the seat of the four branches of Government”.

10. Chapter II of the Constitution (arts. 180 and 181) establishes the autonomous system applicable to the Atlantic Coast communities. Article 90 stresses those communities' right to freedom of expression and to the preservation of their languages, art and culture.
11. The adoption of act No. 28 of 7 September 1987, "Autonomy statute for the regions of the Atlantic Coast of Nicaragua", has been a significant event¹.
12. With regard to the rights of the individual, articles 23 to 46 of the Constitution provide for the personal right to life, security, equality before the law, freedom of conscience, thought and religion; prohibition of servitude and slavery; the right of asylum and refuge; and the right to private property. Moreover, the Constitution provides for the right to a healthy environment (art. 60) and for programmes in support of persons with disabilities (art. 62).
13. Under article 5, fourth paragraph, of the Constitution, "the various forms of public, private, associative, cooperative and community property shall be guaranteed and encouraged to produce wealth without discrimination; and all of these forms, operating freely, shall fulfil a social function".
14. Under article 2 of the Constitution, "national sovereignty shall reside in the people, who shall exercise it" by means of direct or participatory democracy "through their representatives, freely elected by universal, equal, direct and secret suffrage, barring any other individual or group of individuals from arrogating to themselves such power or representing capacity. They may also exercise it directly by means of a referendum or plebiscite or other procedures established by the Constitution and the laws".
15. The protection of natural resources is guaranteed in article 60 of the Constitution, which provides that "it shall be the obligation of the State to safeguard, preserve and recover the environment and natural resources", since all "Nicaraguans shall have the right to live in a healthy environment".
16. Under article 102 of the Constitution, "natural resources shall be a national heritage" and therefore "the preservation, development and rational exploitation of natural resources shall be responsibilities of the State", which alone "may conclude contracts for the rational exploitation of these resources, when the national interest so requires".

II. ARTICLE 2 – General measures adopted for the progressive implementation of rights

A. Principle of non-discrimination

17. Under article 4 of the Constitution, "the State shall promote and guarantee social and political improvements in order to achieve the common good, assuming the task of promoting the human development of each and every Nicaraguan, protecting them against any form of exploitation, discrimination and exclusion".

¹ *Official Journal No. 238*, 30 October 1987.

18. Under article 27 of the Constitution, “all individuals shall be equal before the law and entitled to equal protection. There shall be no discrimination based on birth, nationality, political belief, race, gender, language, religion, opinion, origin, economic position or social condition”. Under article 46 of the Constitution, “all persons in the national territory shall enjoy State protection and recognition of the rights inherent in the person, as well as full observance, promotion, protection and effect of the human rights enshrined in the Universal Declaration of Human Rights; the American Declaration of the Rights and Duties of Man; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights and the American Convention on Human Rights of the Organization of American States (OAS)”.

19. Article 49 of the Constitution provides for the right of “workers in the city and the countryside, women, youth, agricultural producers, artisans, professionals, technicians, intellectuals, artists, members of a religious order, the Communities of the Atlantic Coast and the inhabitants in general” to form organizations “without discrimination”.

20. Under chapter VI (“Rights of the Communities of the Atlantic Coast”), article 91, of the Constitution, “the State shall have the obligation to enact laws intended to promote actions to assure that no Nicaraguan shall be the object of discrimination on grounds of language, culture or origin”.

21. In accordance with the international conventions and treaties related to human rights, Nicaragua is responsible for the implementation of all of the rights stipulated in those texts and there is no legal basis for restricting the enjoyment of those rights.

22. With regard to non-discrimination, Nicaragua has signed the International Labour Organization Convention concerning discrimination in respect of employment and occupation (ILO Convention No. 111, 1958), aimed at equality of opportunity and treatment².

23. The labour code (act No. 185) contains the following provisions against discrimination in relation to employment:

Under article 17 (b), employers have an obligation “to respect the right to free choice of occupation or trade, not to require or accept any payment in order to employ a worker and not to draw up any discriminatory lists or engage in practices that restrict or exclude employment opportunities”.

Under article 138, “a female worker shall enjoy all of the rights provided for in [the labour code] and other related laws under conditions of equal terms and opportunities and may not suffer discrimination for being a woman. Her wage shall be in line with her ability and her duties”.

² MITRAB web site (<http://www.mitrab.gob.ni/>).

B. Economic, social and cultural rights

1. Poverty trends

24. The percentage of Nicaraguan households living in poverty and extreme poverty declined, respectively, from 50.3 and 19.4 per cent in 1993 to 45.8 and 15.1 per cent in 2001. Although more recent statistics are not available, the overall situation has not changed significantly.

25. The above suggest slight progress in the reduction of poverty and extreme poverty. It is worth reviewing the standard-of-living improvement measures and mechanisms implemented during the period reviewed.

26. As indicated infra in connection with article 11 of the Covenant, 42.6 and 77.8 per cent of the population consume per day less than, respectively, US \$1.– and US \$2.–.

27. In the period 1990-2006, more than two million persons joined the ranks of the poor or extremely poor. Moreover, more than 4.2 million persons (82 per cent of the population) continue to live below the poverty line, while more than 2.1 million are destitute.

2. Protection of children

28. The laws and bodies described below have been established with a view to promoting and ensuring the exercise of the rights of children and adolescents in the framework of the family, broader society and the State.

29. Under article 1 of decree No. 1065 of 24 June 1982, the parent-child relations act³, “father and mother shall be jointly responsible for looking after their under age children and for ensuring their upbringing and education; and for representing them and managing their assets”.

30. Act No. 143 of 22 January 1992 on maintenance allowances⁴ provides for the right to receive and the obligation to provide such allowances based on family relations and lays down procedures for the implementation and interpretation of the relevant provisions.

31. In 1994, police units for women and children began to be set up in police departments throughout the territory in order to provide domestic violence victims with psychological, social and legal assistance.

32. CONAPINA was formed in 1990 as a national commission, was reorganized in 1994 to include NGOs and eventually became a permanent body under its current name.

33. The National commission for the progressive eradication of child labour and the protection of under age workers was created in 1997⁵ and attached to MITRAB. It was inter alia entrusted

³ *Official Journal No. 155*, 3 July 1982.

⁴ *Official Journal No. 238*, 24 March 1992.

⁵ Decree No. 22-97 of 10 April 1997 on the creation of the National commission for the progressive eradication of child labour and the protection of under age workers, *Official Journal No. 66*, 10 April 1997.

with assessing the child labour situation in view of a National plan addressing those issues and with promoting, evaluating, selecting and approving related programmes and projects.

34. Articles 131-137 of title I (“On child and adolescent labour”) of the labour code, effective since 31 December 1996, explicitly prohibit the employment of persons under 14 and regulate work carried out by adolescents. Title VI, book I, of the labour code was recently amended through act No. 471.

35. Act No. 471, prior to which no distinction was drawn between child and adolescent workers, establishes 14 years as the minimum age for gainful employment and defines adolescent workers as “workers having completed their 14th but not yet their 18th year of age, who, in exchange for financial remuneration, engage in productive activities or provide physical, intellectual or other services on a permanent or temporary basis”.

36. A national policy for the comprehensive care of children and adolescents and a children and adolescents code (CNA) were formulated in the period 1995-1996 through a participatory process. The policy (adopted in 1996) was incorporated into book II of CNA – adopted through act No. 287 of 24 March 1998⁶ – and is therefore both law and a tool for implementing CNA.

37. CNA provides for the protection of minors as legal persons and lays down their rights and obligations and those of the State.

38. Under article 12 of CNA, all children and adolescents shall be guaranteed the “intrinsic right to life as from their conception and to State protection through policies conducive to their birth, survival and comprehensive and harmonious development in dignity”; and the right to “freedom, security, respect and dignity as developing human beings enjoying in particular the rights stipulated in the Constitution and the laws”.

39. Under article 33 of CNA, “all children and adolescents shall be entitled to optimal physical and mental health, education, free time, a healthy environment, housing, culture, recreation, social security and medical and convalescence services. The State shall guarantee access to those goods taking into account the rights and obligations of the family and the legally responsible people”.

40. Under article 54 of CNA, “as members of society and legal persons, children and adolescents shall have obligations and other responsibilities, depending on their age, vis-à-vis themselves and their family, school, community and country. The family, community and school shall educate the children and adolescents by ensuring the assimilation and fulfilment of those obligations and responsibilities as part of the children's and adolescents' comprehensive development”.

41. Under article 55 of CNA, children and adolescents shall have the following obligations and responsibilities to an extent compatible with their age, rights, freedoms and guaranteed privileges and the provisions of the law

⁶ *Official Journal No. 102*, 31 May 2000.

- (a) Obeying, respecting and showing affection to their parents, grandparents or guardians;
- (b) Carrying out household tasks that do not interfere with their education;
- (c) Studying earnestly, fulfilling scholastic tasks, complying with the rules of the educational establishment and respecting the teachers, civil servants and other workers employed there;
- (d) Respecting the human rights, ideas and beliefs of other people, particularly the elderly;
- (e) Respecting and honouring the national values, laws, symbols and heroes;
- (f) Preserving and protecting the natural environment and participating in related activities.
- (g) Respecting their own property, the assets of their family, school and community, public domain goods and the property of other citizens; and participating in activities for the maintenance and improvement of such assets.

42. CNA contains provisions regarding the right to a family, education, social security and protection against sexual abuse and labour-related exploitation, including the following articles:

- Article 26 – “Starting at birth, children and adolescents shall have a right to grow up in a family environment conducive to comprehensive personal development.”
- Article 43 – “Children and adolescents shall have a right to education which shall aim at maximum development of their potential, personality, physical ability and mental aptitude; enhance respect for their parents and human rights, and their critical thought; prepare them for integration into society as responsible citizens; and train them for work as adolescents, with the stress on reducing the current educational disparities between boys and girls.”
- Article 85 – “Persons who actively or by omission expose [children or adolescents] to mistreatment, violence or physical, mental or sexual abuse shall be subject to criminal punishment according to the law. Assisted by the police without extensive formalities, the competent administrative authority shall take any measures necessary for protecting and rescuing children or adolescents whose physical, mental or moral integrity is in danger.”

43. Article 73 of CNA provides for protecting children in relation to labour by prohibiting the “employment of children and adolescents for any work. Enterprises, individuals and legal entities may not hire persons under 14”.

44. Starting at the adoption of CNA, juvenile courts were set up as necessary for legally addressing offences involving under age persons. The first juvenile court was set up in Managua in November 1998. There are currently 15 criminal district juvenile courts in the country.

45. Act No. 351 of 18 May 2000, organizing CONAPINA and the office of the Ombudsman for children and adolescents⁷, designated CONAPINA as the leading body for the formulation, coordination and implementation of the national policy for the comprehensive care of children and adolescents. CONAPINA consists of representatives of governmental and non-governmental bodies, agencies for children and adolescents, civil society associations and private enterprises. The act was followed by Decree No. 63-2000 of 26 July 2000, “General implementing regulations for the organization of CONAPINA and the office of the Ombudsman for children and adolescents”⁸.

46. Nicaragua has adopted the following international legal instruments for the protection of children:

(a) Convention concerning minimum age for admission to employment (ILO Convention No. 138), ratified on 2 November 1981.

(b) Inter-American Convention on the international restitution of minors, concluded in Uruguay on 15 July 1989. It was adopted through Decree No. 58-2002 and published in *Official Journal No. 118* of 25 June 2002.

(c) Convention on the rights of the child, regulating children's rights in respect of, inter alia, health, education, justice and employment. It was signed and ratified by Nicaragua on, respectively, 6 February and 5 October 1990.

(d) Geneva Conventions and Additional Protocols thereto. Nicaragua is a State party to the 1949 Geneva Conventions, which it ratified on 19 July 1999. The Additional Protocols entered into force for Nicaragua on 19 January 2000. Additional Protocols I and IV contain provisions regarding special protection of children.

(e) Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labour (ILO Convention No. 182)⁹. Ratified in 2002, it contains provisions on sexual exploitation. A national policy on population, formulated in 1997, has been adopted. The related plan of action, adopted in 2000, comprises the following three interrelated programmes: Awareness of population and sexuality issues; sexual and reproductive health; and geographical distribution of the population.

(f) The Hague Convention on the Civil Aspects of International Child Abduction, to which Nicaragua acceded on 14 December 2000. It was adopted through Decree No. 81-2000 and entered into force on 1 March 2001.

(g) The optional protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child

⁷ *Official Journal No. 97*, 27 May 1998.

⁸ *Official Journal No. 148*, 7 August 2000.

⁹ Decree No. 79-2000 of 26 July 2000 on the adoption of the Convention concerning the Worst Forms of Child Labour, *Official Journal No. 148*, 7 August 2000.

pornography, adopted through Decree No. 37-2002. The accession decree was published in the *Official Journal No. 82*, 6 May 2002.

47. Act No. 392 on promoting the comprehensive development of young persons¹⁰, approved in 2001, aims at strengthening the participation and human development of young men and women, guaranteeing the exercise of their political, economic, social and cultural rights, and enhancing opportunities for comprehensive training through educational activities. It also provides for the right the young people of the ethnic communities of the autonomous regions of the Atlantic Coast to bilingual and intercultural training in their mother tongue and in Spanish according to their traditional practices, values and customs.

48. Decree No. 43-2002 of 7 May 2002 on the creation of the National commission for the eradication of child labour and the protection of under age workers was adopted in 2002¹¹ with a view to reorganizing the commission in question, which had been set up through Decree No. 22-97.

49. In 2002 and 2003, the issues related to the Stockholm and Yokohama commitments were analyzed in coordinated forums organized by the Nicaraguan Coalition of NGOs working with children and adolescents (FECODENI) and the Executive Secretariat of CONAPINA. Moreover, survey results on the municipalities of Granada, Matagalpa, León and Estelí were published with a view to encouraging feedback, building on experience and providing a basis for the implementation of the Government policy against the commercial sexual exploitation of children and adolescents, 2003-2007.

50. The above policy constitutes a frame of reference for activities undertaken by various State and civil society bodies in order to devise and implement measures addressing the problem in question. The policy is consistent with the recommendations formulated at the first World Congress against Commercial Sexual Exploitation of Children (Stockholm, 1996).

3. Protection of women

51. Gender equality with regard to rights and obligations is enshrined in the following articles of the Constitution:

- Article 48. – “Unconditional equality shall apply to all Nicaraguans in the enjoyment of their political rights, the exercise of those rights and the fulfilment of their duties and responsibilities. There shall be absolute equality between men and women”.
- Article 73. – “Family relations shall rest on respect, solidarity and absolute equality of rights and responsibilities between men and women”.

52. Under Article 74 of the Constitution, “the State shall provide for special protection of the process of human reproduction. Women shall enjoy special protection during pregnancy and shall be granted maternity leave with pay and all appropriate social security benefits. No one

¹⁰ *Official Journal No. 126*, 4 July 2001.

¹¹ Decree No. 43-2002 of 7 May 2002, *Official Journal No. 93*, 21 May 2002.

may deny employment to women on grounds of pregnancy or dismiss them during pregnancy or the post-natal period, in conformity with the law”.

53. The following employment-related rights are enshrined in article 82 of the Constitution: Right to work, equal pay for equal work, unattachability of the minimum wage and social benefits, occupational security in the face of professional hazards, eight-hour working day, paid rest period, vacation, 13th-month wage, stability at work, protection of pregnant workers, right to strike and labour union freedom.

54. As a result of a 1994 reform, the labour code, in force since 1949, stipulates, under title VII (on women's employment), minimum advantages enjoyed under the Constitution by female workers in respect of breastfeeding. However, those rights usually remain unfulfilled because, inter alia, there are no legal sanctions against employers who do not grant leave, mothers fail to use it or they are ignorant of their rights.

55. Under the civil code, women shall have the same legal capacity as men and be free to exercise it by concluding contracts, even with their own spouse; manage property; and appear before a court of justice personally, not necessarily with a lawyer, to claim their rights.

56. Under article 34 of CNA, “every pregnant woman shall be entitled to prenatal, perinatal and post-natal care through the public health system”. This provision introduces the concept of perinatal care and the obligation of the public health system to provide care for any type of pregnancy, regardless of the occupational or social security status of the women concerned.

57. Legislation protecting women includes the following acts:

- Decree No. 862, act on adoptions¹²;
- Decree No. 974, social security organizational law¹³;
- Act No. 38 of 28 April 1988 on the dissolution of marriage at the request of a spouse (unilateral divorce act)¹⁴;
- Act No. 150 of 11 June 1992, amending the criminal code in respect of sexual offences¹⁵.

58. Act No. 212 of 13 December 1995 on the Office of the Human Rights Ombudsman¹⁶ provides for the appointment of a Special solicitor for women. Two solicitors have been designated so far, for the periods 2002-2004 and 2005-2007. The main activities developed have

¹² *Official Journal No. 259*, 14 November 1981.

¹³ *Official Journal No. 49*, 1 March 1982.

¹⁴ *Official Journal No. 80*, 29 April 1988.

¹⁵ *Official Journal No. 174*, 9 September 1992.

¹⁶ *Official Journal No. 7*, 10 January 1996.

contributed to promoting empowerment processes and to stimulating the exercise of democracy, transparency and respect for public institutions, in relation to human rights.

Note should be made of act No. 230 of 13 August 1996 on amendments and additions to the criminal code, aimed at preventing and punishing domestic violence¹⁷.

59. Note should also be made of act No. 295 of 10 June 1999 on the promotion, protection and maintenance of breastfeeding and the regulation of the commercialization of breast-milk substitutes¹⁸.

60. Title II of act No. 423 of 14 March 2002 on comprehensive provisions regarding health¹⁹ refers to nutrition. It stipulates that MINSA shall adopt measures and carry out activities necessary for improving nutrition and take steps to generally prevent undernourishment and specific micronutrient deficiencies in the population, especially among children, pregnant women and the elderly.

61. Nicaragua has ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belém do Pará”)²⁰, which defines violence against women as “any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere”.

62. It is incumbent upon the State to promote and guarantee equal rights between men and women in the political, economic, social and cultural areas; and to eliminate any obstacles to such equality and to the Nicaraguans' effective participation in the country's economic, social and political life.

63. Within its scope, INIM, the national mechanism responsible for presiding over the formulation, promotion, implementation and evaluation of Government policies, plans, programmes and projects promoting gender equality, engages in ongoing activities aimed at women's advancement and development. To that end, it has coordinated the formulation of the National programme for gender equity (PNEG), officially launched through presidential decree No. 36-2006²¹.

64. As a result of the joint efforts of INIM, PN and women's organizations members of the Women's network against violence, police units for women and children were created in 1993. They provide specialized care for women, children and adolescents who are victims or survivors of domestic violence or sexual offences.

¹⁷ *Official Journal No. 191*, 9 October 1996.

¹⁸ *Official Journal No. 122*, 28 June 1999.

¹⁹ *Official Journal No. 91*, 17 May 2002.

²⁰ Adopted through decree No. 1015 of 3 August 1995, *Official Journal No. 179*, 26 September 1995.

²¹ *Official Journal No. 139*, 18 July 2006.

65. A National committee for combating violence against women, children and adolescents was set up in 1998, under INIM coordination. In 2000, that committee drew up a National plan for the prevention of domestic and sexual violence (2001-2006).
66. The above committee, whose executive secretariat is provided by INIM, is engaged in ongoing coordination between Government and civil society organizations with a view to ensuring concerted action in addressing domestic violence. The committee consists of 18 senior civil servants representing 18 Government and four civil society bodies.
67. The committee in question is in charge of the above National plan and of a National programme against gender-based violence.
68. A “Zero hunger” programme has been launched. Its implementation has been designed by INIM with a view to the cross-cutting promotion of gender equality. The pilot project is to be carried out in the 20 poorest municipalities of northern Nicaragua in the first quarter of 2007.
69. As part of a modernization process, NP promotes gender mainstreaming as a cross-cutting approach and as a key planning strategy under various institutional policies and practices.
70. NP has continued to set up police units for women and children. Currently, 23 such units operate in the country, contributing to placing domestic and sexual violence issues on the social and public action agenda.
71. Through the Property management project (PRODEP), the Property administration unit has played a crucial role in reforming the methods used for property registration and title awards. In that context, gender equity has been sought by introducing the gender perspective through land register format adaptation and digitalization; incorporating the gender factor in data collection; providing training and information to titling beneficiaries; and ensuring support for PRODEP through gender awareness workshops for the technical staff of land register digitalization enterprises. In the areas affected by the reform, these measures have increased the percentage of women with joint, collective or individual property titles from 32 to 40 per cent.
72. At the local level, focus on supporting women and children is promoted in 60 per cent of municipalities, including through women's or gender committees comprising representatives of various Government and civil society bodies. Moreover, various women's organizations are active in defending and promoting the rights and interests of women and of the population as a whole. Furthermore, rural sector associations seek to raise women's awareness of their rights and to enhance their participation in the decision-making processes.
73. Women's participation in the country's representation abroad is regulated by act No. 358 of 30 August 2000 on the Foreign Service²². There is no specific mechanism or policy designed to encourage the inclusion or exclusion of women in that branch. Women and men may compete for diplomatic posts or for positions in permanent delegations or consular offices.
74. MINSA acts from a gender perspective by, inter alia, implementing, in all health units, specific guidelines (currently being updated) for the identification and treatment of domestic

²² *Official Journal No. 188*, 5 October 2000.

violence victims. As part of the subregional project “Reducing gender inequality in health services”, sponsored by the Pan American Health Organization (PAHO), a draft record of care provided to sexual violence victims has been designed with a view to improving public health services in that area. Before its adoption, that record is currently systematically tested in the field by the main health centres of the Local comprehensive health treatment systems (SILAIS) at Estelí and Masaya and by the Vélez Paiz hospital in Managua.

4. Protection with regard to employment

75. The right to work is enshrined in article 80 of the Constitution and stipulated in the labour code (act No. 185)²³, which provided for workers' rights, work days, rests, leaves, vacation, a 13th monthly wage, the legal minimum wage, health and safety at work and measures against occupational hazards.

76. The labour code also regulates the employment-related rights and obligations of the employers and workers, such as those contained in the employment contract, and specifies, inter alia, the grounds for the termination or suspension of the employment relationship.

77. Nicaragua has duly adopted and ratified the following ILO conventions, aimed at guaranteeing the right to work at the international level²⁴.)

(a) Convention concerning the Application of the Weekly Rest in Industrial Undertakings (ILO Convention No. 14, 1921)²⁵;

(b) Convention concerning Freedom of Association and Protection of the Right to Organize (ILO Convention No. 87, 1948)²⁶;

(c) Convention concerning the Application of the Principles of the Right to Organize and to Bargain Collectively (ILO Convention No. 98, 1949)²⁷;

(d) Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (ILO Convention No. 100, 1951)²⁸;

(e) Convention concerning Discrimination in Respect of Employment and Occupation (ILO Convention No. 111, 1958)²⁹;

²³ *Official Journal No. 205*, 30 October 1996.

²⁴ The background document report contains a table indicating all of the international employment-related conventions to which Nicaragua is party.

²⁵ Ratification published in the *Official Journal No. 206*, 13 September 1934.

²⁶ Ratification published in the *Official Journal No. 202*, 5 September 1967.

²⁷ Ratification published in the *Official Journal No. 202*, 5 September 1967.

²⁸ Ratification published in the *Official Journal No. 202*, 5 September 1967.

²⁹ Ratification published in the *Official Journal No. 202*, 5 September 1967.

(f) Convention concerning Employment Policy (ILO Convention No. 122, 1964)³⁰;

(g) Convention concerning Minimum Wage Fixing, with Special Reference to Developing Countries (ILO Convention No. 131, 1970)³¹.

78. Act No. 238 on the promotion, protection and defence of human rights in the context of HIV/AIDS³² provides for the right to work of persons living with that infection. Their condition may not justify their dismissal or prevent them from choosing their work.

5. Social protection

79. The entitlement of the Nicaraguan population to social protection is established in decree No. 974, the social security organizational law³³, article 1 of which is worded as follows: “Compulsory social security shall be part of Nicaragua's social protection system and shall constitute a public service at the national scale, aimed at the gradual and progressive protection of workers and their families against such social contingencies as illness, pregnancy, invalidity, old-age, death and occupational hazards.”

80. Moreover, article 22 of the Universal Declaration of Human Rights reads as follows:

“Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.”

81. Furthermore, the American Declaration of the Rights and Duties of Man affirms every person's right to social security.

6. Protection of persons with disabilities

82. Under articles 56 and 62 of the Constitution, “the State shall pay special attention, in all of its programmes, to the disabled and the relatives of those killed or were victimized by war in general”; and “shall strive to establish programmes, benefiting the handicapped persons, for their physical, psychosocial and professional rehabilitation and for their employment”.

83. The adoption of act No. 98 of 20 April 1990 on guaranteeing rights and benefits to disabled ex-members of the Sandinista People's Army and of law enforcement and domestic order State agencies³⁴ constituted a significant advancement.

³⁰ Ratification published in the *Official Journal No. 111*, 23 May 1981.

³¹ Ratification published in the *Official Journal No. 202*, 10 September 1975.

³² *Official Journal No. 49*, 6 December 1996.

³³ *Official Journal No. 232*, 1 March 1982.

³⁴ *Official Journal No. 97*, 27 May 1990.

84. Mention should be made of act No. 119 of 17 December 1990 on granting benefits to war victims³⁵.

85. Decree No. 7-92 of 14 February 1992 established the Institute for war victims (INVICTA)³⁶, whose regulation was adopted through ministerial decision No. 4-95 of 15 December 1995³⁷.

86. The rights of persons with disabilities are established in act No. 202 on prevention, rehabilitation and equal-opportunities measures for persons with disabilities³⁸, which imposes on the State and on individuals a series of obligations designed to guarantee those persons' access to the rights stipulated in ICESCR.

87. The implementation of act No. 202 is regulated by decree No. 50-97 of 25 August 1997³⁹.

88. Act No. 202 provides, in article 7, for the disabled persons' right to health, specifying the care to which they are entitled; and, in articles 9, 10, 11 and 12, for their right to work and the related obligations of State, private or semi-public enterprises.

89. Article 15 of the same act provides for the right to education, including higher learning.

90. Lastly, non-compliance with the act and decree in question may be sanctioned and carries administrative and civil liabilities.

91. The labour code (in chapter XII, art. 198) also provides for the disabled persons' right to work.

92. Article 77 of CNA reads as follows: "The State shall recognize that disabled children and adolescents must lead a decent and well-rounded life allowing them to act autonomously and facilitating their participation in society and their individual development.

93. The State shall guarantee their right to receive special care in respect of mobility, education, training, health and rehabilitation services, preparation for employment and entertainment.

94. The aforementioned act No. 202 provided for the creation of the National council for rehabilitation (CONARE), which consists of a directorate, an inter-ministerial technical committee, working committees, an executive secretariat (operating since 2003) and representatives of MINSA, the body responsible for coordinating CONARE.

³⁵ *Official Journal No. 2*, 3 January 1991.

³⁶ *Official Journal No. 35*, 14 February 1992.

³⁷ *Official Journal No. 245*, 29 December 1995.

³⁸ *Official Journal No. 180*, 27 September 1995.

³⁹ *Official Journal No. 161*, 25 August 1997.

95. On 19 May 2004, the Government adopted Nicaraguan Mandatory Technical Standard (NTON) No. 12006-04 on accessibility by persons who for any reason permanently or temporarily suffer from reduced mobility.
96. On 7 June 1999, in Guatemala, the General Assembly of the Organization of American States (OAS), through resolution AG/RES.1608 (XXIX-O/99), adopted the Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities. Nicaragua acceded to that convention on 15 July 2002 and ratified it on 25 November 2002.
97. In the Plan of Action of the IV Summit of the Americas (Mar del Plata, 5 November 2005), the heads of State or Government invited OAS to consider “a Declaration on the Decade of the Americas for Persons with Disabilities (2006-2016), together with a programme of action” of. Such a programme already exists in the form of a consolidated text containing the observations and commentaries of the OAS member States.
98. On 13 December 2006, through resolution 61/106, the General Assembly of the United Nations adopted the “Convention on the Rights of Persons with Disabilities”. The signature of that convention on 30 March 2007 has been one of the most recent advances in that area.
99. The above measure fulfilled the commitments made by the Government of reconciliation and national unity with regard to human rights and the development of Nicaraguan society, particularly the vulnerable sectors and especially the disabled, who had been abandoned in earlier years.

7. Protection of the elderly

100. According to the amendments and additions to act No. 290 on the organization, powers and procedures of the executive branch of Government, one of the main responsibilities of MIFAMILIA is to propose outlines for policies, plans and activities aimed at developing and strengthening programmes and projects in support of children, adolescents, persons with disabilities and elderly persons in a vulnerable situation.
101. In that context, the needs of the elderly in respect of social services, health and social security should be addressed in view of demographic trends in Nicaragua, whose population structure – although young age groups are still dominant – is bound to include an increasing proportion of aging citizens. It is necessary to develop proactive policies for addressing the economic, social and health-related consequences of that development.
102. Aware of the challenges implied by the process of aging and of the need for new responses aimed at ensuring quality in aging and in old age, MIFAMILIA, as coordinator of the National council for the elderly (CNAM), has proposed a national policy for older persons. That proposal is currently under review to ensure its conformity with the Government's strategic objectives regarding the elderly in relation to their health, education, economic activity, social security, family and community environment, personal involvement, role in society at large, rights and obligations, well-being and quality of life.
103. No initiatives for encouraging a culture of active aging had been undertaken in the country since the 1990s and no efforts had been made to strengthen the various forms of social support

for the elderly. The Government of reconciliation and national unity is therefore called upon to innovatively promote active aging policies based on the human rights of older persons. It must substitute that “rights-based” approach for “needs-based” procedures envisaging the elderly in a passive role. The new approach should aim at equal opportunities and treatment in all areas during aging and encourage the elderly to participate in the political and other social processes.

104. There are in the country 18 homes for the elderly, attending to 722 persons, most of whom had been abandoned or mistreated. Despite their limited resources, those establishments have been the main care centres for older people, providing room and board, medical services and religious, social and recreational activities.

105. As part of the network of services for the elderly, social assistance is also provided through restaurants and clubs for older persons with limited resources. Such activities, aimed at meeting the needs of the elderly without separating them from their social environment, have not received any technical assistance for improving the quality of the support offered.

8. Protection of indigenous peoples and African-origin groups

106. As mentioned above in relation to article 1 of ICESCR, articles 5, 27 and 181 of the Constitution contain provisions protecting the indigenous peoples.

107. The measures listed below are some of the initiatives taken by the State in favour of the indigenous peoples and African-origin groups.

108. Decree-act No. 571 of 25 November 1980 on education in Atlantic Coast languages⁴⁰ stipulates that ethnic groups in the Atlantic Coast region and in the rest of the country have a right to education in their mother tongue. Such education is a key to bicultural and bilingual teaching in keeping with the social integration needs of minority groups, and in particular those in the Zelaya department, namely Miskitos, Sumos, Ramas and Creoles.

109. The Government adopted act No. 28 of 7 September 1987, “Autonomy statute for the regions of the Atlantic Coast of Nicaragua”⁴¹.

110. The Government adopted legislative decree No. 53 of 23 August 1989 on the establishment of the regional councils of the Atlantic Coast autonomous regions⁴². The councils were inaugurated on 4 May 1990.

111. Under act No. 162 of 22 June 1993 on the official use of the languages of Atlantic Coast communities⁴³, Spanish shall be the official language of the State but Miskito, Creole, Sumo, Garifuna and Rama shall be the languages of official use in the Atlantic Coast autonomous regions. Through that act, the State committed itself to preserving, safeguarding and promoting

⁴⁰ *Official Journal No. 279*, 3 December 1980.

⁴¹ *Official Journal No. 238*, 30 October 1987.

⁴² *Official Journal No. 188*, 5 October 1989.

⁴³ *Official Journal No. 132*, 15 July 1996.

the ethnic cultures of the indigenous peoples and communities in question by means of specific programmes.

112. Act No. 445 of 13 December 2002 on the system of common property of indigenous peoples and ethnic communities in the autonomous regions of the Atlantic Coast and the Bocay, Coco, Indio and Maíz Rivers⁴⁴ was adopted in implementation of the judgment issued by the Inter-American Court of Human rights (CIDH) in the case of the Awas Tingni community. That act provides for delimiting, demarcating and titling in the zone inhabited by the communities in question.

113. Legislative decree No. 3584 of 9 July 2003 established implementing regulations for act No. 28 of 7 September 1987, “Autonomy statute for the regions of the Atlantic Coast of Nicaragua”⁴⁵.

114. Act No. 471 of 9 September 2003, amending act No. 212 on the Office of the Human Rights Ombudsman⁴⁶, provided for a Special solicitor for indigenous peoples and ethnic communities. For greater effectiveness of that office, two special solicitors were appointed, one for the North Atlantic Autonomous Region (RAAN) and one for the South Atlantic Autonomous Region (RAAS). The Special solicitors reside in their respective regions in order to adequately focusing on local needs.

115. The first Summit of the Garifuna peoples of Central America and the Caribbean was held on Corn Island, RAAS, on 11-13 November 2005. In its final declaration, the Summit urged the participating Governments to recognize the significance of a Garifuna national day.

116. Executive decree No. 37-2006 of 15 June 2006 on the declaration of the Garifuna national day⁴⁷ set established 19 November of every year as a day for the dissemination and preservation of the language, art, culture and values of the Garifuna people of Nicaragua.

117. The aforementioned summit was attended by the heads of State and Government of Nicaragua and San Vicente and the Grenadines, by representatives of Guatemala, Honduras, Costa Rica, Belize, Guyana and Dominica and by delegations of the indigenous peoples and ethnic communities.

118. Participants in the summit decided the ratification of the Convention for the Safeguarding of the Intangible Cultural Heritage adopted by UNESCO in October 2003; recommended the participation of the Garifuna people and associations in preparing and formulating strategic policies for the development of their territories; and resolved to take effective action with a view to mainstreaming elements of the Garifuna culture into their national education systems and strategies with a view to contributing to the implementation of the action plan for safeguarding

⁴⁴ *Official Journal No. 16*, 23 January 2003.

⁴⁵ *Official Journal No. 186*, to October 2003.

⁴⁶ *Official Journal No. 191*, 9 October 2003.

⁴⁷ *Official Journal No. 122*, 23 June 2006.

the Garifuna language, music and dance, which form an invaluable part of humanity's oral and intangible cultural heritage.

119. The main objectives of the above plan, which is supported by the Government, are as follows:

- (a) Revival of the use of the Garifuna language;
- (b) Development of the inventory and management of the archives of Garifuna art;
- (c) Dissemination and promotion of the Garifuna intangible cultural heritage.

120. The Government's commitment to the development of Nicaragua's autonomous regions has led to a number of initiatives, such as the establishment of the Secretariat for the Development of the Atlantic Coast, comprising the following three bodies, set up under decree No. 3-2007: A food security and sovereignty board, a communication and civic activities board and a board for the development of the Atlantic Coast⁴⁸.

121. The Ministry of Foreign Affairs, in collaboration with the RAAN and RAAS national councils, will organize a cooperation forum, whose main objective is to allocate cooperation funds to social projects of key interest to the regions.

122. In addition to members of both genders, the current composition of the Government comprises officeholders from the country's various ethnic African-origin groups.

9. Protection of refugees

123. A National Bureau for Refugees was established in 1982⁴⁹ under the authority of the Nicaraguan Social Security and Welfare Institute (INSSBI) but was dissolved in 1990 when, as part of institutional reforms undertaken by the Government at that time, INSSBI became INSS.

124. The General Assembly of OAS adopted in Managua in 1993 a resolution on the legal Situation of Refugees, Returnees, and Displaced Persons in the American Hemisphere and, in 1994, a second resolution by the same title, calling upon the countries of the region to identify sustainable solutions for the refugees and displaced persons.

125. Since 1997, the Office of the United Nations High Commissioner for Refugees (UNHCR) has been represented in the country by the Council of Protestant Churches of Nicaragua (CEPAD). Moreover, Nicaragua is party to the 1951 Convention relating to the status of refugees⁵⁰.

⁴⁸ *Official Journal No. 7*, 10 January 2007.

⁴⁹ Through decree No. 1096 of 13 September 1982. The implementing regulations for the act creating the Bureau were published in *Official Journal No. 70*, 6 April 1984.

⁵⁰ Nicaragua acceded without reservations to the 1951 Convention and 1967 Protocol relating to the status of refugees through decree No. 297, *Official Journal No. 39*, 15 February 1980.

126. Under act No. 153 on migration and act No. 154 on aliens' affairs⁵¹, an ad hoc procedure, involving UNHCR, CEPAD and DGME, was established for responding to refugee applications.

127. As part of commemorative activities organized for the 20th anniversary of the Cartagena Declaration on Refugees, adopted in 1984, UNHCR initiated a process of extensive consultations in Latin America⁵². At the anniversary commemoration, held at Mexico City, the Governments of the participating Latin American countries adopted on 16 November 2004 the Mexico Declaration and Plan of Action to strengthen international protection of refugees in Latin America.

128. Resolved to bolster national systems, protection mechanisms and the search for sustainable solutions for refugees, Nicaragua has prepared a draft act on refugees, currently reviewed by the legislative authorities.

129. The above draft provides for the creation of a national commission for refugees, responsible for establishing refugee status; embraces the comprehensive concepts of the Cartagena Declaration; guarantees a procedure fully respecting the refugees' right to access to justice and protection in the framework of international refugee law and human rights; and incorporates the basic legal principle of non-refoulement. The draft constitutes significant progress in the area of national legislation on refugees and on human rights.

10. Protection of detainees

130. Detainees' right to health derives from the following articles of the Constitution:

- Article 38. – “In Nicaragua, the prison system shall be humanitarian and its fundamental objective shall be the transformation of the detainees with a view to their social integration. Through progressive methods, it should promote family unity, health, educational and cultural advancement and productive occupation with financial compensation for the detainees. Sentences shall aim at re-education.”
- Article 59. – “Nicaraguans shall have an equal right to health. The State shall establish the basic conditions for its promotion, protection, recovery and rehabilitation.”
- Article 105. – “The services of education, health and social security shall be incontestable duties of the State, which shall have an obligation to provide them without any exclusion and to improve and broaden them.

The vulnerable sectors of the population shall be guaranteed free health care, with priority given to the implementation of programmes for mothers and children.”

⁵¹ The two acts were published respectively in *Official Journal No. 80*, 30 April 1993, and No. 81, 3 May 1993.

⁵² Three preparatory sub-regional meetings were held. The first such meeting took place at San José on 12-13 August 2004, the second at Brasilia 126-27 August 2004 1/3 at Cartagena de Indias on 16-17 September 2004. Moreover, a sub-regional meeting of the civil society organizations of Columbia, Ecuador, Panama, Peru and Venezuela was organized at Bogotá, Columbia on 7-8 October 2004.

131. Under article 213 (d) of CNA⁵³, adolescents shall have a “right to health, education and social services appropriate for their age and conditions and to assistance by persons with the required professional training”.

132. Note should be made of act No. 473 of 11 September 2003 on the prison system and enforcement of sentences⁵⁴.

133. The above act regulates and defines action in relation to the enforcement of sentences and preventive detention measures, such as control, security, rehabilitation and social reintegration of detainees. Sentences are served mainly with a view to such rehabilitation and social reintegration.

134. The prison system operates in accordance with the guarantees and principles laid down in the Constitution and other laws, minimum standards for the treatment of detainees, the relevant code of conduct and the international human rights instruments signed and ratified by Nicaragua.

135. The detainees' right to health is stipulated in the following provisions of act No. 473:

- Article 6 (3) of Chapter II – “Objectives of the prison system: Family unity and the health and productive occupation of detainee”;
- Article 11 – “Cooperation during the enforcement of sentences or preventive detention measures: It shall be incumbent upon the prison system to agree or not on cooperation and assistance with the civil society associations and organizations in the planning and implementation of the various educational, cultural, environmental, health, technical training and applied work programmes, other activities aimed at preserving and strengthening human and moral values and religious activities”;
- Article 38 – Medical check-up: Upon entry in a detention facility, every detained citizen shall undergo a medical check-up in order to determine and describe his/her physical and mental health condition;
- Chapter XII – Health and hygiene: Cf. article 91 below;
- Article 91 – Medical services: “Every detention facility shall have a basic and preventive medical services unit for the care, without exception, of detainees, who, without discrimination, shall be treated in the various facilities of MINSA or the appropriate public health units”;
- Article 140 – Coordination: “Prison system authorities, in cooperation with the Ministry of the Interior and MINSA, shall create in the detention centres appropriate material conditions for detainees with reduced mental ability”.

⁵³ Act No. 287 on the children and adolescents code, *Official Journal No. 97*, 27 May 1998.

⁵⁴ *Official Journal No. 222*, 21 November 2003.

C. Rights of aliens

136. Under article 27 of the Constitution, “aliens shall have the same obligations and rights as Nicaraguans, with the exception of political rights and the rights established by law. Aliens may not participate in the political affairs of the country.”

137. Under article 16 of the Constitution, “children born to foreign parents aboard Nicaraguan vessels or aircraft” shall be nationals, provided that they request that status.

Under article 18 of the Constitution, “the National Assembly may declare nationals those aliens who have distinguished themselves by worthy acts in the service of Nicaragua”.

Under article 19 of the Constitution, “aliens may be naturalized, after renouncing their nationality, by submitting an application to the competent authority, if they have met the requirements and conditions stipulated by the relevant laws).

138. In order to improve conditions for foreign investments, act No. 344 on the promotion of foreign investments⁵⁵ and its implementing regulations aim at providing foreign investors with security and confidence in relation to their investment projects. This legislation offers considerable advantages to those investors by regulating the promotion of the investment in question with a view to enhancing job creation, the country's economic and social development, the acquisition of technological know-how and exports.

139. The above act aims at promoting all private investments in the country, whether domestic or foreign, and ensuring that they enjoy equal rights and guarantees. Foreign investors may freely purchase available foreign currency and sell or convert such currency in accordance with the relevant national laws and regulations and on equal terms with domestic investors. Foreign investors shall also enjoy the right to international arbitration and have access to international programmes for the protection of investors.

140. Without prejudice to any liability that they may have in the country, foreign investors may freely transfer abroad the following funds:

- (a) Earnings related to their capital investment or the break-up and liquidation or voluntary sale of the foreign investment;
- (b) Any profits, dividends or gains generated in the national territory, after payment of the corresponding taxes;
- (c) Payments on loans contracted abroad, on the related interests and on royalties;
- (d) Payments for technical assistance and transfer of related income;
- (e) Sums received as compensation for expropriation.

⁵⁵ *Official Journal No. 97*, 24 May 2000.

141. Lastly, the above act enhances opportunities for nationals and aliens who build on work, production and economic progress. Short term financial investments shall be subject to regulation on the part of the Superintendency of Banks and Other Financial Institutions.

142. Nicaragua took a significant step towards the protection of the rights of migrant workers, both male and female, by acceding, on 28 September 2004, to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, pursuant to legislative decree No. 4336 of 22 June 2005⁵⁶.

143. Of the total number of 407,520 Nicaraguans transported back, deported or refused entry by various countries in the period 1996-2005, 401,254 were so treated by Costa Rica and 5,421 by the United States (cf. annex 1, art. 2). Of the total number of 8,537 aliens so treated, those from Ecuador accounted for the largest proportion (1,566), followed by Honduras (1,311) (cf. annex 2, art. 2)⁵⁷.

144. Of the total number of 6,055 aliens detained in Nicaragua, Peru accounted for the largest proportion (2,255), followed by Ecuador (1,662) (cf. annex 3, art. 2).

145. Of the total population of 14,005 aliens residing in Nicaragua, 7,873 are men and 6,132 are women.

D. International assistance

146. With a view to streamlining international cooperation, the Ministry of Foreign Affairs comprises, within the Directorate for international bodies and conferences, a Directorate for non-governmental cooperation, responsible at the national level for coordinating procedures for managing foreign assistance from and to Nicaragua and following up on activities, projects and programmes designed to improve the use and allocation of resources.

147. The Directorate in question aims at being a modern and efficient institution promoting and facilitating the work undertaken by NGOs, assessing the volume of non-governmental cooperation and – through appropriate guidance – ensuring that the cooperation in question contributes to the development of the country and its citizens in the framework of the national development plans.

148. Moreover, the above Directorate supports NGOs in various formalities, for instance by backing applications for visas, passes and tax exemptions (on vehicles or donations or in the form of VAT refunds or waivers).

⁵⁶ *Official Journal No. 222*, 14 July 2005.

⁵⁷ Report and web page of DGME.

III. ARTICLE 6 – Right to work

A. Legal framework

149. The right to work and related guarantees are enshrined in the Constitution, which provides, in article 57, that “Nicaraguans shall have a right to work in accordance with their human nature” and, in article 80, that “work shall be a right and a social responsibility. The labour of Nicaraguans shall be the fundamental means for satisfying the needs of society and the individuals and the source of the nation's wealth and prosperity. The State shall seek the full and productive employment of all Nicaraguans under conditions that guarantee the fundamental rights of the person”.

150. Moreover, under article 86 of the Constitution, “all Nicaraguans shall have the right to freely opt for an occupation or trade and to choose their place of work, the sole prerequisites being a school degree and social usefulness of the work”. The right to choose one's work is also established in article 726 of the civil code.

151. The labour code and its reforms regulate the employment relationships, establishing the minimum rights and duties of employers and workers. Under article 2 of the code, compliance with all provisions of the code and of labour-related legislation “shall be compulsory for all individuals and legal entities established or to be established in Nicaragua”.

152. The following articles of the labour code provide for the right to work of persons with disabilities:

- Article 197 – “Persons with disabilities shall have the right to obtain a position enabling them to earn in dignity a decent living and allowing them to fulfil a function useful to themselves and to society.”
- Article 198 – “MITRAB shall determine the terms and conditions under which public and private enterprises shall employ persons with disabilities in accordance with the possibilities offered by the country's social and economic situation.”
- Article 200 – “The State shall make tax, borrowing and other facilities available to enterprises belonging to disabled persons, comprising departments consisting mainly of disabled workers and encouraging in any manner their employment, training, rehabilitation and readjustment.”

153. MITRAB operates a gender and non-discrimination unit ensuring follow-up and support in respect of issues related to the employment of, inter alia, pregnant and other women, persons with disabilities, workers with HIV/AIDS, the elderly and young persons.

154. Article 5 of act No. 202 which, as already mentioned in relation to article 2 of ICESCR, safeguards and protects the rights of persons with disabilities, is worded as follows:

“Disabilities constitute a social problem. Disabled persons have reduced opportunities to work and improve the quality of their life. Accordingly, it shall be incumbent upon the State and civil society to develop systems for:

- (a) Epidemiological monitoring designed to forestall disabilities through preventive action programmes at all levels;
- (b) Physical, mental and social rehabilitation ensuring the full social reintegration of persons with disabilities;
- (c) Legal and psychological support activities aimed at providing disabled persons with equal opportunities in the areas of employment, recreation and social integration with a view to enabling them to fully enjoy their human instances of rights.”

155. Under article 13 (b) of act No. 202, “a worker suffering from any disability shall enjoy the same rights and have the same obligations stipulated for other workers, provided that the job conforms to that worker's skills, training and physical condition”.

156. Under article 22 of act No. 238, “persons living with HIV shall have a right to work and may carry out tasks compatible with their ability. The HIV infection shall not be considered as an obstacle to or as grounds for terminating employment”.

157. Act No. 473 on the prison system and enforcement of sentences and its implementing regulations grant detainees the right to work.

158. Labour relations are governed by the following legislation:

- (a) Act No. 84 on agricultural and food-processing cooperatives⁵⁸;
- (b) Act No. 129 on minimum wage⁵⁹;
- (c) Act No. 159 on the domestic workers' holiday⁶⁰;
- (d) Act No. 274, basic act on the regulation and control of pesticides, dangerous toxic substances and similar products⁶¹;
- (e) Act No. 290 on the organization, powers and procedures of the executive branch of Government⁶²;
- (f) Act No. 442 on the authentic interpretation of article 236 of the labour code⁶³;
- (g) Act No. 474 amending labour code book I, title VI, entitled “The work of adolescents”⁶⁴;

⁵⁸ *Official Journal No. 62*, 28 March 1990.

⁵⁹ *Official Journal No. 114*, 21 June 1991.

⁶⁰ *Official Journal No. 101*, 31 May 1993.

⁶¹ *Official Journal No. 30*, 13 February 1998.

⁶² *Official Journal No. 102*, 3 June 1998.

⁶³ *Official Journal No. 206*, 30 October 2002.

⁶⁴ *Official Journal No. 199*, 21 October 2003.

- (h) Act No. 456 adding occupational hazards and diseases to the labour code (act No. 185)⁶⁵;
- (i) Act No. 516 on the established rights of workers⁶⁶
- (j) Act No. 499, general act on cooperatives⁶⁷, partly repealing decree No. 1833, containing a general act on cooperatives⁶⁸.

B. Conventions

159. As mentioned above in relation to article 2, Nicaragua has duly ratified the ILO conventions establishing the right to work, including the following two instruments:

- (a) Convention concerning Employment Policy (ILO Convention No. 122, 1964)⁶⁹.
- (b) Convention concerning discrimination in respect of employment and occupation (ILO Convention No. 111, 1958)⁷⁰.

160. Nicaragua has also ratified the 1966 International Convention on the Elimination of all Forms of Racial Discrimination⁷¹ and the 1979 Convention on the Elimination of all Forms of Discrimination against Women⁷².

161. Article 23 of the Universal Declaration of Human Rights provides for the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Those rights are to be exercised without discrimination.

C. Employment

1. Competent body

162. Under article 27 of act No. 290 on the organization, powers and procedures of the executive branch of Government⁷³, MITRAB, main authority in charge of the right to work, has the following responsibilities:

⁶⁵ *Official Journal No. 133*, 8 June 2004.

⁶⁶ *Official Journal No. 11*, 17 January 2005.

⁶⁷ *Official Journal No. 17*, 25 January 2005.

⁶⁸ *Official Journal No. 164*, 23 July 1971.

⁶⁹ Ratification published in the *Official Journal No. 111*, 23 May 1981.

⁷⁰ Ratification published in the *Official Journal No. 202*, 5 September 1967.

⁷¹ Adopted on 9 January 1978 and published in the *Official Journal No. 26*, to February 1978.

⁷² Ratified on 27 October 1981.

⁷³ *Official Journal No. 102*, 3 June 1998.

(a) Proposing to the President of the Republic, coordinating and implementing the State policy on labour, cooperatives, employment, wages, occupational health and security and training of the workforce;

(b) Exercising, implementing and fulfilling the tasks, responsibilities and obligations determined and conferred to it by the labour legislation, the Constitution and Nicaragua's international commitments with regard to labour and labour unions, particularly ILO standards and international conventions;

(c) Formulating, in cooperation with the appropriate bodies, standards regarding occupational security, health and hygiene conditions; and monitoring compliance therewith at the places of work;

(d) Administering and managing the labour associations and cooperatives authorization system and registry and ensuring that they function in accordance with the law;

(e) Intervening in labour disputes in order to ensure their settlement through negotiation, mediation, arbitration or any other procedure provided by the law;

(f) Drawing up policies for the technical and ongoing training of the labour force;

(g) Providing free legal counsel to workers involved in individual or collective labour disputes; and promoting training programmes for workers and employers on rights, obligations, rules and procedures in its area of competence;

(h) Informing employers on procedures for rationalizing work and wages;

(i) Supervising surveys and specific research in the area of employment;

(j) In cooperation with MHCP, drawing up and proposing policies and rules on employment and remuneration for the development of the civil service.

2. The employment situation

(i) Economically active and inactive population⁷⁴

163. The economically active population (EAP)⁷⁵ comprises all persons of either sex who furnish the supply of labour for the production of goods and services, and consists of employed and unemployed workers⁷⁶.

⁷⁴INEC, "National household survey for standard of living assessment" (EMNV), "Comparison of poverty profiles in Nicaragua", 1993 1998 2001.

⁷⁵ EAP "comprises all persons of either sex who furnish the supply of labour for the production of goods and services – defined in accordance with the United Nations national accounts and surveys systems – during a specified time-reference" (ILO Web page).

⁷⁶ Unemployed workers are persons who actively sought employment at the time of the survey but carried out no type of work; and those who at that time had no work for other reasons (waiting for a response or positive outcome, about to start a new job, just finished temporary employment, tired of seeking employment or thinking that there are no jobs).

164. At the national level, in the period 1993-2001 EAP increased from 51.5 per cent to 57.3 per cent, while the economically inactive population (EIP)⁷⁷ increased by 5.8 percentage points.

165. In the above period, EAP increased from 48.6 per cent to 55.9 per cent among the extremely poor and at a somewhat lower rate in the non-poor population (57.7 per cent). This shows that the share of persons contributing to the national economy has increased, although part of the potential workers do not participate in the labour market, whether seeking or expecting to be employed.

166. Geographically, EAP rates have remained relatively stable, increasing from 51.6 per cent in 1993 to 57.4 per cent in 2001 in the urban areas and from 51.2 per cent to 57.2 per cent in the rural areas.

(ii) Open unemployment rate

167. At the national level, the employment and unemployment rates changed significantly in the period reviewed. In 1993, of every 10 workers, two were unemployed in 1993 (with unemployment and employment rates of 21.9 per cent and 71.1 per cent, respectively), while only one has been unemployed since 1998 (with 2001 unemployment and employment rates of 11.3 per cent and 88.7 per cent, respectively)⁷⁸.

168. In the above period, open unemployment decreased from 13.3 per cent to 12.6 per cent in the urban areas and increased (from 8 per cent to 9.2 per cent) in the rural areas.

169. Unemployment also declined among the extremely poor, decreasing from 24.9 per cent in 1993 to 13.4 per cent in 2001 and to 11.5 per cent in 1998, although it subsequently increased somewhat to 13.4 per cent in 2001.

170. Women are more likely to be unemployed than men, particularly among the extremely poor and in the rural areas⁷⁹. Unemployment rates for women and men were, respectively, 13 per cent versus 10.3 per cent at the national level; 25.6 per cent versus 9.4 per cent among the extremely poor; and 30.5 per cent versus 8 per cent in the rural areas.

171. Analogous gender-related trends apply to PEA, whose rates for men and women were, respectively, 75.5 per cent versus 40 per cent at the national level; 80.7 per cent versus 28.7 per cent among the extremely poor; and 81.4 per cent versus 26.3 per cent in among the extremely poor in rural areas.

⁷⁷ EIP comprises those persons who the week before (the reference period of the survey) did not look for work because they were pensioners/ retirees, students, minors, ill, disabled, lacking a place where to leave the children, carried out household chores or were rentiers, pregnant or old or on other grounds.

⁷⁸ INEC, EMVN, "Comparison of poverty profiles in Nicaragua", 2001.

⁷⁹ Ibid.

(iii) Formal and informal employment⁸⁰

172. Both formal and informal employment increased among the extremely poor. In particular, employment in the informal sector at the national level increased from 72.1 per cent in 1998 to 76.6 per cent (broken down into 74.7 per cent in the urban areas and 77.3 per cent in the rural areas) in 2001.

173. Informal employment is more significant among women. In the urban areas in particular, it accounted for 66.5 per cent versus 55.6 per cent of employed female and male workers, respectively. Among the urban extremely poor, the respective rates were 92.1 per cent and 66.1 per cent.

(iv) Worker categories⁸¹

174. At the national level, salaried or wage workers, on the one hand, and, on the other hand, self-employed workers accounted for 40.4 per cent and 28 per cent, respectively, of all employed persons, although those rates varied across occupational groups,

175. Among extremely poor workers, those without pay constitute the most numerous occupational category (almost 29 per cent). If day and unskilled labourers (who account for 25 per cent of extremely poor workers) are taken into consideration, it follows that a majority of extremely poor workers carry out very low quality labour that is poorly remunerated or, in the case of workers without pay, furnished practically for free.

176. At the national level, the percentages of workers employed in the primary, secondary, and tertiary sector of the economy are, respectively, 34.2, 16.9 and 48.9 per cent. However, in the largest sectors, these rates vary significantly depending on the workers' area of residence and level of poverty.

177. The rates of participation in the primary and tertiary sectors are, respectively, 72.9 and 19.1 per cent among extremely poor workers and 18.5 and 62.2 per cent among non-poor workers.

178. This is so because poorer workers are employed on less specialized jobs and reside in rural areas, where the main source of employment is agriculture, requiring a low level of qualification. Accordingly, of every ten extremely poor workers, the primary sector employees eight in the rural areas but only four – displaying the same degree of poverty – in the urban areas, where the rate of workers employed in the tertiary sector is five out of ten.

179. Of the total number of extremely poor workers, 63.2 per cent are unskilled labourers and 23.3 per cent are farmers or agriculture and livestock workers. Of the total number of non-poor workers, one fourth are unskilled labourers, 19.3 per cent are salespersons and 12.8 per cent are manual workers. That proportion of extremely for workers is approximately the same in the

⁸⁰ Ibid.

⁸¹ Ibid.

urban and rural areas but the proportion of agricultural workers is 27.7 per cent in the rural areas versus 9.2 per cent in the urban areas.

180. According to the Nicaraguan Centre for Human Rights (CENIDH), poverty constitutes one of the factors affecting the right to employment because the income of approximately half of the wage earners is below the poverty line. In other words, it is not enough to create jobs but “there is a need for jobs of a good quality, better working conditions and access to human development”⁸².

181. Moreover, the precariousness of employment has increased, as reflected in the greater proportion of workers active in informal or low-productivity sectors⁸³.

182. In view of insufficient, precarious and inadequately remunerated jobs, young persons are occupationally vulnerable and underemployed

D. Migrant workers

183. In recent years, labour emigration has reached significant proportions, as thousands of Nicaraguans in search of employment opportunities emigrate, especially to Costa Rica and the United States. Although it constitutes a major contributor to GDP, the inflow of emigrants' remittances has no impact on the country's economic development or on the level of poverty.

1. Areas of origin

184. Outward migration is an essentially urban phenomenon, as, the of households with emigrant members, 73 per cent are urban and 27 per cent rural⁸⁴.

Per cent

Departments	Women	Men	Total
Managua	12	11	12
León	12	9	10
Granada	10	9	10
Rivas	10	10	10
Chinandega	10	9	9
Estela	5	8	7
RAAS	55	6	6
San Juan River	6	5	6

Source: Olimpia Torres and Barahona Milagros, *Emigration of Nicaraguans: gender-based analysis*; Managua Publications: Secretariat for Coordination and Strategy of the Office of the President (SECEP), UNFPA, ILO, 2004.

⁸² CENIDH report entitled “Human Rights in Nicaragua, 2006”.

⁸³ Ibid.

⁸⁴ INEC, EMVN, 2001.

2. Main destinations⁸⁵

185. The main destination of Nicaraguan emigrants is Costa Rica, which accounts for 59 per cent of the survey total, 60 per cent of male and 58 per cent of female emigrants.

186. The second largest destination, accounting for 29 per cent of the total, 37 per cent of men and 34 per cent of women, is the United States. Here the percentage of emigrants of rural origin, accounting for 11 per cent of men and 13 per cent of women, is small.

187. The third largest destination, accounting for 7 per cent of emigrants (6 per cent of men and 7 per cent of women) is the rest of Central America. Here the percentage of emigrants of urban origin (accounting for 7 per cent of men and 8 per cent of women) is greater than the percentage of emigrants of rural origin (3 per cent of men and 5 per cent of women).

188. Among urban emigrants, women are more numerous than men (with women accounting for 15 per cent and men for 13 per cent of the total).

E. Employment policies⁸⁶

189. On 3 October 2002, on behalf of the Government of that time, MITRAB concluded with ILO a cooperation agreement aimed at promoting a national employment policy with the active participation of the Nicaraguan social actors.

190. The National policy for employment and decent work was adopted through executive decree 30-2006 of 1 May 2006⁸⁷.

191. The national employment policy is in line with the stated objective of economic policy, which defines as a national priority the formulation of a strategy for the generation of quality employment. Together with incentives for national and foreign private investment and the economic growth and poverty reduction strategy, these policies constitute the main thrusts of current public management.

192. The national employment policy is the joint product of the efforts of the social actors and ILO and constitutes a comprehensive set of proposed measures for employment and decent work, based on the surveys and multidisciplinary contributions of the specialists who participated in the process and guided by the approach of the "Framework for the promotion of an employment and decent work policy", which was adopted in May 2003 on the basis of a strong consensus.

⁸⁵ Olimpia Torres and Barahona Milagros, *Emigration of Nicaraguans: A gender-based analysis*, Managua Publications: Secretariat for Coordination and Strategy of the Office of the President (SECEP), UNFPA, ILO, 2004. Based on INEC, EMVN, 2001.

⁸⁶ National Development Plan, 2005.

⁸⁷ *Official Journal No. 96*, 18 May 2006.

193. Beyond long-term economic and financial considerations, the National employment policy aims at enabling the Nicaraguan society to enhance and benefit from the nation's human resources, providing its inhabitants with decent work for decent living conditions.

194. The major challenges facing the national employment policy include providing quality employment to 165,000 men and women registered as unemployed in 2003 and – in coming years – to the approximately 80,000 new workers expected to join the labour force every year.

195. Another, medium- and long-term challenge is to improve the quality of employment for approximately one million underemployed workers, mostly in the informal sector and the small-scale peasant economy, who lack decent working conditions.

196. The national policy for employment and decent work addresses the main concerns of the business and labour union sector. Nicaraguan entrepreneurs have insisted on the need to pursue long-term development, abandoning the short-term vision prevailing in the past and aiming at a competitive economy through gradual reforms. To that end, efforts should be made to solve the problems and risks related to inadequacies in the quality of human resources, weaknesses in the institutional framework and lack of clarity in the investment environment.

197. The policy measures aim at improving social and occupational conditions, guaranteeing the rights of workers, eradicating child labour and helping to exploit the opportunities provided by the opening of trade. The following strategies are developed with a view to meeting the related challenges:

(a) Providing professional training with a view to permanent skills acquisition and equal opportunities;

(b) Improving the conditions of employment and health and safety at the workplace in the face of free trade agreements by building inspection capacities and through legal reforms in keeping with international treaties;

(c) Preventing, reducing and eliminating the worst forms of child labour through inspection and protecting adolescent workers through appropriate regulations;

(d) Strengthening the institutional and legal framework of the labour market by modernizing and enhancing public services in the area of employment.

198. The total cost of the measures envisaged for the labour sector in the period 2006-2010 is estimated at US\$29.1 million. In view of available funds, this estimate implies a financing deficit of US\$13 million.

F. Measures for ensuring the productivity of labour

199. According to MITRAB, no information is available on this long-term issue because the Ministry lacks the funds necessary for relevant research.

G. Provisions guaranteeing freedom in the choice of employment

200. Under article 80 of the Constitution, “work shall be a right and a social responsibility. The labour of Nicaraguans is the fundamental means for satisfying the needs with society and of persons, and it is the source of the nation's wealth and prosperity. The State shall seek the full and productive employment of all Nicaraguans under conditions that guarantee the fundamental rights of the person”.

201. Under article 2 of the labour code, “compliance with the provisions of [the labour] code and labour legislation shall be compulsory for all individuals and legal entities established or to be established in Nicaragua”.

202. Consequently, it is incumbent upon to the State or the Government to identify – through monitoring mechanisms provided for by the law, such as the labour inspectorate – and eliminate any employment disrespectful of the freedom to choose one's work or job; and to ensure that employment and work conditions do not violate the individual's fundamental political and economic freedoms. In short, in no case should those conditions infringe the fundamental rights established in the Constitution and labour legislation.

203. All persons in the national territory are under the State's protection and enjoy the rights inherent to a human being, in full compliance with and support for the rights enshrined in the international instruments listed in article 46 of the Constitution. The objective is to pursue a national employment policy in which the State, the Government and the social actors actively participate and which guarantees the freedom to choose one's employment; and to ensure that employment conditions do not violate the individual's fundamental political and economic freedoms.

204. In view of article 86 of the Constitution, which establishes the right to freely select one's work, occupation or trade, there is no legal obstacle to attaining full employment.

205. Moreover, under article 17 (b) of the labour code, employers have an obligation “to respect the right to free choice of occupation or trade, not to require or accept any payment in order to employ a worker and not to draw up any discriminatory lists or engage in practices that restrict or exclude employment opportunities”.

H. Technical and vocational training⁸⁸

206. As a result of significant illiteracy, insufficient schooling and limited access to education and technical training, the Nicaraguan labour force is characterized by a low level of performance, which has a negative impact on productivity and income.

207. Although various relevant programmes have been carried out, the vocational training system is still incipient. The supply of skills development and training opportunities has failed to fully cover actual demand.

⁸⁸ National Development Plan, 2005.

208. While a comprehensive strategy is developed with a view to adequately meeting that demand, a technical baccalaureate – with specializations in agriculture, tourism and industry – has been established; a new distance-learning system has been launched, enabling primary education graduates to specialize in a technical field; and a novel technical education model has been designed and is implemented on a pilot basis in three agricultural training centres.

209. The technical and vocational training policy aims at generating a labour force possessing the abilities and skills necessary for competitive entry into the market. To that end, the following lines of action have been defined:

(a) Enhancing the quality, relevance and effectiveness of the supply of technical and vocational training through the design and implementation of a flexible national vocational education and training system offering learning programmes geared to the country's productive development and social and economic characteristics;

(b) Building the technical and vocational training capacities and increasing the number of – especially the poorest – trainees having access to the various levels and forms of training; expanding the coverage and strengthening the relevance of skills improvement activities in enterprises which contribute 2 per cent of their profits to INATEC; and improving the basic infrastructure and equipment.

210. The cost of adequately meeting the demand for vocational education and training in the period 2006-2010 is estimated at US\$29.1 million. In view of available funds, this estimate implies a financing deficit of US\$13 million.

I. Difficulties in achieving full employment

211. According to MITRAB, it is difficult to determine whether workers are fully employed because they have diverse priorities, needs and requirements and, in various cases, may not be satisfied with the earnings, level or other features of their job. For MITRAB, full employment implies the worker's complete satisfaction with his/her work. It is therefore impossible to assess whether full employment exists in the country.

J. Equal employment opportunities

212. Under the Nicaraguan legislation, there may be no distinction, exclusion, restriction or preference based on race, colour, gender, religion or any other parameter.

Under article 27 of the Constitution, “all individuals shall be equal before the law and have a right to equal protection. There shall be no discrimination based on birth, nationality, political belief, race, gender, language, religion, opinion, origin, economic position or social condition.”

213. Book I of the labour code, dealing with “substantive law”, lays down the fundamental principles regarding labour, including the following provision:

“Workers shall be guaranteed equal pay for equal work under identical conditions, in line with their social responsibility, without discrimination for political, religious, racial, gender-related or other issues; and, thereby, enjoy a level of well-being compatible with human dignity”.

Under article 138 of the labour code, “female workers shall enjoy all of the rights guaranteed by [the labour] code and other related laws on the basis of equal conditions and opportunities and shall not be subject to gender-based discrimination. Their wages shall be commensurate with their abilities and the duties that they fulfil”.

214. Accordingly, Nicaragua provides equal opportunities with regard to work, on the basis of a constitutional principle binding on all Nicaraguans.

215. Moreover, the right in question is guaranteed to detainees. A minimum number of inmates work in the prison enterprise or production centre, a decentralized unit, managed by the Ministry of the Interior as part of the prison system and manufacturing shoes, boots, school footwear and prefabricated products such as desks or houses. The minimum wage is in line with the provisions of the law and increases in accordance with MITRAB guidelines.

K. Multiple occupations

216. MITRAB has indicated that determining the number of jobs that a Nicaraguan may hold requires special surveys or studies. According to the 12th (November 2006) household survey, of the 2,089,773 EAP members employed, 6.3 per cent (130,763 persons) stated that they had a second job.

217. The same funding difficulties apply to obtaining information on vocational orientation and training; employment by race, colour, gender, religion and origin; and cases where, in view of requirements particular to a job, a work-related distinction or exclusion is not considered as discrimination⁸⁹.

IV. ARTICLE 7 – Right to just and favourable working conditions

A. Legal framework

218. Labour relations in Nicaragua are regulated by the State on the basis of the appropriate public policy legal instrument, the labour code.

219. In Chapter II (“Holders of the right to work”), article 6 (1), the labour code provides that “workers are natural persons who, verbally or in writing, individually or collectively, explicitly or presumptively, temporarily or permanently commit themselves, with another individual or legal entity called employer, to an employment relationship consisting in providing a service or carrying out physical or intellectual work, in exchange for remuneration, according to the employer's instructions and under the employer's direct or delegated authority”. Article 8 of the labour code clearly states that “an employer is an individual or legal entity contracting the provision of a service or the fulfilment of a job in exchange for remuneration”.

220. Under article 19 (1) of the labour code, “a labour or employment relationship, in pursuit of any purpose whatsoever, is the provision of work by an individual under the authority of an employer in exchange for remuneration”.

⁸⁹ Reporting Guidelines, Art. 6 of the Covenant, paras. 10 (b) and (c).

221. The labour code regulates the employers' and workers' employment-related rights and obligations, in respect of, inter alia, issues related to the employment contract, ordinary and special work schedules, wages, vacation and rest periods and grounds for the termination or suspension of the employment relationship.

222. Under article 80 of the Constitution, work shall be a right and a social responsibility. Under article 82 of the Constitution, workers shall have a right to employment conditions that specifically assure them:

- (a) Equal pay for equal work under identical conditions, in line with their social responsibility, without discrimination for political, religious, racial, gender-related or other issues, so as to enjoy a level of well-being compatible with human dignity;
- (b) Remuneration in a currency constituting legal tender at the place where they work;
- (c) Unattachability of the minimum wage and social benefits, except for the protection of their family and according to terms established by law;
- (d) Work conditions that guarantee physical integrity, health, hygiene and the reduction of hazards to ensure their effective security;
- (e) An eight-hour work day, weekly rest, vacation, paid national holidays and a 13th-month salary as provided by law;
- (f) Work stability in conformity with the law and equal opportunity to be promoted, without any limitations other than factors related to time, service, ability, efficiency and responsibility;
- (g) Social security for comprehensive protection and means of subsistence in cases of disability, old age, occupational hazards, disease, maternity and, for the benefit of the workers' relatives, death, in the manner and under conditions established by law.

B. Conventions

223. With a view to guaranteeing equality in respect of decent working conditions, Nicaragua is party to the following ILO conventions listed below.

224. ILO conventions ratified by Nicaragua:

- Convention concerning the Application of the Weekly Rest in Industrial Undertakings (ILO Convention No. 14, 1921)⁹⁰.
- Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (ILO Convention No. 100, 1951)⁹¹.
- Convention concerning Minimum Wage Fixing, with Special Reference to Developing Countries (ILO Convention No. 131, 1970)⁹².

⁹⁰ Ratification published in the *Official Journal No. 206*, 13 September 1934.

⁹¹ Ratification published in the *Official Journal No. 202*, 5 September 1967.

⁹² Ratification published in the *Official Journal No. 202*, 10 September 1975.

C. Wages

225. The legal framework for determining the minimum wage is established by act No. 129 on the minimum wage⁹³ and the rules of procedure for its implementation.

Under article 81 of the labour code, “wage means the remuneration paid by the employer to the worker by virtue of the work contract or employment relationship”.

226. Under article 85 of the labour code, “all workers shall have the right to a minimum wage, which shall be the smallest remuneration that the worker must receive for the services provided during an ordinary working day for the satisfaction of the basic and vital needs of a head of family”.

227. The wage may not be waived nor be subject to any set-off, discount, reduction, withholding or impounding, except in the cases provided for by the law. A raise in the minimum wage shall automatically cause all lower wages to be readjusted to the new minimum level. Wages exceeding the established minima by virtue of an individual work contract, wage agreement or collective agreement may not be reduced.

1. National minimum wages committee

228. The National minimum wages committee (CNSM) was established under act No. 129. Responsible for setting the minimum wage, it shall function according to the law; and its decisions shall be binding on workers and employers. Violations by employers shall be fined. CNSM shall consist of the following members:

- (a) The Minister of Labour, as chairman;
- (b) A representative of MIFIC;
- (c) A representative of every national organization representing employers vis-à-vis MITRAB;
- (d) A representative of every labour union federation representing workers vis-à-vis MITRAB;
- (e) Representatives of MHCP, as a Government employer;
- (f) Representatives of the Central Bank, INEC and small-scale enterprise employers' organizations.

229. The members of the Commission and their deputies shall be designated by the respective bodies and approved by MITRAB and may be replaced only by those bodies in accordance with the relevant provisions of act No. 129.

⁹³ *Official Journal No. 114*, 21 June 1991.

2. Method used for determining the minimum wage

230. Subsequent to the latest collective bargaining period (January-December 2006), CNSM determines the various minimum wages as a function of the development of the relevant parameters⁹⁴ established to that effect by the competent bodies, such as the MITRAB General Directorate for employment and wages and INEC⁹⁵.

231. Under article 82 of the labour code and pursuant to article 6 of act No. 129, “the wage shall be determined freely by the parties but may never be lower than the legal minimum”.

232. Minimum wages agreed through collective bargaining may be higher but not lower than the legal minimum wage.

3. Minimum wage determination system

233. Nicaragua's minimum wage determination system is based on collective bargaining. In the period covered by this report, the minimum wage was revised eight times. A specific minimum wage is determined for each of the following sectors of economic activity:

- (a) Agriculture (wage plus food);
- (b) Fishing;
- (c) Mining and quarrying;
- (d) Manufacturing industry;
- (e) Industries subject to particular tax rules;
- (f) The sectors of power, gas and water, trade, restaurants and hotels, transport, storage and communications;
- (g) Construction, financial establishments and insurance;
- (h) Community, social, domestic and personal services;
- (i) The central and municipal Government sectors.

234. In the agricultural sector, the food supplement is regulated in accordance with a ministerial decision issued by MITRAB under article 186 of the labour code; while wages, seventh days and benefits related to seasonal farming activities are regulated in accordance with MITRAB guidelines.

⁹⁴ Inflation, economic indicators, cost of a basic basket of 53 articles meeting the minimum subsistence needs of an average family, consumer price index, US \$ / C\$ and other exchange rates, employment and the market wage scale.

⁹⁵ Act No. 129, art. 7, paras. (1)-(6).

(i) Statutory force of the minimum wage

235. The minimum wage is legally binding. Once adopted, it is ratified by ministerial decision and published in the Official Journal. Article 1 of act No. 129 comprises measures aimed at guaranteeing payment of the minimum wage.

236. Violating or failing to comply with the employers' obligation to pay the minimum wage carries a minimum fine equal to 25 per cent of the total amount of the payroll amount concerned. Such fines are assessed by the tax authorities and credited to social welfare funds.

237. The wage schedule is announced on the radio in Managua and the other administrative departments, published in the press and the Official Journal and transmitted to employers with a request to have it displayed at conspicuous places for the workers' attention.

238. Compliance with minimum wage standards is monitored through labour inspections carried out as available labour inspectorate staff permits.

239. Under article 7 of act No. 129, CNSM members are responsible for ensuring that the decisions determining minimum wages are complied with and that any violations are reported to the labour inspection authorities.

240. According to CENIDH, the number of labour inspectors expected to cover the country's labour force during the period under review was insufficient. The lack of political resolve in MITRAB at that time with regard to the enforcement of the applicable laws and the defence of the human rights of the working-class constituted a major obstacle to ensuring compliance with the relevant legal provisions.

241. CENIDH also reports that the inspection procedures stipulated in the legislation were not adequately followed.

(ii) Taking into account the workers' needs and determining minimum wages

242. In determining minimum wages, the needs of the working-class class are taken into consideration inasmuch as those wages are based on a percentage of the value of 53 products constituting a basic basket⁹⁶, which are considered to satisfy the minimum subsistence needs of an average family.

243. Under article 1 of act No. 129, “[the act in question] shall regulate the determination of minimum wages with a view to ensuring to the worker and his/her family a minimum level of well-being compatible with human dignity in accordance with article 82 (1) of the labour code”.

⁹⁶ For a list of the 53 items making up the basic basket, cf. Annex I, art. 7.

(iii) Development of average and minimum wages

244. CNSM is currently negotiating an 18 per cent raise in the minimum wage. Through such a raise, which would be the largest in three decades, the minimum average wage would increase from C\$1,401 to C\$1,653.18.

245. The following table shows annual minimum wages and the respective percentage of basic basket coverage.

Development of the minimum legal wage adopted subsequent to CNSM bargaining, 1991-2006

Economic activity sector	29 Aug. 1991		30 Oct. 1997		28 Jul. 1999		23 Feb. 2001		29 Apr. 2002		22 Jul. 2003		25 May 2004		08 Apr. 2005		02 Mar. 2006	
	Wage	BBC %	Wage	BBC %	Wage	BBC %	Wage	BBC %	Wage	BBC %	Wage	BBC %	Wage	BBC %	Wage	BBC %	Wage	BBC %
Agriculture	150	22.8	300	21.2	450	27.3	550	28.2	580	28.3	615	27.9	669.3	27.9	769.35	29.8	869.4	30.9
Fishing	170	25.9	500	35.3	700	41.5	785	40.2	865	42.2	952	43.2	1,036.06	43.2	1,191.4	46.2	1,371.4	48.8
Mining and quarrying	245	37.3	600	42.4	850	51.6	950	48.6	1045	51	1150	52.1	1,251.55	52.1	1,439.8	55.8	1,619.8	57.6
Manufacturing industry	250	38.1	500	35.3	600	36.4	670	34.3	730	35.6	825	37.4	897.85	37.4	1032.7	40.1	1,212.7	43.2
Industries subject to special rules				35.3	800	48.6	895	45.8	960	46.9	1,037	47	1,128.57	47	1,298.4	50.4	1,478.4	52.6
Power, gas and water	300	45.7	600	42.4	900	54.7	1,010	51.7	1,111	54.2	1,178	53.4	1,282.02	53.4	1,474.3	57.2	1,654.3	58.9
Water	250	38.1																
Construction	190	28.9	480	33.9	1,200	72.9	1,300	66.5	1,365	66.6	1,450	65.7	1,578.04	65.7	1,838.4	71.3	2,018.4	71.8
Trade, restaurants and hotels	250	38.1	550	38.9	900	54.7	1,010	51.7	1,070	52.2	1,178	53.4	1,282.02	53.4	1,474.3	57.2	1,654.3	58.9
Transport, storage and communications	225	34.3	450	31.8	900	54.7	1,010	51.7	1,111	54.2	1,178	53.4	1,282.02	53.4	1,474.3	57.2	1,654.3	58.9
Financial establishments and insurance	300	45.7	700	49.5	1,000	60.7	1,120	57.3	1,232	60.1	1,450	65.7	1,578.04	65.7	1,838.4	71.3	2,018.4	71.8
Insurance	200	30.5	650	46														
Community and social services	250	38.1	470	33.2	700	42.5	785	40.2	830	40.5	890	40.4	968.59	40.3	1,114.4	43.2	1,264.4	45
Central and municipal Government	234	35.6	350	24.7	550	33.4	630	32.3	756	36.9	801	36.3	881.1	36.7	1,013.3	39.3	1,124.8	40

The 2006 minima are valid until 12 April 2007.

BBC: Basic basket coverage.

Source: MITRAB contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

D. Remuneration of labour⁹⁷

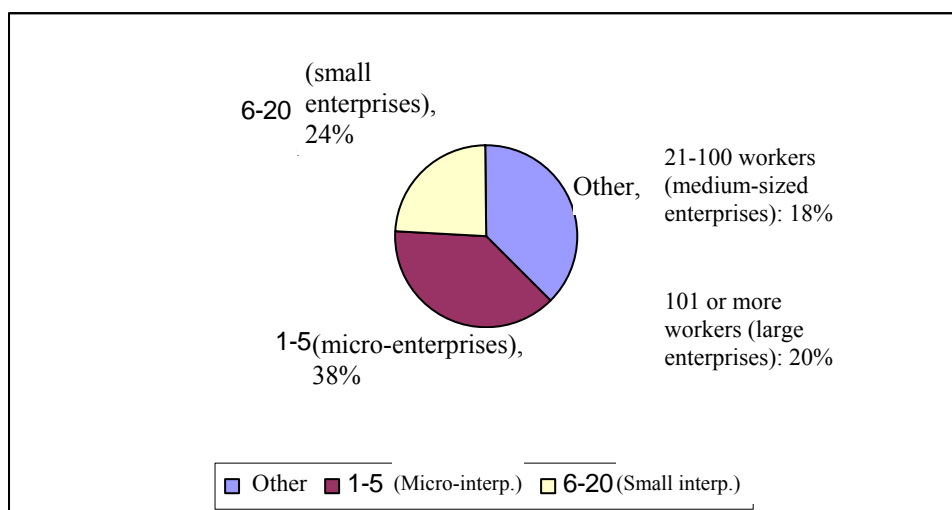
1. Remuneration disparities

246. In the Government sector, workers at the same grade and level within a given body receive the same money income regardless of gender. Any exceptions to wage equality are not due to considerations related to gender, religion or race.

247. In the private sector, every enterprise develops its own scale of wages, starting at the legal minimum wage for the economic activity sector concerned.

248. Wage rates are identical within the same enterprise but may differ from enterprise to enterprise depending on the financial possibilities of the various employers. Small- and micro-enterprise workers receive barely the minimum wage, while large enterprises pay more.

249. The specific weight of small firms and micro-enterprises is significant. According to the National household survey for standard of living assessment (EMVN) conducted by INEC, workers display the following structure by size of enterprise:



Source: MITRAB contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR

250. According to CENIDH, poverty, unemployment and low wages indicate social inequalities in bold that the rural and the urban areas. The elimination of these social differences is a difficult task, involving a reorientation of the country towards forms of development that would reduce the discrepancy between potential and actual standard of living, especially with regard to the most vulnerable sectors⁹⁸.

⁹⁷ MITRAB contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

⁹⁸ CENIDH report entitled "Human Rights in Nicaragua, 2006", p. 63.

2. Measures for eliminating remuneration disparities

251. The classification of posts in the various bodies by level of complexity according to act No. 476 on civil service and administrative careers⁹⁹, implemented on a centralized basis by MHCP, is one of the measures adopted by the Government during the period covered by this report in order to reduce remuneration disparities.

3. Method used for the assessment of employment

252. Urban and rural employment at the national level has been assessed through household surveys using household members as units of research.

253. The sample design, developed by INEC, is based on a map of census segments and the use of appropriate data sources and years.

4. Employment in the public and private sectors

254. The table below shows the development of the number of central Government workers in the period 2001-2006.

Average numbers and annual index of workers employed by the central Government

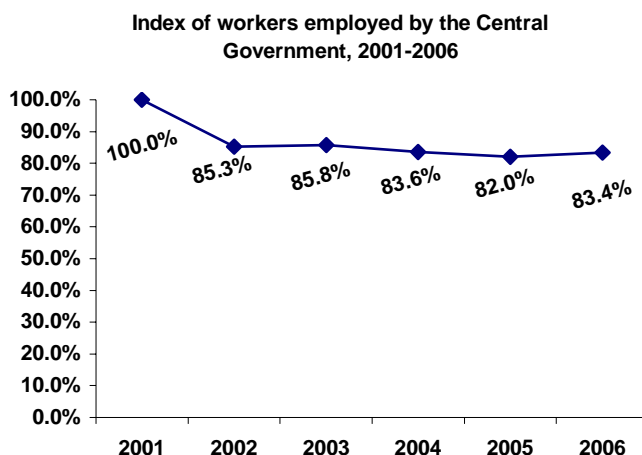
Period: 2001-2006

Years	2001	2002	2003	2004	2005	2006
Persons employed	63,455	54,096	54,444	53,037	52,032	52,932
Index	100.0%	85.3%	85.8%	83.6%	82.0%	83.4%

Source: MITRAB contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

255. To analyze variations and the annual values of the employment index, 2001 has been used as base year, with the index value set at 100 per cent for that year.

⁹⁹ *Official Journal No. 235*, 11 December 2003.



Source: MHCP, Government Payroll Directorate.

256. Although the above index fluctuates (decreasing to 85.3 and 85.8 per cent, respectively, in 2002 and 2003 and to 83.6 and 82.0 per cent, respectively, in 2004 and 2005 but increasing slightly to 83.4 per cent in 2006), there has been an overall decrease since the base year.

E. Occupational safety and health

1. Minimum occupational safety and health requirements

257. Article 100 of the labour code refers to occupational safety and health, and provides that “every employer shall have an obligation to adopt the necessary preventive measures for effectively protecting the life and health of the workers, outfitting the facilities appropriately and organizing a work party responsible for reducing and eliminating occupational hazards at the workplaces, without prejudice to the safety standards established by the Government through MITRAB”. The measures that employers must adopt include the following:

- (a) Hygiene measures prescribed by the competent authorities;
- (b) Measures necessary for avoiding accidents during the handling work instruments or materials; and keeping in stock of appropriate medical supplies for immediate treatment of any accidents;
- (c) Informing of workers on the use of machinery and chemicals, the related hazards and the operation of protection instruments and equipment;
- (d) Systematic monitoring of the use of protective equipment.

258. Health and safety inspections carried out in 2006 covered a total of 116,200 workers. Inspections are expected to identify hazards and ensure that minimum safety and health conditions are made available at the workplace. Related support was offered indirectly to workers through the following activities:

- (a) Establishment of 289 joint health-and-safety committees (number of workers covered: 123,610);
- (b) Drawing up of 192 health-and-safety work plans (number of workers covered: 66,723);
- (c) Drafting of 109 technical health-and-safety regulations (number of workers covered: 211,111);
- (d) Issue of 62 health-and-safety operation licenses to enterprises (number of workers covered: 11,686).

2. Categories of workers

259. Minimum safety standards are not respected in the case of the following worker categories: Construction workers, agricultural product (tobacco and sesame) processing industry workers, fishing industry workers, hospital workers and, in view of the lack of an employment relationship, self employed (informal sector) workers.

260. Minimum safety standards are not respected or not available in the case of the following worker categories: Construction workers, agricultural product (tobacco and sesame) processing industry workers, fishing industry workers, hospital workers and, in view of the lack of an employment relationship, self employed (informal sector) workers.

261. Articles 103 and 104 of the labour code refer to the safety that employers must provide to their workers through personal protection equipment to be used at workplaces where hazards exist.

262. Article 150 of the labour code establishes the employers' obligation to declare workers to the social security department, thereby entitling them to medical benefits in the event of an industrial accident.

3. Penalties for infringing occupational safety measures

263. Penalties imposed on employers for not fulfilling their duties with regard to occupational safety include the following:

- (a) Financial penalties for not declaring workers to the social security departments;
- (b) Payment of indemnity to workers for accidents or occupational diseases occurring at work, in the event that a worker has no social security protection or the employer is not affiliated with the social security system or has failed to pay social security contributions as appropriate and in a timely manner;
- (c) Temporary or definitive closure, by MITRAB, of work places or areas where there is an imminent risk of an accident or occupational disease;

(d) Suspension or stoppage, by MITRAB, of the activity of enterprises that infringe the provisions on occupational safety and health;

(e) Fines for violation or non-compliance with provisions and rules regarding health and safety at the workplace.

264. Under article 109 of the labour code, where workers are contracted through intermediaries, the actual employer is responsible for the occupational hazards to which the workers are exposed. Such hazards are any potential accidents or diseases that may be occasioned by the work.

265. Article 110 of the labour code deals with industrial accidents comprehensively. An industrial accident is an incident or act that inadvertently, during or as a consequence of work, brings about the worker's death or causes to the worker a permanent or temporary bodily injury or dysfunction.

266. Under article 111 of the labour code, “an occupational disease is any pathological state occasioned by the ongoing effects of a cause originated or brought about by the work or the environment in which the worker provides his/her services, if that state leads to a permanent or temporary disability or bodily dysfunction, even where the disease is detected after the termination of the employment relationship”.

267. Any injury, disease, permanent or temporary bodily or mental dysfunction, or delayed aggravation suffered by a worker as a result of an industrial accident or occupational disease constitutes an occupational damage. Where the effects of an occupational damage are compounded by a disease or injury suffered in the same enterprise or establishment, that aggravation shall be regarded as a direct consequence of the occupational damage suffered and as an indirect consequence of the earlier disease or injury.

268. Indemnities shall be assessed on the basis of the worker's last wage or, where the wage fluctuates or may not be easily determined, on the basis of the average wage during the last six months or the period worked, if the six-month average is lower.

269. Where the worker dies or is fully and permanently disabled as a result of an occupational damage, the enterprise shall pay damages equal to the wages of 620 days starting, as appropriate, from the date of death or from the date on which the disability is determined. The amount and periods of payment of the damages shall be those agreed for the wage in the employment contract.

270. In the event of total and permanent disability, the damages shall be paid to the person responsible for ensuring that the worker receives care or to a person determined by the competent authorities¹⁰⁰.

¹⁰⁰ In full compliance with the rules applicable under the labour code.

4. Classification and frequency of occupational accidents and diseases

271. The following table shows the development of occupational accidents, including fatal ones, in the period 2000-2006, as officially registered and reported to MITRAB.

NUMBER OF:	YEAR						
	2000	2001	2002	2003	2004	2005	2006
Reporting enterprises	355	317	332	360	390	450	483
Fatal accidents	27	32	37	36	19	32	34
Accidents having occurred	7,607	8,127	8,541	8,994	9,442	9,472	9,079
Workers exposed to hazards	89,537	92,651	104,626	109,673	126,537	122,712	160,443
Incidence (%)	8.4	8.7	8.1	8.2	7.4	7.7	5.7

Source: MITRAB contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

F. Promotions

1. Equal promotion opportunities

272. Article 33 of the labour code guarantees the workers' right to promotion to a higher grade without any restrictions other than those related to the factors of time, service, ability, efficiency and responsibility.

273. In act No. 476 on civil service and administrative careers, chapter II, entitled "Classification and management systems", refers to the importance of ensuring compliance with the principles of equality, fairness and competitiveness for all civil servants.

274. Article 30 of act No. 476 establishes the State administration's remuneration system and stipulates that the related policy, an element essential to human resources motivation and management, shall be based on the above principles, as described below:

(a) Equality: Posts classified in accordance with the act shall be remunerated on the basis of the rule that wages shall be equal for all posts at a given level of classification;

(b) Fairness: The wage determined for each post shall be consistent with the post's description, excluding any discrimination or unequal treatment;

(c) Competitiveness: Wages for the various posts shall be determined taking into account the remunerations prevailing on the private market and the current remuneration policy implemented by the State administration.

275. According to MITRAB, it is difficult – for lack of a relevant survey – to identify groups of workers deprived of promotion opportunities; however, equality in relation to promotion constitutes a principle that is constitutionally guaranteed for all Nicaraguans.

276. Under article 82 (6) of the labour code, workers are entitled to working conditions that, in particular, ensure “work stability in conformity with the law and equal opportunity to be promoted, without any limitations other than factors related to time, service, ability, efficiency and responsibility”.

G. Workers' rights

1. Working hours and leisure time

277. The Constitution and the labour code provide for working days, days of rest, days off, vacation and holiday pay.

278. Under article 82 of the Constitution, “workers shall have a right to employment conditions that specifically assure them an eight-hour work day, weekly rest, vacation, paid national holidays and a 13th-month salary as provided by law”.

279. The labour code also provides for ordinary eight-hour working days and stipulates that, for every six days of continuous work or an equivalent number of hours, a worker shall be entitled to at least a day of rest or “seventh day”, fully remunerated. The weekly day of rest shall be Sunday, save for specific exceptions provided for by the law.

280. Compensation days, which had been eliminated as part of labour code reforms, shall be remunerated as special working days. Night work shall comply with a regular daily schedule of seven hours – from 8 p.m. to 6 a.m. – and in total shall not exceed 42 hours per week.

281. A mixed day- and night-work schedule may not exceed 7 1/2 hours per day or 45 hours a week. Such a schedule comprises some day and some night hours. However, if night work accounts for more than 3 1/2 hours, the entire daily schedule shall be considered as night work. Day work is work carried out during daylight hours or during 6 a.m. and 8 p.m. on the same day

2. Vacation and holidays

282. Under article 76 of the labour code, “every worker shall be entitled to 15 continuous paid days of rest as vacation for every six months of uninterrupted work in the service of a given employer.

Workers employed by the State and its agencies shall be entitled to vacation from Palm Saturday through Easter Sunday, from 24 December through 1 January and during 16 days in the course of the year.

In keeping with the interests of the employer or the worker or in the case of seasonal agricultural work or in the event of operations that by their nature should not be interrupted, appropriate specific vacation dates may be agreed upon.”

283. Articles 77, 78 and 79 of the labour code provide for winding-up procedures and stipulate that, for calculation purposes, the interruption of the work on grounds of illness or for other legitimate reasons shall not affect the accumulation of days worked towards exercising the right to vacation.

284. Under the labour code, the following days shall be obligatory paid national holidays: 1 January, Holy Thursday, Good Friday, 1 May, 19 July, 14-15 September and 8 and 25 December.

285. The Government may declare days off, to be paid or considered as vacation, at national or municipal level.

286. Under article 68 of the labour code, in the event that a national holiday coincides with the seventh day, that day shall be compensated and, if worked, shall be remunerated as a special working day.

287. Articles 93-99 of the labour code provide for the right to a 13th-monthly salary, its manner and time of payment, penalties for non-compliance, the method of calculation and related protection measures. Recipients of INSS retirement or other pensions shall also be entitled to a 13th monthly payment.

288. The above provisions shall apply to the population as a whole, save for the members of the armed forces with regard to their service. Their work-related rights shall be guaranteed by respective regulations.

289. Through its inspectors, the General Labour Inspectorate shall monitor all work-related matters, ensuring that workers exercise the rights granted to them under the labour code and the Constitution.

3. Difficulties encountered with regard to the fulfilment of work-related rights

290. According to the MITRAB report, there are no factors or difficulties affecting the degree of fulfilment of the work-related rights of employers and workers in Nicaragua.

4. Progress with regard to the right to just and favourable working conditions

291. Progress achieved in the legislative area includes the following acts:

- Act No. 442 on the authentic interpretation of labour code article 236, *Official Journal No. 206*, 30 October 2002;
- Act amending title I, book I, of the adolescents labour code: Chapter I, “Protection of working adolescents”, *Official Journal No. 199*, 21 October 2003;
- Act No. 456 adding occupational hazards and diseases to the labour code, *Official Journal No. 133*, 8 June 2004;
- Act No. 516 on the established rights of workers, *Official Journal No. 11*, 17 January 2005;
- Act No. 547 establishing the National labour board (CNT), *Official Journal No. 152*, 8 August 2005.

H. Child labour¹⁰¹

1. International community activities

292. Under the labour code, the minimum employment age shall be 14¹⁰², while the age of admission to employment for adolescents over 16 and the normal employment age shall be the end of the 18th year of age.

293. The Convention concerning minimum age for admission to employment (ILO Convention No. 138) was ratified in November 1981¹⁰³. The Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labour (ILO Convention No. 182), ratified in 2002¹⁰⁴, refers to sexual exploitation and aims at urgent action towards its objective.

294. International community initiatives that have contributed, in cooperation with MITRAB, to improving the work-related aspects of the population's standard of living, particularly with regard to the worker group in question, comprise 22 programmes aimed at eliminating child labour and carried out, through the International Programme on the Elimination of Child Labour (ILO-IPEC)¹⁰⁵, by civil society NGOs with funds provided by, inter alia, the Governments of Spain, Canada and the United States.

295. Such programmes have been conducted in the municipalities of Managua, León, Matagalpa, Jinotega, Chontales, Estelí, Granada and Jalapa, with priority given to the components of education, health, income generation for the family, and training and awareness raising. The following programmes have been carried out so for:

(a) Reduction of child labour in the Jonathan González District in the city of Managua, 1998-2001. Target population: 385 children and adolescents.

(b) Elimination of child labour at the El Fortín open dump in the municipality of León, 1999-2001. Target population: 200 children and adolescents;

(c) Elimination of child labour and prevention of commercial sexual exploitation among girls working at the León municipality bus terminal, 1999-2001. Target population: 135 girl-children and adolescent girls;

(d) Elimination of child labour at the Santos Bárcenas Market in the municipality of León, 1999-2001. Target population: 100 children and adolescents;

¹⁰¹ MITRAB contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

¹⁰² Art. 131 of the labour code.

¹⁰³ Published in the *Official Journal No. 111*, 23 May 1981, and ratified on 2 November 1981.

¹⁰⁴ Adopted through decree No. 79-2000 on the adoption of the Convention on the worst forms of child labour, published in the *Official Journal No. 171*, 8 September 2000, and ratified on 2 November 2000.

¹⁰⁵ ILO International Programme on the Elimination of Child Labour.

- (e) Elimination of child labour at the Subtiava indigenous community in the municipality of León, 1999-2001. Target population: 1,300 children and adolescents;
- (f) Elimination of child labour at the bus terminal station in the municipality of León, 1999-2001. Target population: 120 children and adolescents;
- (g) Reduction of child labour at traffic lights and enclosed public areas in the city of Managua, 2000-2002. Target population: 600 children and adolescents;
- (h) “From mines to school”: Prevention and elimination of child labour at the Indian mines of Santa Rosa del Peñón. Target population: 485 children and adolescents;
- (i) Prevention and elimination of child labour in the tobacco sector of the municipality of Jalapa. Target population: 750 children and adolescents;
- (j) MIFAMILIA Traffic light project. Target population: 600 children and adolescents

2. Special protection and assistance measures for children and young persons

296. Inspection plans focused on areas, including the informal sector, where the incidence of child labour is greater are being developed through MITRAB. An agreement has been signed with owners of informal businesses with a view to compliance with the labour legislation.

297. Dangerous work types, injuries and hazards have been categorized and intersectoral plans have being developed with a view to undertaking joint action at the local level and providing an immediate response with the human and material resources available. This process is under way in cooperation with the municipal authorities and the children and adolescents committees. Some of these initiatives are based on external cooperation and others on an institutional mandate.

V. ARTICLE 8 – The right to form and join labour unions

A. Legal framework

298. The right to form labour unions is enshrined in the Constitution and provided for in the labour code, decree No. 55-97 on regulations for labour unions and decree No. 93-2004 (amending decree No. 55-97).

299. Under article 87 of the Constitution, “full labour union freedom shall exist in Nicaragua. Workers shall organize themselves voluntarily in unions, which shall be constituted in conformity with the provisions of the law. No worker may be obligated to belong to a particular union or to resign from one to which he/she belongs. Union autonomy shall be recognized and union law shall be respected.”

B. Conventions

300. Nicaragua has ratified the following international conventions regarding labour:

- Convention concerning Freedom of Association and Protection of the Right to Organise (ILO Convention No. 87, 1948)¹⁰⁶.

¹⁰⁶ Ratification published in the *Official Journal No. 202*, 5 September 1967.

- Convention concerning the Application of the Principles of the Right to Organize and to Bargain Collectively (ILO Convention No. 98, 1949)¹⁰⁷.
- International Covenant on Civil and Political Rights (ICCPR), ratified on 12 March 1980.

C. Unions

301. Article 203 of the labour code contains the following definition and provisions:

“Union is an association of workers or employers, formed in order to represent and defend their respective interests. No previous authorization shall be required for the constitution of unions.

In order to obtain legal status, unions must be listed in the Registry of unions at the Ministry of Labour”.

1. Requirements for forming a union

302. The formation of a union shall be subject to the following prerequisites:

(a) Presentation of the original of the charter and articles of association plus, in the case of unions in Managua, one copy or, in the case of unions in other departments, two copies thereof;

(b) Submission of a list of the union's founding members having participated in the first meeting of members (at least 20 workers are required);

(c) Affiliation record or cards of the workers or members of the Union (non-obligatory requirement);

(d) Presentation of the following three books, duly stamped by MITRAB:

(i) Proceedings book;

(ii) Accounting book;

(iii) Member registration book.

303. The minimum number of members is 20 for labour unions and five for employers' unions.

Under article 223 of the labour code, “for their constitution and operation, unions shall not be subject to any requirement other than those stipulated by the labour code with a view to ensuring the unions' optimal operation and guaranteeing the rights of their members”.

2. Procedure for the registration of a new union

304. Workers who have decided to form a union or their union counsels, duly authorized by the union in the charter, shall present to the Directorate of unions (DAS), without any obligation to declare a legal residence for the union in order to ensure its legal status, the union's charter and

¹⁰⁷ Ratification published in the *Official Journal No. 202*, 5 September 1967.

articles of association in accordance with articles 211 and 212 of the labour code and article 9 of decree No. 55-97 on regulations for labour unions, and the signatures of the workers having participated in the union's first meeting and whose minimum number is set by law.

305. A DAS adviser shall undertake a first review of the documents to ensure that they fulfil the legal requirements and then shall transmit them to the Director of DAS, who shall conduct a second review. In the event that of inconsistencies or gaps in the documentation, he/she shall issue, within three days from the submission of the request, a memorandum to that effect. Such memorandums shall be issued as long as the documents submitted by the applicants continue to have inconsistencies or gaps. Once the documents have been signed by the Director, the union's legal status and, if the union is domiciled in Managua, the appropriate certification shall be entered in the appropriate registers. The documentation in question shall comply with the following rules:

(a) The documentation shall include an application for the registration of a new union, duly signed by the general secretary or the recording secretary, and the decisions voted in the first meeting;

(b) The date on the charter shall be the same as the date on the list of the workers who are the founding members;

(c) The charter shall contain the elements required under article 9 of the regulations for labour unions;

(d) If the articles of association were discussed and adopted at the first meeting, the documentation shall contain the original plus, in the case of unions in Managua, one copy or, in the case of unions in other departments, two copies thereof. If the articles of association were not discussed and adopted at the first meeting, the documentation shall specify the date and hour of the meeting to be held for such discussion and approval, subject to a 40-day time limit (according to art. 9 (6) of the regulations for labour unions);

(e) The articles of association shall comply with the requirements specified in article 11 of the regulations for labour unions;

(f) The required lists shall be submitted in the original with copies, without stains or blots, duly bearing a letterhead with the name of the union and the hour, date, year and place of meeting during which they were discussed and adopted.

306. The Registry of unions may refuse the registration of a union in the following cases only:

(a) If the objects and purposes of the union do not fit the relevant labour code specifications;

(b) If the union has not been formed with the number of members specified by the law;

(c) If it is proved that signatures have been forged or the persons listed do not exist.

307. The provisions regarding the above requirements shall not be peremptory inasmuch as the union concerned may take the time necessary to fulfil any such requirements that have not been met. Once the requirements are met, the Registry shall proceed with the registration of the union within the legal time limit.

3. Cases of refusal to register a union

308. If the registration of a new union is denied under article 213 of the labour code, the refusal may be appealed within five days from the date on which the refusal is notified. If the appeal is duly filed in a timely manner, a procedural decision shall be issued admitting the appeal and inviting the union to state its case before the General Labour Inspectorate, which is the second-instance authority having jurisdiction to hear the appeal and, within ten days, shall issue a decision confirming or repealing the refusal formulated by DAS. In the event of invalidation of that refusal, DAS shall proceed with registering and certifying the union. Should the refusal be confirmed, the General Labour shall transmit the file to the originating unit (DAS) which shall discontinue the proceedings. In that case, the appellant may still bring action for protection of rights guaranteed by the Constitution.

Requests rejected and/or denied by the Registry of unions

YEAR	DATE (day/month)	UNION	ENTERPRISE OR BODY
1993		NONE	
1994	27/ 09	Workers' union	“La Estrella” poultry
	24/ 06	SITRAMESA	Metals and structures
1995	0/05	Oscar Morales Juárez	Engineering industry
	15/12	Ramón Ordóñez	“La Estrella” poultry
	10/11	Workers' union	A.L.F. hospital
	03/09	Workers' union	Match factory
1996	28/07	Roberto Lara	MHCP
1997		NONE	
1998	14/07	SICEVECSA	“Supermercado Cereales y Vegetales”
	27/03	Workers' union	INETER
1999	14/06	Orlando Sánchez	CASUR sugar refinery
2000		NONE	
2001	27/09	Rural workers' union	Mina Agrícola “SIARES”
	22/02	Workers' union	Roo Shing Garments
2002	09/04	“Jorge Castellón”	Occidental S.A. power company
	20/08	SITRAMENA	Mercado de Managua
	25/05	Danilo Medina	Tipitapa municipality
	12/12	Workers' union	Montelimar foundry
2003		NONE	
2004	31/05	National workers' union	National lottery
	13/01	Self-employed workers' union	
		Labourers' and employees' union	Granada municipality
2005	19/08	“Idalia Silva” union	HANSAE Managua S.A.
2006	02/10	Workers' union	Nicaragua Sugar States Limited
2007	04/01	Workers' union	ARNECON

Source: MITRAB contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

4. Types of unions

309. Labour unions may be classified as follows\:

- (a) By type of membership:

- (i) Guild-type: Formed by workers engaged in the same occupation or specialty;
 - (ii) Single-enterprise: Formed by workers employed by one and the same enterprise;
 - (iii) Multi-enterprise: Formed ones by workers employed by two or more companies engaged in the same activity;
 - (iv) Multi-trade: Formed by workers engaged in various occupations, where the number of workers in the same occupation or activity is smaller than twenty.
- (b) By geographical scope:
- (i) Single-shop: Union members belong to one and the same enterprise or establishment;
 - (ii) Municipal: Union members belong to various establishments in the same municipality;
 - (iii) Departmental: Union members belong to various establishments in the same administrative department;
 - (iv) Regional: Union members belong to various establishments in the same region;
 - (v) National: Union members belong to at least nine administrative departments.

5. Termination and liquidation of a union

310. The duration of a union shall be duly stipulated in its articles of association and shall correspond to the type of membership. Generally speaking, unions are formed for an indefinite period. The articles of association shall further specify the grounds on which the union may cease to exist, requesting its own termination and liquidation before the labour courts. This procedure is established in articles 24-28 of decree No. 55-97 and articles 219-221 of the labour code, which include the following provisions:

“Grounds for the termination of a union:

- Expiration of the period stipulated in the charter or of the extension decided by the general meeting;
- Termination of the enterprise, where appropriate, excluding the cases of transformation or merger of the enterprise;
- The explicitly stated wish of at least two thirds of the union's members in accordance with the procedures specified in the articles of association; or any circumstance that brings the number of members under the legal minimum.

The labour judges of the place of the union's domicile shall have jurisdiction to hear, at first instance and according to standard procedure, the termination of a union, at the request of the workers or employers.

A labour judge's decision for the termination of a union shall be transmitted to the competent court for approval or appeal. After such approval or appeal, where appropriate, if the termination is confirmed, DAS shall delete the union from the register.

Regardless of the termination of a union, the rights- and obligations-based relationship between the employer and the workers shall continue to exist.”

6. Restrictions on the right to found unions

311. In Nicaragua, the right of workers to form unions is subject to no legal prerequisite or restriction. The State complies with all of the provisions of the relevant international conventions ratified by the country, and in particular with the Convention concerning Freedom of Association and Protection of the Right to Organise (ILO Convention No. 87, 1948), stipulating in article 3 (2) that “the public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof”. Moreover, in keeping with article 2 of the Convention concerning the Application of the Principles of the Right to Organize and to Bargain Collectively (ILO Convention No. 98, 1949), the registration, confirmation and functioning of a union shall be subject solely to the requirements stipulated for its formation in the labour code and in decree No. 55-97 with a view to ensuring the union's optimal operation and guaranteeing the rights of its members (under art. 223 of the Labour Code).

312. Under article 5 (11) of decree No. 55-97, the role of unions shall include the promotion of voluntary membership of workers' or employers' unions, as the case may be. Accordingly, a union member may at any time decide to leave the union or join the union that he/she prefers.

7. Right of unions to form federations

313. The term “federation” conforms with labour code article 227, according to which federations may be formed by two or more unions and confederations may be formed by two or more unions related to one and the same economic activity.

314. Under article 226 of the labour code, the following legal transformations of a union shall be possible:

- (a) Merger: A merger occurs when two or more unions unite to form a new legal entity;
- (b) Absorption: An absorption occurs when two or more unions unite under the legal identity of only one of those unions.

Under article 230 of the labour code, unions shall be completely free to join international organizations to which they are akin.

8. Provisions and restrictions on a union's freedom of action

315. A union's freedom of action is guaranteed in the same manner as the freedom of persons to unionize, since there are no legal provisions preventing the free functioning of a union.

316. Under article 204, unions shall enjoy the right to freely draw up their articles of association and regulations; elect their representatives; choose their organizational structure, administration and activities; and formulate their programme of action, provided that they use means and pursue purposes that are legitimate.

Under article 208 of the labour code, the powers and responsibilities of unions shall include the following activities:

- (a) Seeking to improve the working conditions of their members and to defend their interests;
- (b) Concluding collective labour agreements and taking legal action to ensure their implementation. Any exclusion clause, preventing the employment of any person who is not, or has ceased to be, a union member shall be illegal.
- (c) Representing its members in any disputes, controversies or claims and taking appropriate action to ensure the exercise of their rights;
- (d) Promoting the voluntary affiliation of workers to the union;
- (e) Promoting the technical training and general education of union members;
- (f) Participating in the administration and management activities provided by the law;
- (g) Without prejudice to any appropriate legal action, denouncing to the competent MITRAB officials any omissions, irregularities or violations committed in the enforcement of the labour code and of provisions complementing it;
- (h) Encouraging the creation and improvement of systems for protection against labour hazards and for the prevention of accidents and diseases; and committing themselves to the use of means of protection by their members;
- (i) Organizing services for providing technical, educational and cultural advice to their members and for improving their social and economic condition;
- (j) Acquiring any title and managing any movable or immovable property required for carrying out their activities;
- (k) Exercising the right to strike in accordance with the law;
- (l) Generally speaking, engaging in any activity that is compatible with their basic objectives and the law.

317. Under article 210 of the labour code, unions shall have a legal status once they have filed their charter and articles of association and registered with DAS. In order to facilitate such registration, MITRAB shall organize appropriate registries at the national level. Moreover, under article 225 of the labour code, workers' unions shall be entitled to the following tax advantages:

- (a) Tax exemptions on buildings and movable assets of the union and of its cooperatives, technical and trade schools, libraries and sport and cultural clubs;
- (b) Subject to approval by MITRAB, tax exemptions on imports of machines, vehicles, equipment or other articles necessary for the functioning of vocational training centres.

318. Union leaders who consider that their union rights are infringed may have recourse at first instance in the administrative authority, MITRAB; initiate proceedings for the protection of a constitutional right with the Supreme Court; or address themselves to the judicial authorities competent for labour issues, the Office of the Human Rights Ombudsman, the labour committee of the National Assembly or ILO.

319. According to CENIDH, although union freedom is guaranteed in theory, yet in actual practice the exercise of union-related rights and freedoms and of the right to association encounters numerous obstacles.

9. Formation of unions

320. The following table shows the number of unions that have existed since 1991.

UNION REGISTRATIONS, 1991-April 2007	
YEAR	NUMBER OF UNIONS
1991	146
1992	174
1993	75
1994	68
1995	91
1996	155
1997	144
1998	125
1999	224
2000	177
2001	152
2002	115
2003	91
2004	82
2005	118
2006	105
2007 (up to April)	75

Source: MITRAB contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

321. The following table provides union constitution statistics broken down by department, sector of economic activity and group of affiliated unions.

Number of union boards and members, by department, economic sector and union group, 2006

DEPARTMENT	NUMBER OF	
	Union boards	Members
Nueva Segovia	15	855
Madriz	10	462
Estelí	52	2,841
León	89	5,144
Chinandega	77	4,037
Managua	335	22,745
Masaya	27	965
Granada	24	1,086
Carazo	22	857
Rivas	18	790
Total	669	39,782

DEPARTMENT	NUMBER OF	
	Union boards	Members
SECTOR OF ECONOMIC ACTIVITY		
Agriculture	16	952
Fishing	3	67
Mining and quarrying	5	237
Manufacturing industry	50	8,382
Water, gas and water	36	1,238
Construction	16	607
Trade	13	703
Hotels and restaurants	3	176
Transport, storage and communications	21	978
Financial services	2	174
Real estate, contracting and leasing	0	0
Public administration and defence	143	8,872
Education	168	8,832
Social and health services	162	7,151
Community, social and personal services	31	1,413
Total	669	39,782
GROUP OF AFFILIATED UNIONS		
CAUS	28	2,034
CGT(i)	21	730
CTN	53	1,826
CGTEN / ANDEN	41	2,550
CTN(a)	32	5,326
FETSALUD	86	4,541
CNTD	1	54
CST(J.B)	24	1,332
CNT	22	783
CST	54	3,762
ATC	26	1,738
UNE	57	3,864
CUS	37	2,117
CSTE	7	167
CUT	6	456
CNMN	1	18
FNT	1	71
FITS	1	26
NOT IN A UNION GROUP	171	8,387
Total	669	39,782

Source: Directorate of unions. Central level and departmental delegations.

D. Strikes

1. Right to strike

322. Article 244 of the labour code defines a strike as “the collective suspension of the work, decided, carried out and maintained by the majority of the workers having a stake in a labour dispute”. The right of workers to strike is enshrined in article 83 of the Constitution.

323. The prerequisites for exercising the right to strike are listed below. The strike:

(a) Should aim at improving or defending, vis-à-vis the employer, the workers' rights, working conditions, treatment in the framework of the employment relationship and negotiation

efforts in view of the collective labour agreement and the workers' economic and social interests as a whole;

(b) Should be undertaken after the procedures for friendly settlement through MITRAB have been exhausted;

(c) Should be decided in a general meeting of the workers and be carried out and maintained peacefully by a majority of the workers within or outside the enterprise or establishment. If the strike concerns an enterprise having more than one establishments, a majority among the total number of workers of the enterprise shall be required. If the strike concerns one or some of the establishments of the enterprise, a majority among the total of workers of the establishments concerned shall be required;

(d) May be held in support of a legitimate strike held in the same industry or activity and pursuing some of the objectives listed in the above paragraphs.

324. A significant element in strike procedures is the strike council, a tripartite joint committee consisting of a representative of MITRAB and two representatives of each party to the dispute. The strike council, not MITRAB, shall be responsible for ensuring that strike procedures comply with the law.

325. The strike council shall be legally authorized to organize negotiations between the parties. In the event that no full or partial agreement is achieved, the strike council shall convene the general meeting of workers and invite them to decide by secret ballot and simple majority whether they accept the employer's proposals. If the workers accept those proposals, their acceptance shall be entered in the official records and the dispute shall be declared to be resolved. If the workers reject the proposals, a second vote shall be taken to decide whether they will strike or submit the matter to arbitration.

326. Under article 388 of the labour code, the strike council shall be the authority empowered to declare a strike legal. If in the second vote the workers decide to strike, the chairperson of the strike council shall declare the strike legal and order all appropriate measures to be taken in order to ensure that the strike is organized without prejudice to the workers, the population or the enterprise.

327. Accordingly, MITRAB does not have jurisdiction to declare a strike legal nor keeps any official records of strikes declared legal.

328. If the dispute is not settled within thirty days from the start of the strike, the strike shall be suspended and the case submitted to compulsory arbitration. To that end, the chairman of the strike council shall transmit the file to the Minister of Labour, who shall designate the chairperson of the arbitration court.

2. Restrictions on the exercise of the right to strike

329. One restriction on the right to strike consists in the obligation to exhaust the procedures provided for in article 373 *et seq.* of the labour code.

330. In the case of workers in public or collective-interest services, the exercise of the right to strike may not extend to situations endangering the life or security of persons.

331. In view of the position of the ILO Committee on Freedom of Association in favour of the restriction of strikes, the Nicaraguan legislation does not provide that federations and confederations may exercise the right to strike and in that connection refers only to labour unions in accordance with article 373 of the labour code.

332. Actually, federations and confederations do promote the exercise of the right strike through labour unions by filing petitions, an issue that was settled as part of the reform of the regulations for labour unions, which provides that federations and confederations shall participate in industrial disputes, including in connection with the right to strike.

333. A problem that occurred in the period reviewed was the health sector strike during the first five months 2006. The strike was organized by physicians' federations and unions demanding fair wages.

334. According to the CENIDH, that demand was legitimate and consequently the Government at the time could only implement a policy that satisfactorily solved the wage problem in the education and health sectors within the State's actual possibilities.

3. Special legal provisions regarding the right to strike

335. The Nicaraguan labour legislation is of a general character and contains no specific provisions on exercising the right to strike.

336. Under article 247 of the labour code, “the exercise of the right to strike in public or collective-interest services may not extend to situations endangering the life or security of persons”. Although, as already mentioned, the right to strike is enshrined in the Constitution, the exercise of that right encounters obstacles because there is no law containing explicit provisions for ensuring that the services concerned, which are indispensable, shall not be affected during the strike.

337. In addition to providing for specific procedures for enabling the workers to choose between strike and arbitration, articles 385-389 of the labour code specify the formalities necessary for holding a strike.

VI. ARTICLE 9 – Right to social security

A. Legal framework

338. The legal framework for social security and Nicaragua is described in the paragraphs that follow.

1. Constitutional provisions

339. Under article 46 of the Constitution, “all persons in the national territory shall enjoy State protection and recognition of the rights inherent in the person, as well as full observance,

promotion, protection and effect of the human rights enshrined in the Universal Declaration of Human Rights; the American Declaration of the Rights and Duties of Man; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights and the American Convention on Human Rights of the Organization of American States (OAS)”.

340. Under article 61 of the Constitution, “the State shall guarantee Nicaraguans the right to social security for their comprehensive protection against the social contingencies of life and work in the manner and conditions determined by law.”

341. Under article 62 of the Constitution, “the State shall strive to establish programmes benefiting the disabled, for their physical, psychosocial and occupational rehabilitation and for their employment”. Under article 74 of the Constitution, “the State shall provide for special protection of the process of human reproduction. Women shall enjoy special protection during pregnancy and shall be granted maternity leave with pay and all appropriate social security benefits. No one may deny employment to women on grounds of pregnancy or dismiss them during pregnancy or the post-natal period, in conformity with the law”.

342. Under article 77 of the Constitution, “the elderly shall have a right to protective measures taken by their family, society and the State”.

343. Under article 82 (7) of the Constitution, “workers shall have a right to employment conditions that specifically assure them ... social security for comprehensive protection and means of subsistence in cases of disability, old age, occupational hazards, disease, maternity and, for the benefit of the workers' relatives, death, in the form and under conditions established by law”.

344. Under article 105 of the Constitution, “the State shall have an obligation to promote, facilitate and regulate the provision of basic public services of energy, communications, water, transportation, road infrastructure, ports and airports to the people. Access to these facilities shall be the people's inalienable right... The services of education, health and social security shall be unavoidable duties of the State, which shall be obligated to provide them without exclusions and to improve and broaden them. The facilities and infrastructure of these services owned by the State may not be transferred in any way... The right to establish private health and education services shall be guaranteed”.

2. Social security organizational law¹⁰⁸

345. Under article 1 of decree No. 974, “as part of the social security system of Nicaragua, obligatory social insurance [shall be] a public service of a national character, aimed at the protection of the workers and their family”. Moreover, under article 2 of the decree, social insurance shall cover geographic zones “gradually and progressively against social contingencies of disease, maternity, disability, old-age, death and occupational hazards, and shall provide family allowances and social services necessary for the comprehensive well-being of the insured.

¹⁰⁸ Decree No. 974, *Official Journal No. 49*, 1 March 1982.

Furthermore, it shall provide the service consisting in paying allowances for disease, maternity and occupational injuries”.

346. Under article 3 of decree No. 974, which provides that INSS shall be in charge of social security, “the organization, implementation and administration of social insurance shall be the responsibility of an autonomous State body of indefinite duration, possessing assets of its own, being a legal entity, having full capacity to enjoy rights and contract liabilities and called the Nicaraguan Social Security Institute”.

3. Labour code

347. Nicaraguan legislation provides for maternity protection. The labour code protects the right of pregnant women to work and to receive maternal benefits. Under article 140 of the code, employers may not allow pregnant women to continue to carry out work or tasks detrimental to their pregnancy. In such cases, employers shall provide pregnant women with work that does not adversely affect that biological process, at a pay level not less than the one the employee normally received prior to the pregnancy. After childbirth, employers shall allow such employees to return to their previous post at the pay level currently in force.

348. Under article 141 of the labour code, pregnant employees shall be entitled to take maternity leave lasting four weeks before and eight weeks after the childbirth (or 10 weeks for a multiple birth) and to be paid at least the equivalent of their most recent wage or salary during that time, without prejudice to the medical assistance they are entitled to receive from the social institutions responsible for maternity protection. The period of maternity leave shall count as time worked for the purposes of seniority, annual leave and the 13th-month bonus. If the birth takes place before the presumed due date indicated by the physician, the unused part of the prenatal leave shall be added to the period of post-natal leave.

In the event of an accidental interruption of the pregnancy, preterm birth or any other abnormal birth, the employee shall be entitled to paid leave in accordance with the demands of the medical certificate. Pregnant employees shall be required to take maternity leave and employers shall be required to grant it.”

349. Act No. 295 of 10 June 1999 on the promotion, protection and maintenance of breastfeeding and the regulation of the commercialization of breast-milk substitutes¹⁰⁹ helps to ensure respect for the right to nutrition enshrined in the Convention on the Rights of the Child. The objective of this act is to establish the measures needed to protect, promote and support breastfeeding, which significantly improves infants’ nutritional status. The act also regulates the sale of breast-milk substitutes.

350. Act No. 238 on the promotion, protection and defence of human rights in the context of HIV/AIDS protects the right of persons suffering from HIV/AIDS to social security by providing, in article 23, that “workers living with HIV/AIDS shall receive social security benefits according to the instructions of the competent authority, guaranteeing the

¹⁰⁹ *Official Journal No. 122, 28 June 1999.*

implementation of the social security organizational law and its implementing regulations” (act No. 238).

Periods of validity of national legislation on social security

Legislation	Date of adoption	In force:
Social security organizational law	22 December 1955	Up to 1982
General implementing regulations of the social security organizational law	24 October 1956	February 1957 to February 1982
Provisions on social security benefits for fallen combatants and their families	28 August 1979	Since 18 September 1979
Special act on social security benefits for under age workers	21 February 1980	Since 5 March 1980
Social security organizational law and its general implementing regulations	11 February 1982	Since 1 March 1982
Act on pensions in gratitude and recognition of services to the country	28 November 1982	Since 1 December 1982
Act on pensions to orphaned children of rebels of ethnic groups of the Atlantic Coast	7 April 1986	Since 8 April 1986
Act No. 160 on additional benefits for retirees		Since 6 June 1993
Act on benefits for war victims	6 December 1990	Since 3 January 1991
Labour code (act No. 185)		Since 30 October 1996
Act on the addition of chronic kidney failure to the list of professional diseases contained in the labour code	15 June 2004	Since 8 July 2004
Provisions on pension readjustments	13 December 2006	Since 16 January 2007

Source: INSS contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

351. The labour code, the social security organizational law and its general implementing regulations stipulate the employers' obligation to insure their workers.

B. International instruments

352. The following international instruments provide for the right to social security:

Universal Declaration of Human Rights

Article 22 – “Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.”

353. Article 25 of the above declaration establishes the right of all persons to necessary social services.

ICESCR

Article 9 – “The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.”

American Declaration on the Rights and Duties of Man

Article 7 – “All women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid.”

Article 16 – “Every person has the right to social security which will protect him from the consequences of unemployment, old age, and any disabilities arising from causes beyond his control that make it physically or mentally impossible for him to earn a living.”

C. Social security

1. Body in charge

354. Under article 3 of act No. 539 of 12 May 2005 on social security¹¹⁰, “INSS shall be the body responsible for social insurance in Nicaragua. INSS shall be a State agency, autonomous, decentralized and administratively, operationally and financially independent vis-à-vis all State authorities. INSS shall have an indefinite duration, assets of its own, a legal status and full ability to acquire rights and undertake obligations. The main objectives of INSS shall include social security universal coverage, organization, improvement, contribution collection, enforcement and administration. INSS shall be the only State body having jurisdiction over social security, without prejudice to legislation regarding the social security of the Ministry of the Interior and the armed forces”.

355. By its nature, nation-wide scope and obligatory coverage, INSS cooperates at various times with the following bodies, among others: The judicial, legislative and executive branches of Government, MITRAB, MINSA, MECD, MIFAMILIA, the Office of the Attorney General, the Office of the State Prosecutor, Office of the Human Rights Ombudsman, MHCP and the Central Bank.

356. As part of the Government's streamlining policy on overall management resources, INSS as of February 2007 shall coordinate its activities with MINSA, MITRAB, MHCP and the Central bank.

357. Moreover, by the nature of its activities, INSS has close links with the workers' and employers' unions, human rights bodies, organizations of pensioners, organizations defending the interests of retirees and social NGOs.

¹¹⁰ *Official Journal No. 225*, 20 November 2006.

2. Various forms of social insurance

358. Under article 61 of the Constitution, the Social security organizational law, its general implementing regulations and subsequent amendments thereto, workers may be insured under the following two schemes:

(a) Obligatory scheme: It protects workers providing services to individuals or legal entities, regardless of the type of employment relationship or service provided; and includes the following two forms of insurance:

- (i) Comprehensive insurance, covering the contingencies of disease, maternity, disability, old age, death and occupational hazards;
- (ii) IVM-RP, covering the contingencies of disability, old age, death and occupational hazards;

(b) Optional scheme: It protects self-employed workers and includes the following two forms of insurance:

- (i) Comprehensive insurance excluding professional hazards, with a 18.25 per cent contribution rate, and a 0.25 State contribution rate for the health branch;
- (ii) Health insurance;
- (iii) Disability, old age and death insurance, with a 10 per cent rate.

3. Development of social insurance coverage

359. That proportion of insured workers has increased in recent years. In 1990, an average number of 261,209 workers were insured, accounting for 6.6 per cent of the national population and 21.5 per cent of EAP.

360. In 2006, an average number of 420,326 workers were insured, accounting for 8 per cent of the national population and 23.5 per cent of EAP.

Active insured workers, 1990-2006

Year	Change in the number of such workers (%)	Number of such workers as a percentage of:	
		The national population	EAP
1990	0.1	6.6	21.5
1991	-12	5.7	18.1
1992	-6	5.2	16.3
1993	-3	5.0	15.2
1994	-2	4.7	14.3
1995	2	4.7	14.1
1996	6	4.8	14.4
1997	6	5.0	14.7

Year	Change in the number of such workers (%)	Number of such workers as a percentage of:	
		The national population	EAP
1998	11	5.4	15.6
1999	9	5.7	16.3
2000	9	6.1	17.0
2001	2	6.0	16.5
2002	-1	5.8	16.0
2003	3	5.8	16.0
2004	9	6.2	16.5
2005	9	6.6	17.3
2006	11	8.0	23.6

Source: INSS contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

361. Approximately 82 per cent of EAP have no access to the social benefits indicated in this report.

362. Of the 400,000 active workers insured with INSS in December 2006, 48 per cent were women and 52 per cent men. Uninsured women are included in the 82 per cent of workers without coverage at that date.

Number of women insured with INSS by occupational category

	Sector	Insured female workers
1	Agriculture, hunting, forestry	4,665
2	Fishing	869
3	Mining and quarrying	215
4	Manufacturing industry	56,829
5	Power, gas and water	1,078
6	Construction	1,104
7	Wholesale and retail trade	18,758
8	Hotels and restaurants	5,288
9	Transport, storage and communications	3,479
10	Financial services	7,446
11	Real estate, contracting and leasing	5,646
12	Public administration and defence	38,238
13	Community and social services (education)	38,907
14	Social and health services	9,059
15	Other social, community and personal services	5,639
16	Other social, community and domestic services	1,553
17	Extraterritorial organizations and agencies	1,562
18	Other	1
	TOTAL	200,336

Source: INSS contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

Development of regular pensions, 1994-2006

Year	IVM	Occupational hazards
1994	42,301	4,131
1995	44,334	4,059
1996	46,179	4,137
1997	48,298	4,137
1998	51,176	4,140
1999	54,146	4,339
2000	59,960	4,858
2001	64,338	5,237
2002	66,693	5,443
2003	68,047	5,417
2004	70,516	5,389
2005	72,165	6,361
2006	74,717	6,924

Source: INSS contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

Medical services provided to insured workers, 1994-2006

Year	Medical interviews	Hospitalizations	Laboratory tests
1994	116,350	1,397	67,245
1995	468,197	6,089	248,963
1996	752,243	12,593	346,608
1997	1,160,172	20,811	507,534
1998	1,335,983	26,010	663,979
1999	1,600,121	32,543	811,132
2000	1,725,057	37,075	855,392
2001	1,864,336	38,232	905,032
2002	2,008,924	38,919	990,959
2003	2,279,921	42,984	1,088,705
2004	2,468,656	44,831	1,196,462
2005	2,871,928	50,035	1,420,098
2006	3,136,295	50,965	1,595,353

Source: INSS contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

4. Social security branches

363. The following table recapitulates the types of social security services currently available in the country.

Social security branch	In force?	Social security organizational law article(s)
Medical care	Yes	90-92
Medical benefits in cash	Yes	93
Maternity benefits	Yes	94
Old-age benefits	Yes	46-54
Disability benefits	Yes	36-45
Survivors' benefits	Yes	55-59
Benefits for industrial accidents	Yes	60-78
Unemployment benefits	No	None
Family allowances	Yes	86-88

Source: INSS contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

(i) Sickness and maternity benefits branch

(a) Medical services

364. Service providers: At the first, second and third level, medical care is offered to the insured by public, private and mixed providers, called “social security medical enterprises” (EMPs), which are paid by INSS per capita on a monthly basis, regardless of whether or not the insured person requests medical care.

365. Beneficiary population: Coverage includes a package comprising benefits in medication and tests, for ailments of the primary beneficiary, for the dependent beneficiary in the event of pregnancy, and for children up to age 12. Active members and insured pensioners have access to complementary benefits covering ailments not included in the agreements between INSS and the EMPs.

366. Maternity insurance covers female primary and independent beneficiaries, providing medical benefits that include pregnancy control, medical childbirth care, post-natal care, a breastfeeding allowance and, for primary beneficiaries, a maternity allowance.

367. Elderly beneficiaries: Elderly pensioners have access to health insurance in the form of a reduced medical care package paid by INSS.

(b) Allowances

368. Sickness and common accident allowances: To qualify for a sickness allowance, the insured must have contributed during eight of the 22 calendar weeks preceding the cause of the sickness. The allowance amounts to 60 per cent of the average wage during the last eight weeks, for which contributions were paid, prior to the event having generated the allowance. The beneficiary is entitled to this allowance for a maximum period of 52 weeks.

369. Maternity allowance: Under article 74 of the Constitution, article 141 of the labour code and article 94 of the social security organizational law, women are entitled to maternity leave of

at least 12 weeks, of which four precede and eight follow childbirth, giving rise, respectively, to a prenatal and a post-natal allowance equal to 100 per cent of the average wage during eight weeks, for which contributions were paid, preceding the allowance. Social security and the employer cover, respectively, 60 and 40 per cent of that allowance.

370. To qualify for maternity allowance, the insured female worker must have paid contributions for 16 of the 39 calendar weeks preceding the childbirth.

371. After returning to work, a nursing mother is entitled on a daily basis to 15 minutes for breastfeeding, at the establishment, for every three hours worked. Breastfeeding time counts as time on the job.

372. The social security benefits granted in this period are of three types:

- Medical care during pregnancy, at childbirth and in the post-natal period;
- Financial coverage of laboratory tests, diagnostic measures and medication;
- Benefits in kind, in the form of milk for the newborn.

373. Nursing allowance: Although breastfeeding is encouraged, the system provides for a benefit consisting in 45 bottles of milk during the first six months of the infant's life.

(ii) Disability, old-age and death benefits (IVM) branch

(a) Both-to-blame disability benefits branch

374. Disability pensions are classified into the following three types, based on the degree of incapacitation:

- (a) Partial disability;
- (b) Total disability;
- (c) Overwhelming disability, whose main characteristics are the following:

375. Prerequisites: In order to qualify for invalidity pension, a worker must have paid contributions for 150 weeks within the last six years prior to the cause of the disability or meet the contribution requirements for old-age pension;

Duration of the pension: The beneficiary is entitled to the pension as long as the cause of the disability exists.

(b) Old-age benefits branch

376. Old-age pensions fall into the following five categories, depending on the occupation and/or age of the beneficiary:

- (a) Full old-age pension;
- (b) Basic old-age pension;
- (c) Female teacher's special old-age pension;

- (d) Male teacher's special old-age pension;
- (e) Miner's special old-age pension.

377. Main characteristics of the old-age pensions:

(a) Full old-age pension: This pension is designed for workers having joined social security before the age of 45. To qualify for this pension, such a worker must be 60 years old and have paid contributions for 750 weeks. The pension is granted for life.

(b) Basic old-age pension: This pension is designed for workers having joined social security after the age of 45. To qualify for this pension, such a worker must be 60 years old and have paid contributions for no less than 250 weeks and for no less than half of the calendar time between the date of affiliation and the date of retirement or the last week for which a contribution was paid. The pension is granted for life.

(c) Female teacher's special old-age pension: In view of her social role, a teacher is entitled to a special pension after age 55 and having paid contributions for 750 weeks quoted. The pension is granted for life.

(d) Female teacher's special old-age pension: In view of her social role, a teacher is entitled to a special pension, with the option to retire after the age of 55 years having made contributions for 1,500 weeks or after the age of 60 years having paid contributions for 750 weeks. The pension is granted for life.

(e) Miner's special old-age pension: In view of the arduousness of their work, male and female workers employed in mining are entitled to a special pension after age 55 and having paid contributions for 750 weeks in that activity. The pension is granted for life.

(c) Features common to disability and old-age pensions

378. Family allowance:

(a) This allowance is equal to (i) 15 per cent of the basic pension for the pensioner's wife or life companion; and (ii) 10 per cent for children under 15, and may be renewed up to age 21, provided that they perform satisfactorily in their studies;

(b) Pension rate: Compared to the social security organizational law previously in force, the current social security organizational law, through the novelty known as "technical principle of income distribution", is considerably more progressive, inasmuch as pension rates are higher for the lower than for the higher wage brackets. This is illustrated in the next two subparagraphs:

- (i) Pension deriving from a wage equal to or lower than twice the minimum wage: In this case, an active worker who becomes a disability or old-age pensioner and had been receiving an average wage of, say, C\$ 2,400 shall be entitled to a pension rate of 56.14 per cent for 10 years of contributions, 65.68 per cent for 15 years of contributions and 73.64 per cent for 20 years of contributions;
- (ii) Pension deriving from a wage higher than twice the minimum wage: In this case, an active worker having contributed for the same periods as above shall be entitled to a pension rate of, respectively, 49.56, 57.75 and 64.57 per cent. In both cases, the appropriate family allowances are added to the pensions;

- (iii) 13th-month pension: Every year, together with their December pension, all pensioners receive a 13th monthly payment, under the same conditions as the active workers;
- (iv) Personal loans: Pensioners are entitled to loans in the amount of their pension;
- (v) Prostheses and orthopaedic apparatuses: Disability and old-age pension beneficiaries are entitled to coverage of the purchase, repair and, when necessary, replacement of such equipment;
- (vi) The pensioners in question are entitled to real estate tax exemptions and other benefits under act No. 160.

(d) Survivors' benefits (both-to-blame death benefits) branch

379. To qualify for these benefits, the deceased person from whom the right is derived must have been a direct pension beneficiary or have paid contributions for 150 weeks in last the 6 years preceding the date of the death or met the contribution requirements for old-age pension. If such is case, the benefits fall into the following categories:

(e) Widow's pension

380. The wife or life companion of the deceased person from whom the right is derived is entitled to a pension which is:

- (i) Granted for life, if, at the date of that person's death, the widow was older than 45 or, regardless of age, disabled;
- (ii) Granted for a period of two years, if, at the above date of death, the widow was under 45 with no children;
- (iii) Subordinated to the orphan's pension, if, at the above date of death, the widow was under 45 with children entitled to such a pension.

(f) Orphan's pension

381. The children of the deceased person from whom the right is derived, whether born in or out of wedlock, are entitled to an orphan's pension as follows:

- (i) For life, if the child is disabled;
- (ii) For a period extending from the age of one day to 15 years of age;
- (iii) From age 15 to age 21, provided that they perform satisfactorily in their studies.

(g) Parents' or grandparents' pension

382. The parents, grandparents and other dependents of the deceased person from whom the right is derived, who are over 60, have lived in the household with that person and were financially dependent on him/her, are be entitled to the pension in question for life. This pension is not granted, if the deceased is survived by his wife or life companion and two children.

383. The survivors' pension rate depends on the basic old-age or total disability pension that the insured was receiving or would receive, as follows:

- (i) For a widow with or without a child, not entitled to a pension: 50 per cent;
- (ii) For a widow with a child, entitled to a pension: 50 per cent plus 25 per cent for the child, namely, 75 per cent in total;
- (iii) For a widow with two children, entitled to a pension: 50 per cent plus 25 per cent per child, namely, 100 per cent in total;
- (iv) For a widow with more than two children, entitled to a pension: The basic pension to which the insured would be entitled is allocated proportionately among the beneficiaries. Within the limit of that basic pension, the termination of any one of those partial pensions serves to increase the ongoing ones.

(h) Funeral allowance

384. The death of an insured worker, whether he/she was still active or on pension, generates an entitlement to a funeral benefit consisting of a coffin or a cash benefit equal to 50 per cent of the average monthly wage during the last four weeks for which contributions were paid or an allowance was received. The amount of the benefit may not be less than the minimum wage subject to contribution nor exceed 50 per cent of the maximum pension that the insured received or would receive.

(iii) Occupational hazards benefits branch

385. On the basis of the automatic payment rule, an insured worker has access to such benefits, in the event of an industrial accident, without any requirement for a prior contribution period; and, in the event of an occupational disease, subject to the requirement of having completed 26 weeks prior to the cause having generated disease.

(a) Types of benefits

386. Medical care: In the event of an industrial accident or occupational disease, the insured receives medical care and hospitable benefits without any type of exclusions.

387. Allowances: In order to qualify for an allowance deriving from an industrial accident, the insured must only be active on the date of the accident. The allowance is equal to 60 per cent of the average wage during the last eight weeks, for which contributions were paid, prior to the cause of the allowance, if contributions were paid for as many weeks. The allowance is granted for a maximum period of 52 weeks, which may be extended by 6 months.

388. Indemnification: A worker who has suffered an industrial accident or contracted an occupational disease causing a disability degree of 1 per cent to 19 per cent is granted an indemnification equal to 60 months of the partial pension to which he is entitled.

389. Partial disability: A worker who has suffered an industrial accident or contracted an occupational disease causing a disability degree of 20 and 99 per cent is granted a monthly partial disability pension for life. The amount of the pension is a function of the degree of

inability, the wage serving as a basis for contributions and the beneficiaries entitled to a family allowance. Upon completion of the 60th year of age, the pension becomes a full disability pension, provided that the insured is not entitled to old-age pension.

390. Full disability: A worker who has suffered an industrial accident or contracted an occupational disease causing a disability degree of 100 per cent is granted a monthly disability pension for life. The amount of the pension is a function of the wage serving as a basis for contributions and the beneficiaries entitled to a family allowance. The insured is entitled to old-age pension but the sum of the two pensions must not exceed 100 per cent of the highest wage in reference to which they have been calculated.

391. Overwhelming disability: A worker who has suffered an industrial accident or contracted an occupational disease causing a 100 per cent disability and is unable to look after himself/herself is granted overwhelming disability pension for life. The amount of the pension is a function of the wage serving as a basis for contributions and the beneficiaries entitled to a family allowance. The basic pension is increased by 20 per cent and the total may not be less than 50 per cent of the minimum wage.

392. Survivors' pensions: Where a worker has suffered an industrial accident or contracted an occupational disease causing death, beneficiaries are entitled to benefits under the conditions described in section D above ("Survivors' benefits (both-to-blame death benefits)").

(iv) Social security official schemes and private agreements

393. Before INSS, official social security schemes for sickness and maternity benefits comprised since 1957 the provision of medical services in public and private institutions that were part of the hospitable infrastructure. Since 1993, INSS procures health services throughout the national territory through public, private or mixed providers, called "social security medical enterprises" (EMPs), which have been previously approved by MINSA and certified by INSS.

394. The scheme covers ailments of the primary beneficiary, for the dependent beneficiary in the event of pregnancy, and for children up to age 12. The medical benefits package comprises 872 types of diseases, 334 medicines, 175 surgical procedures and 107 diagnostic support tests. Active members and insured pensioners have access to complementary benefits covering ailments not included in the agreements between INSS and the EMPs.

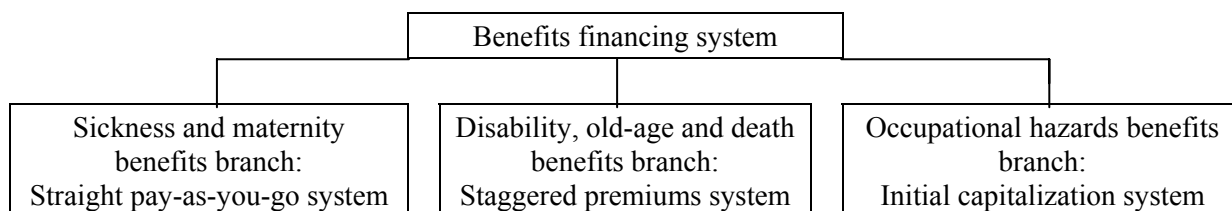
(a) Various INSS systems

395. Article 7 of the INSS financial regulations provides for financing systems for disability, old-age, death and occupational hazards insurance benefits. Internal rules provide for a pay-as-you-go system for sickness and maternity benefits.

396. Straight pay-as-you-go system for the health benefits branch: Actuarially, this system does not allow for the formation of technical reserves, since every year the resources of the branch are used in their entirety for granting benefits. By precaution, a so-called "safety reserve" is set aside for dealing with any variances occurring during the period. The system is generally used for sickness and maternity insurance and family allowances on the basis of direct and near-certain information on costs and financial requirements.

397. Staggered premiums system for the IVM branch: The public social security scheme provides for a stepped premiums approach, whereby premiums or contributions are set at certain levels for certain periods, called “steps”, comprising a specific number of years (10, 15 or 20) and being sufficiently long to avoid frequent increases. In a given step, the contribution levels established ensure the disbursement of the required pensions so that, at the end of the step, pension expenditures are equal to contribution revenue. At that point, contributions are sufficiently increased to ensure the payment of pensions in the next step. The process continues until a stage is reached where the pensions-to-contributions ratio stops rising and remains constant.

398. Initial capitalization systems for the occupational hazards benefits branch: This approach consists in establishing, for each accident, the present value which is expected to be paid during the probable duration of each pension and which is called “initial capitalization”. Every individual initial capitalization decreases with time, as monthly payments are made towards final extinction at the end of the expected pensionable period. The sum of initial capitalizations constitutes the amount of reserves at a given date.



(b) Vulnerable groups

399. Workers deprived of social security because of administrative difficulties (not legal obstacles) include urban and rural informal sector workers, country labourers, taxi drivers and market and domestic workers. Unprotected by social security legislation, these workers had until very recently little access to health services.

400. Social insurance institutions are key instruments for social security and for improving the standard of living of the population. The lack, in earlier periods, of Government policies aimed at extending coverage to population segments having no access to social insurance has contributed to the development of extreme poverty.

401. This situation is of major concern to the Government of reconciliation and national unity, which plans to considerably increase, within five years, through INSS, the number of workers protected by social security against the contingencies of disease, maternity, disability, old age, death and occupational hazards, offering them decent financial benefits, in accordance with the resources of that body, and full health care coverage in the framework of a subsystem managed by MINSA. Moreover, INSS will have designed and launched a complementary system for funding pensions with a view to achieving the medium- and long-term sustainability of social insurance.

5. Measures adopted in the area of social security

402. Social insurance in the Siuna-Rosita-Bonanza mining triangle was implemented in 1966 and improved by INSS Chief Executive Office decision No. 5 of 1982, extending social

insurance coverage against disability, old-age, death and occupational hazards to the entire Caribbean zone under the conditions applicable to the Pacific and Central zones. Health services were contracted to provide Caribbean zone labourers with medical care comparable to that available to other workers.

403. INSS health measures and programmes launched in the North Atlantic autonomous regions include the establishment of EMP “Las Minas S.A.” in Siuna, RAAN in February 2005.

404. In those regions, institutionalized benefits for sickness, maternity, disability, old age, death and occupational hazards are available to workers whose employer is affiliated to the social insurance system.

405. Under article 96 of the Constitution that was in force from 1974 to July 1979, maternity was under State protection and support. Building on that policy, legislation in favour of women has improved, starting in the 1980s, in the following two significant ways:

(a) Women's right to protection during pregnancy through job security was enshrined in the Constitution;

(b) Labour and social security law fully guarantees medical and financial benefits for the mother and child for 12 years.

406. The INSS modernization process includes the following achievements:

(a) Extension of health insurance coverage to the children of the insured up to age 12, thereby providing benefits to 125,000 additional children and covering in total 836,000 persons (accounting for 15 per cent of total national coverage);

(b) Extension of care to insured and beneficiaries with gynaecologic and breast cancer;

(c) Extension of the health care programme for the elderly to the Estelí and Matagalpa departments, thereby covering 1,770 additional pensioners and obtaining a total national coverage of 36,976 persons;

(d) Opening of EMPs in the Siuna-Rosita-Bonanza mining triangle, thereby enhancing the access of 1,556 insured local workers and their beneficiaries to health benefits;

(e) Extension of full funeral allowance to widow's pensions.

407. Many divers in the Caribbean zone, working for seafood enterprises, often swim at great depth, with disabilities or death as a result. They therefore needed protection. Act No. 489 on fishing and aquaculture¹¹¹ and its implementing regulations, adopted by the National Assembly, provide for the implementation of social insurance mechanisms for workers engaged in diving.

408. Organizational challenges faced by INSS include the expansion of coverage, raising pension rates, streamlining the medical benefits branch and improving the financial situation of

¹¹¹ *Official Journal No. 251*, 27 December 2004.

social security units. Accordingly, appropriate policies and work plans are being developed on the basis of the statutory social services programmes.

409. In the periods covered by this report, in order to receive care at the hospitals where they were insured, beneficiaries were required to show their social insurance contribution-slip counterfoils. A novel measure adopted by the current Government is the abolition of that time-consuming inconvenience. Henceforth, the insured must show only their social security card to the social security clinics (renamed “insuring clinics”). Thereby, all insured persons are guaranteed access to social security health benefits, regardless of whether the employer is up-to-date in respect of contribution payments.

6. Social security contributions

410. Sickness, maternity, and IVM-RP (disability, old-age, death and occupational hazards) benefits are funded with contributions amounting to 20 per cent of wages and made by the employers, workers and the State according to the following coefficients:

Per cent rates

Contributors	Sickness and maternity benefits branch	IVM benefits branch	RP benefits branch	Total
Employer	6.00	6.00	1.50	13.50
Worker	2.25	4.00	0.00	6.25
State	0.25	0.00	0.00	0.25
Total	8.50	10.00	1.50	20.00

Source: INSS contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

Social security expenditures as a percentage of GDP

Items	Years	
	2000	2006
Gross domestic product (in C\$ million)	27,075.7	36,651.2
Total expenditures (in C\$ million)	1.33	3.35
Total expenditures as a percentage of GDP (%)	0.005	0.010
Financial and medical benefits (in C\$ million)	1.10	3.04
Total financial and medical benefits as a percentage of GDP (%)	0.004	0.009

Source: INSS contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

7. International assistance

411. With regard to the international assistance received by INSS, special mention should be made of the following donors:

- ILO, in the areas of actuarial analysis and human resources training;

- Ibero-American Social Security Organization (OISS), in the areas of human resources training and consultancy;
- Inter-American Conference on Social Security (ICSS) and International Social Security Association (ISSA), in the areas of instruction and specialized material;
- Swedish International Development Cooperation Agency (ASDI), on social security training in reform issues.

VII. ARTICLE 10 – Right to the protection of the family, including protection of maternity

A. Legal framework

412. Nicaraguan legislation on the protection of the family includes the following instruments:

- (a) Decree No. 862 of 12 October 1981 containing the act on adoptions¹¹²;
- (b) Decree No. 974 of 11 February 1982, social security organizational law¹¹³;
- (c) Act No. 38 of 1988 on the dissolution of marriage at the request of a spouse (unilateral divorce act)¹¹⁴;
- (d) Act No. 143 of 22 January 1992 on support allowances¹¹⁵;
- (e) Act No. 150 of 11 June 1992, amending the criminal code in respect of sexual offences¹¹⁶;
- (f) Act No. 202 on prevention, rehabilitation and equal-opportunity measures for persons with disabilities¹¹⁷;
- (g) Act No. 230 of 13 August 1996 on amendments and additions to the criminal code¹¹⁸, providing for the prevention and punishment of domestic violence;
- (h) Act No. 185 containing the labour code¹¹⁹;
- (i) Act No. 287 of 24 March 1998 containing the children and adolescents code (CNA)¹²⁰;

¹¹² *Official Journal No. 259*, 14 November 1981.

¹¹³ *Official Journal No. 49*, 1 March 1982.

¹¹⁴ *Official Journal No. 80*, 29 April 1988.

¹¹⁵ *Official Journal No. 57*, 24 March 1992.

¹¹⁶ *Official Journal No. 174*, 9 September 1992.

¹¹⁷ *Official Journal No. 180*, 27 September 1995.

¹¹⁸ *Official Journal No. 191*, 9 October 1996.

¹¹⁹ *Official Journal No. 191*, 9 October 1996.

¹²⁰ *Official Journal No. 232*, 6 December 1996.

(j) Act No. 295 of 10 June 1999 on the promotion, protection and maintenance of breastfeeding and the regulation of the commercialization of breast-milk substitutes¹²¹.

413. Bodies currently involved in issues generally related to the protection of the family are the following: MIFAMILIA, the supervising authority in the area of children and adolescents; INIM; CONAPINA; police units for women and children; and the Office of the Attorney General.

414. Work has been done on the preliminary draft of the family code (2003), which represents significant progress. That legislation has not been adopted by the National Assembly and is one of the main pending issues treated by the Government of reconciliation and national unity.

B. International instruments

415. Under ICCPR and the Optional Protocol thereto, every person shall have a right to found and belong to a family.

416. Nicaragua signed the Convention on the Elimination of all Forms of Discrimination against Women on 17 July 1980 and adopted and ratified it through decree No. 789 of 10 August 1981¹²².

417. Under article 25 of the Universal Declaration of Human Rights:

“(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”.

418. In the context of friendly collaboration, a technical cooperation agreement has been signed by Chile and Nicaragua for the prevention of disability in infancy and for early detection and treatment.

419. The Convention on the Rights of the Child was signed and ratified by Nicaragua on, respectively, 6 February and 5 October 1990. It regulates children's rights in respect of, inter alia, health, education, justice and employment. The optional protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, was adopted through decree No. 37-2002. The accession decree was published in the *Official Journal No. 82*, 6 May 2002.

420. Nicaragua has ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belém do Pará”)¹²³, which defines

¹²¹ *Official Journal No. 122*, 28 June 1999.

¹²² *Official Journal No. 191*, 25 August 1981.

¹²³ Adopted through decree No. 1015 of 3 August 1995, *Official Journal No. 179*, 26 September 1995.

violence against women as “any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere”.

421. The Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities was ratified by Nicaragua through decree No. 60-2002, adopted on 18 June 2002¹²⁴. That ratification was a significant step for the persons concerned. The convention stresses that persons with disabilities shall have the same fundamental human rights and freedoms as other people; and that those rights, including the right not to suffer discrimination based on disability, derive from the dignity and equality inherent in all human beings.

422. Nicaragua has ratified the Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labour (ILO Convention No. 182), in the context of other international instruments aimed at protecting children at work.

423. The following progress has been made with regard to the prevention and elimination of child labour:

(a) On 13 June 1996, Nicaragua signed a memorandum of understanding with the ILO to join ILO-IPEC;

(b) The Creation of the National commission for the progressive eradication of child labour and protection of the adolescent worker (CNEPTI) was approved through decree No. 2297 of the 10 April 1997;

(c) A National strategic plan for the progressive eradication of child labour and protection of adolescent workers was officially presented on 1 June 2000. The main thrusts of the plan are the following: Education, health, the family, research, legislation, organized participation of all social sectors, and awareness raising. An evaluation of the plan for the period 2001-2006 is being completed with a view to drawing up the plan for the period 2007-2016.

424. A number of agreements and treaties, ratified by Nicaragua, for the protection of rights related to the family are referred to in the basic document of this report.

C. The family

1. Definition

425. In Nicaragua, the significance of the family is recognized in the legislation. Under article 70 in chapter IV of the Constitution “the family is the fundamental nucleus of society and shall have a right to protection by society and by the State”. Moreover, the following more specific definition provided in CNA highlights the protection to which the family is entitled:

“The family is the natural and fundamental nucleus for the growth, development and comprehensive well-being of children and adolescents. Consequently, the family shall

¹²⁴ *Official Journal No. 121*, 28 June 2002.

fully take on the related responsibilities, providing children and adolescents with care and ensuring their education, rehabilitation, protection and development¹²⁵.”.

426. Under article 71 of the Constitution, “Nicaraguans shall have a right to establish families. Family inheritance, which shall not be subject to seizure and shall be exempt from all public levies, shall be guaranteed. The law shall regulate and protect those rights. Children shall enjoy special protection and all the rights that their status may require. To that effect, the international Convention on the Rights of the Child shall be fully applicable”.

427. Under Nicaraguan law, the family shall be based on marriage and stable de facto unions, both of which shall be legal institutions protected by the State. These forms of union shall rest on voluntary agreement between a man and a woman and may be dissolved by mutual consent or by the will of one of the parties.

428. Under article 73 of the Constitution, “family relations shall rest on respect, solidarity and absolute equality of rights and responsibilities between man and woman. Parents shall attend to the maintenance of the home and the comprehensive development of the children through joint efforts, with equal rights and responsibilities. The children shall be obligated, as well, to respect and assist their parents. These duties and rights shall be fulfilled in accordance with the relevant legislation”.

429. Clearly, emphasis is put on gender equality and equity, which must characterize all household-based relations and responsibilities and on free and full consent as a prerequisite for entering into marriage.

2. Body in charge

430. MIFAMILIA¹²⁶ was created in 1998. Under article 29 of act No. 290 on the organization, powers and procedures of the executive branch of Government¹²⁷, its mandate comprises the following functions:

(a) Adopting or reforming public policies contributing to the development of the family, the promotion of gender equality and comprehensive care and protection of children and adolescents;

(b) Coordinating the implementation of the national policy for comprehensive care and protection of children and adolescents;

(c) Managing PNEG through INIM;

¹²⁵ CNA, art. 6.

¹²⁶ In 2007, its name changed from “Ministry of the Family” to “Ministry of the Family, Children and Adolescents”.

¹²⁷ Cf. Act No. 612 of 24 January 2007 (*Official Journal No. 20*, 29 January 2007) amending Act No. 290.

(d) Drawing up policies, plans and programmes ensuring maintenance and women's participation in the country's political, economic and social activities on an equal opportunities basis;

(e) Supporting projects and programmes promoting gender equality and comprehensive care and protection of children and adolescents;

(f) Promoting the participation of civil society in the areas of family development, gender equality and comprehensive care and protection of children and adolescents;

(g) Proposing and implementing policies promoting attitudes and values that contribute to the comprehensive care and protection of children and adolescents;

(h) Facilitating the implementation of comprehensive measures for assisting vulnerable population groups, destitute and abandoned children, older people and persons with disabilities in seeking self-support solutions;

(i) Supporting and defending life from conception in the womb through natural death (namely, promoting and defending the right to life);

(j) In its areas of responsibility, proposing preliminary draft laws, decrees, regulations and resolutions in accordance with the procedures laid down in the Constitution and other laws with a view to promoting gender equality and comprehensive care and protection of children and adolescents;

(k) In its areas of responsibility, performing any other tasks assigned to it by the law or the President of the Public.

431. Under article 92 of CNA, MIFAMILIA is the supervising authority for all Government bodies and NGOs responsible for protecting children and adolescents in homes, shelters, centres and villages under their care.

3. Statutory ages for various purposes

432. Currently, the following acts, among others, are each subject to a different minimum age: Marrying, being employed, leaving education, seeking medical or legal advice, undergoing medical treatment or surgery without parental consent, and voluntarily enlisting in the armed forces.

433. The rest of this section discusses certain minimum age requirements.

(i) Citizenship

434. Article 47 of the Constitution establishes 16 years as the minimum age for being considered as a citizen and, therefore, for exercising the political rights implicit in that status, including participating in elections.

(ii) Legal and medical counselling, medical treatment or surgery without parental consent

435. There is no legal provision governing cases where parental consent has not been obtained. Parents are the natural legal representatives of their children.

(iii) End of compulsory education

436. Under article 11 of the primary and secondary education regulations, only pupils aged under 15 may enrol in daytime primary school and those who are older shall enrol in accelerated evening classes.

(iv) Admission to employment, including hazardous work

437. CNA bans the employment of children and young persons for any type of work. Businesses, individuals and corporate bodies may not take on children aged under 14. Under the labour code, persons aged 16 and over have the legal capacity to enter into contracts, while young people aged 14 or 15 may enter into an employment contract only with the consent of their parents.

438. Under article 74 of CNA, young persons may not perform any type of work in places which are unhealthy or pose a risk to their life, health or physical, mental or moral safety, such as work in mines, underground, at waste disposal sites or in night-time entertainment centres, work involving the handling of toxic or psychotropic objects or substances, and night-shift work in general.

(v) Part-time and full-time work

439. The minimum age for work is set at 14 under article 131 of the labour code. Article 134 (e) lays down that the working day shall not exceed 6 hours and the working week 30 hours. Article 134 (g) specifies that children shall arrange and schedule their schooling in a manner compatible with the requirements and conditions of their work.

(vi) Marriage

440. Under the civil code, boys of 15 and girls of 14 may enter into marriage with the permission of their parents, and males aged 21 and females aged 18 without such permission.

(vii) Sexual consent

441. Under act No. 150, amending the criminal code, a lack of consent is presumed when the victim is aged under 14.

(viii) Voluntary enlistment in the armed forces

442. The minimum age is 18, subject to parental consent.

(ix) Conscription into the armed forces

443. The minimum age is 18.

(x) Participation in hostilities

444. The minimum age is 18.

(xi) Criminal responsibility

445. Under article 95 of CNA, young persons shall bear criminal responsibility if they are aged between 13 and 18 at the time when they commit an act classified as a serious or minor offence in the criminal code or in special laws.

(xii) Deprivation of liberty, including by arrest, detention and imprisonment

446. Young people aged between 15 and 18 who are charged with a minor or serious offence shall be liable to the measures stipulated in section III of CNA, while those aged over 13 but under 15 who are charged with a minor or serious offence shall be liable to any of the measures stipulated in section II of the code, or those stipulated in section III, with the exception of deprivation of liberty.

447. Article 95 of CNA institutes a special system of criminal justice under which young persons aged between 15 and 18 shall be placed in custody in special centres as a last resort. No measure involving deprivation of liberty in such centres may be imposed on those between 13 and 15 years of age; such measures shall be replaced by probation or house arrest.

Under article 103 of CNA, “no young person may be subjected to arbitrary or unlawful detention or imprisonment or be deprived of his or her liberty except on grounds laid down in the law”. Under article 142 of CNA, “pre-trial detention shall be an exceptional measure which applies to offences which are punishable by custodial terms, only when it is not possible to apply a less severe measure.”.

(xiii) Capital punishment and life imprisonment

448. Capital punishment does not exist. Under articles 203 and 206 of CNA, the maximum custodial term shall be six years for young offenders.

(xiv) Giving testimony in court, in civil and criminal cases

449. Only a judge may authorize young persons to testify in civil and criminal cases. Young persons wishing to appear as an individual plaintiff or complainant shall be legally represented, failing which the court shall appoint a guardian *ad litem*.

(xv) Appearing before a court in a criminal case

450. Under-age witnesses shall be authorized to testify by a judge. Under-age complainants shall be assisted by a legal representative or guardian. They shall bring complaints through their legal representatives, but may testify as witnesses if they have been victims of violence or a sexual offence.

(xvi) Participating in administrative and judicial proceedings affecting the child

451. Under article 17 of CNA, children and young persons shall be entitled to be given a hearing in all administrative and judicial proceedings affecting the rights, freedoms and safeguards they enjoy, either in person or through a legal representative or the competent authorities.

(xvii) Giving consent to change of identity, including change of name, modification of family relations, adoption and guardianship

452. The consent of a child to be adopted is required from the age of 7.

(xviii) Legal capacity to inherit, to conduct property transactions and to create or join associations

453. Under article 982 of the civil code, inheritance shall be limited to persons living at the time of opening of the succession.

454. Under article 985 of the civil code, the conditional incapacity of a guardian to inherit or carry out transactions on property from a minor who has not reached full age and capacity, unless he/she has relinquished the role of guardian and has given an account of that role, or is related to the minor.

(xix) Consumption of alcohol and other controlled substances

455. Article 66 of CNA prohibits the proprietors of establishments and other persons from selling or supplying alcoholic drinks, tobacco, narcotics, toxic substances, inhalants, hallucinogens and substances regulated under current laws and regulations, as well as substances which produce physical or psychological dependence, to children or young persons for any reason.

4. The right to enter into marriage and found a family

456. The right to free enter into marriage is enshrined in article 72 of the Constitution, worded as follows: "Marriage and stable de facto unions shall be protected by the State. They shall rest on voluntary agreement between a man and a woman and may be dissolved by mutual consent or by the will of one of the parties. The law shall regulate this matter".

457. As already mentioned, the minimum age, under the civil code, for entering into marriage without parental consent shall be 18 for women and 21 for men.

458. Under article 93 of the civil code, marriage shall be "a solemn contract uniting a man and a woman for life and aimed at procreation and mutual assistance". Accordingly, marriage shall meet the validity requirements for any type of contract, and one such essential requirement is the contracting parties' consent.

459. Act No. 38 of 28 April 1988 on the dissolution of marriage at the request of a spouse, which made unilateral divorce possible, constituted significant progress. Before its adoption, civil law allowed for divorce by mutual consent subject to the fulfilment of certain conditions, while unilateral divorce was impossible.

460. Article 1 of act No. 38 is worded as follows: "A civil marriage shall be dissolved: (1) By death of one of the spouses; (2) By mutual consent; (3) By will of one of spouses; and (4) By an enforceable judgment declaring the marriage null and void.". The expression of the wish of either party to have the marriage dissolved shall constitute sufficient grounds for a judge to terminate the marriage.

461. Act No. 38 is complemented by decree No. 1065 of 24 June 1982¹²⁸, the parent-child relations act, and by act No. 143 of 22 January 1992 on maintenance allowances¹²⁹. These two instruments safeguard the interests and well-being of minors, establish the parents' reciprocal and equal responsibilities with regard to children and contain provisions regarding stable de facto unions.

462. Stable de facto unions, specifically recognized under act No. 143, shall have the following characteristics: (1) Coexistence during a period of time that the judge considers to be sufficient; (2) Existence of an agreement, social consideration and conjugal harmony that the judge considers convincing evidence of the intention to form a household. Nicaraguan law recognizes this type of family for purposes of support liability, inheritance and other out-of-wedlock civil law issues. The special protection granted to the family by the State is not contingent on marriage but derives from parent-child relations.

463. The parent-child relations act gives both parents equal rights and responsibilities for the care, nurturing, education and maintenance of their children. All children shall have equal rights, meaning that no discriminatory designations may be used with respect to filiation. However, there is still no law specifically establishing women's right to decide freely and responsibly on the number and spacing of their children.

464. The Constitution guarantees the right to inherit family property, which is immune from seizure and free of any public tax. However, there is as yet no implementing act on family property to fully apply that provision of the Constitution.

465. According to national statistics, the proportion of households headed by women is 28 per cent at the national level, 31 per cent in urban areas and 18.5 per cent in rural areas. In the urban areas, 35 per cent of children and adolescents under 15 do not live in the same household with their father. In other words, many of the fathers concerned are oblivious to how the children live, leaving the responsibility to the mother and other family members. According to the 1998 Nicaragua Demography and Health Survey (ENDESA) conducted by INEC¹³⁰, 25 per cent of children live only with their mother, while 10 per cent of children live with neither parent.

5. Measures for ensuring family care and protection¹³¹

466. MIFAMILIA bases its prevention and assistance activities in the sectors concerned on a comprehensive care model, described below.

¹²⁸ *Official Journal No. 155*, 3 July 1982.

¹²⁹ *Official Journal No. 238*, 24 March 1992.

¹³⁰ MIFAMILIA contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR. Based on data provided by INEC.

¹³¹ MIFAMILIA contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

(i) Prevention

(a) Prevention activities are carried out in priority communities in cooperation with families, Government bodies, NGOs and civil society with a view to reducing the social risk situations to which children and adolescents are exposed. These activities are primarily aimed at developing the human capital, strengthening the family and promoting community participation in identifying alternative solutions for the most vulnerable population groups.

(b) The following prevention strategies are developed:

- (i) *The psycho-social risks prevention model*: This community-based model, called “MIFAMILIA-Chimalli”, aims at preventing risks linked inter alia to drugs, commercial sexual exploitation, and domestic and social relations. Taking an ecological and proactive approach, it seeks to transform environmental conditions and identify appropriate solutions;
- (ii) The objective of the above approach is the diagnosis of psycho-social risks in specific communities and the development of an action plan for promoting and strengthening the factors of defence among children and in the families in order to contribute to reducing those risks;

(c) *Family advisers*: Family advisers are selected by the MIFAMILIA local units, through the voluntary social service programme and the network of outreach workers, and receive workshop training in providing psycho-social counselling to the target population;

(d) *Outreach workers*: This network is being reinforced with the addition of ten outreach workers to each of the 24 local units of MIFAMILIA. The task of outreach workers is to provide support for the implementation of preventive action in the communities concerned;

(e) *Adolescents' clubs*: Resources are made available for care for children and adolescents in the clubs in question, which include recreation, culture and sports areas and where interest groups are formed and psychological and preventive health counselling is offered. The clubs cover three areas: Counselling, library services and culture;

(f) *Parents' schools*: These schools, attended by fathers and mothers, aim at promoting exchanges with regard to family dynamics with a view to enhancing communication and integration towards better understanding the causes and consequences of violence against women and children, avoiding the power abuse that leads to that violence and ensuring that violence victims receive fair treatment.

(ii) Comprehensive care

467. MIFAMILIA develops comprehensive care for children, adolescents and families in situations involving drug addiction, child labour, commercial sexual exploitation, potential disability and juvenile violence. The objective is the improvement of psycho-social conditions by giving priority to activities strengthening the family and the participation of the community in the development of the human capital within the population concerned.

468. The implementation of comprehensive care relies on the specific methods and measures described below.

(a) *Attraction and integration process*: This method is implemented through the 24 local units of MIFAMILIA, which organize visits to high-risk places (including traffic lights, markets, public areas, bars, bus stops and border-crossings) for awareness raising, selection, attraction and referral to public and non-governmental institutions with a view to comprehensive care. The process terminates with an individual diagnosis, social report and care plan, leading to the next process;

(b) *Referral, counter-referral and follow-up of persons under care*: Through mechanisms of coordination with MINSA and NGOs, health services are provided to the persons concerned in the areas of primary health care, psychosocial care and rehabilitation. Financial arrangements are made to provide funding for specialized tests and the purchase of medicines in emergency cases;

(c) Enrolment, retention and promotion of the persons concerned in formal education and training are pursued in cooperation with MECD. School kits and materials are distributed (including notebooks, pencils, a uniform, school footwear and a backpack);

(d) Technical-labour training consists of a comprehensive training package for adolescents, fathers, mothers or guardians in agricultural work, food processing, manufacturing and services, among others skilled trades demanded on of the labour market. Training is provided during six to 12 months every year. The package includes financial support or purchase-linked allowances for, inter alia, transport, food, learning equipment and supplies;

(e) Integration into the labour market: The above phase is followed by a process of inter-agency and intersectoral coordination intended to facilitate the integration of the persons trained with a view to improving their standard of living;

(f) Integration of children and adolescents into cultural, recreational and sports activities is pursued in coordination with mayors' offices. Sports equipment is provided and resources are made available for cultural and recreational events on the occasion of children's week and on other occasions;

(g) Work with the family consists in raising the fathers' and mother's sense of responsibility and transmitting new personal, family and social values. Moreover, domestic violence is addressed with a view to encouraging a culture of peace and strengthening family relations through increased awareness of the rights and duties of children and adolescents.

(iii) Social and special protection programmes and projects

469. In Nicaragua, progress has been made from social assistance to social protection aimed at recovering and building the human and productive capabilities of persons facing vulnerability and social and economic risks or crises. This development involves a paradigm shift away from the hand-out approach to the above form of social protection. The policies followed by earlier Governments towards vulnerable groups were based on the social assistance concept and were

carried out within an institutional context that was fragile and fragmented into various Government entities, one of which was MIFAMILIA.

470. Progress has been made in the period 2002-2006 in defining strategic thrusts for action in the area of vulnerable group protection. The social protection policy was formulated and approved in 2003. Moreover, to ensure the effectiveness of activities carried out under that policy, a national social protection system was designed under the name of “Solidarity” with a view to encouraging cooperation, coordination and synergy among programmes and projects aimed at the protection of the most vulnerable groups. It is expected that this initiative will rationalize expenditures, reduce redundancy, maximize programme effectiveness and make access to social protection schemes more equitable.

471. Various bodies have carried out social protection programmes in the form of projects, implemented with external financing. With a view to the rationalization of resources and the sustainability of that type of programmes, the Government adopted in 2005 a social protection five-year plan for 2005-2009, coordinated by MIFAMILIA. Building institutional capacities for social protection and strengthening the central role of MIFAMILIA are approaches that have been proposed for developing “Solidarity”.

472. Measures taken for the implementation of the above plan include the establishment of a “Solidarity” inter-agency technical committee for development and of a “Solidarity” executive coordination unit within MIFAMILIA, designed to facilitate dialogue and coordination between the Government, the community of voluntary workers and civil society.

473. The activities developed by MIFAMILIA in the area of social and special protection are classified into five major categories based on the groups addressed:

- (a) Vulnerable children under six;
- (b) Children over six and adolescents;
- (c) Children aged 1 to 18 reinstated in their rights;
- (d) Vulnerable women in childbearing age;
- (e) Vulnerable persons receiving social assistance (including the elderly and war and disaster victims).

(iv) Development of social and special protection programmes and projects

474. The state of development of the social and special protection programmes and projects designed by MIFAMILIA is as follows:

- (a) The responsible parenthood policy has been drawn up;
- (b) That preliminary draft of the responsible parenthood act has been drawn up and is currently under consideration for adoption by the National Assembly;
- (c) The National policy for the elderly document has been drawn up and the respective action plan is in the drafting stage, as its strategic directions are being reviewed by the technical committee of CNAM;

(d) The policy on care for persons with disabilities has been discussed with other public bodies and other actors.

475. According to MIFAMILIA, it is still necessary to create the preconditions for an efficient, effective and decisive development of human capital in order to reduce inequality and poverty. The effort for universal implementation of key social programmes (in the areas of education, health, housing, water and security) should continue, with emphasis on the poor. Those activities should be strategically combined with programmes focused on the protection of vulnerable and high-social-risk groups. Investment in human capital among the poor and the development of the social and special protection system among vulnerable groups are complementary components contributing to the country's economic and social development.

D. Maternity

1. Legal framework

476. Maternity, or “the process of human reproduction” as the Constitution calls it, enjoys special protection by the State and its coverage and regulation are based on the legal provisions referred to below.

(i) Constitutional provisions

477. Article 74 of the Constitution, serving as a basis for the system of special protection of maternity, is worded as follows: “The State shall provide for special protection of the process of human reproduction. Women shall enjoy special protection during pregnancy and shall be granted maternity leave with pay and all appropriate social security benefits. No one may deny employment to women on grounds of pregnancy or dismiss them during pregnancy or the post-natal period, in conformity with the law.”

(ii) Children and adolescents code

478. Under article 34 of CNA, “every pregnant woman is entitled to prenatal, perinatal and post-natal care through the public health system”. This provision introduces the concept of perinatal care and the obligation of the public health system to provide care for any type of pregnancy, regardless of the occupational or social security status of the women concerned.

479. The provisions specify the obligations of hospitals, health units and other private and public maternity and childcare centres with regard to human reproduction, stressing that the State must act in the public interest in that area.

480. In view of the nutritional importance of breastfeeding for children's development, the protection of maternity by the State extends through that period. Accordingly, under article 35 of CNA, “the State, through the appropriate institutions, and all employers shall have an obligation to provide appropriate conditions for breastfeeding, including to mothers in detention. In that period, children shall not be separated from their mothers, unless the best interests of the child so dictate”.

(iii) Labour code

481. In the area of employment, maternity is protected in various ways, including prenatal and post-natal leave, prohibition of dismissal and various obligations for employers during breastfeeding. The relevant provisions are contained in labour code title VII (on women's employment), chapter II (on the protection of working women's maternity).

482. Under article 140 of the code, “employers may not allow pregnant women to continue to carry out work or tasks detrimental to their pregnancy. In such cases, employers shall provide pregnant women with work that does not adversely affect that biological process, at a pay level not less than the one the employee normally received prior to the pregnancy. Following the birth, employers shall allow such employees to return to their previous post at the pay level currently in force”.

483. As already indicated in relation to article 9, prenatal and post-natal leave amount to, respectively, four and eight weeks. Post-natal leave is 10 weeks for a multiple birth. The period of maternity leave, paid at the latest or highest prior wage rate, shall count as time worked for the purposes of seniority, annual leave and the thirteenth-month bonus. It shall be compulsory and its provision shall be an obligation of the employer.

484. As previously mentioned, legal protection extends through breast-feeding. The employer must make available to breastfeeding workers an adequate place and chairs or seats. In establishments where more than 30 women work, the employer must build or fit out an appropriate area where a nursing mother is entitled on a daily basis to breastfeed during 15 minutes for every three hours worked. Breast-feeding time counts as time on the job.

485. A worker who is pregnant or on post-natal leave may not be dismissed except on legitimate grounds previously found acceptable by MITRAB.

(iv) Social security organizational law

486. Under article 95 of the social security organizational law in force since 1982, a maternity allowance is granted in view of a pregnant woman's temporary inability to work. This “maternity leave allowance shall be equal to 60 per cent of the average weekly remuneration ... and paid during the obligatory leave period of four weeks preceding and eight weeks following childbirth”.

487. The presumed due date shall be determined by the medical unit attesting the pregnancy and shall serve as reference date for the granting of benefits.

488. In the event that childbirth occurs after the presumed due date, prenatal rest shall be prolonged to the actual childbirth date without reducing the post-natal leave period of eight weeks. Where the childbirth occurs before the presumed due date, the difference shall be added to that post-natal leave period.

489. Payment of a nursing allowance during the first six months of the infant's life is provided for in order to encourage breast-feeding.

490. In the case of breastfed babies, the paediatrics service shall supply the appropriate products to keep their mothers in good health; and, in the case of babies who are not breastfed, the milk given shall preferably be of the quality, quantity and type determined by the paediatrics service.

491. In either case, the mother may be given cash to the value of the product rather than the product itself. In the interest of the child, the nursing allowance may be granted to a person other than the mother, looking after the newborn. The allowance shall be suspended if the mother or the person replacing her does not take the child for the periodic check-ups ordered by the paediatrics service.

492. After maternity leave, the mother shall again take up her previous work, at the same post and pay level that she had before.

(v) Act on the promotion, protection and maintenance of breastfeeding

493. Act No. 295 of 10 June 1999 on the promotion, protection and maintenance of breastfeeding and the regulation of the commercialization of breast-milk substitutes entered into force on 28 June 1999. This act helps to ensure that the right to nutrition enshrined in the Convention on the Rights of the Child is respected in Nicaragua. The objective of the act is to establish the measures needed to protect, promote and support breastfeeding, which significantly improves infants' nutritional state. The act also regulates the sale of breast-milk substitutes.

2. The situation of maternity in the country¹³²

494. Of the 442,152 persons insured as of November 2006, 200,336 were women, accounting for 45.31 per cent of the total number of contributors¹³³. The benefits provided by INSS are granted, under the social security organizational law, for sickness and maternity, disability, old-age and death (IVM) and for occupational hazards (RP).

495. Approximately 82 per cent of EAP have no social security. Women are estimated to account for the same percentage of uninsured and insured workers.

496. Based on denunciations confirmed by labour inspectors, there are three female labour force categories, namely, domestic, pregnant and agricultural sector workers, whose rights are infringed with particular frequency by employers.

497. During the period covered by this report, the women with least access to the protection measures in question have been those employed in the informal and domestic services sectors. In many cases, they do not even receive the minimum legal wage, let alone enjoying social security coverage. As employers often do not register them with social insurance, they lack access to adequate medical prenatal, childbirth, post-natal and childcare services. Worse, too often they are illegally dismissed when the employer is informed of their pregnancy. The State has therefore developed mechanisms for handling this problem. The citizens in question may turn to the INSS inspection units, which then compel employers to insure their employees.

¹³² INIM contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

¹³³ Ibid.

498. In the rural areas, female workers in the agricultural sector are also deprived of the special maternity protection to which they are entitled. Often exposed during pregnancy to long working days without the necessary leave, minimum wage or social benefits, they lack adequate nutrition and are arbitrarily dismissed by their employers.

499. In certain cases, women working in the processing industry are refused the time necessary for monthly checks and maternity leave. Nevertheless, CZF has, at the national level, provided information on the significance of the maternity protection plan, which comprises:

- (a) A three-month allowance equal to 60 per cent of the mother's wage, before and after pregnancy;
- (b) Breastfeeding benefits during the first six months of the infant's life;
- (c) Paid 30-minute breastfeeding pause every three hours;
- (d) Prenatal, childbirth and post-natal medical care;
- (e) Medical care of the child up to age 12.

(i) Measures for expanding the coverage of maternity-related services

500. In the light of the first follow-up report on the implementation of the National plan of action for children and adolescents, 2002-2011, the goal set with regard to prenatal control coverage is an increase by 15 per cent by 2011. At the end of 2001, 2002 and 2003, that rate was on the average, respectively, 70, 68 and 70 per cent. The increase by 2 per cent between 2002 and 2003 was achieved by supplying the inputs necessary for improving the coverage in question.

501. In an effort to collect more accurate data on maternal mortality, in 1996 the MINSa began implementing a maternal mortality surveillance system throughout the country. The Ministry continued to implement the system between 1999 and 2002, with a view to developing effective measures to fight this scourge. Positive results included improved accuracy in data collection and in the registration of home and hospital deaths.

502. Despite the substantial progress made, the Ministry recognizes that maternal deaths are under-recorded. In some cases, this is because the deaths occur at home and are not reported. Furthermore, the majority of maternal deaths in rural areas are related to the geographical inaccessibility of health-care services.

503. Pregnancy-related mortality was a major health problem during the period under review. Official data on female mortality due to pregnancy, childbirth or post-partum complications show an average of 144 deaths per year between 1992 and 2002. Of the total number of maternal deaths recorded between 2000 and 2002, 72 per cent occurred in rural areas. Although violence against women is a cause of death in both rural and urban areas, rural women are affected by additional factors such as poverty, malnutrition, lack of education and geographical inaccessibility of health services.

504. In an effort to improve the health situation of Nicaraguan women, MINSa included a safe motherhood initiative in its maternal mortality reduction plan. The strategies to be used to address this important public health problem include:

- (a) Increasing the availability of contraceptives and family planning information with a view to reducing the number of children per woman, spacing pregnancies and reducing the number of pregnancies in young girls and older women;
- (b) Improving the quality of prenatal care;
- (c) Ensuring that skilled personnel are available to provide obstetric care in health units, hospitals, health centres and health stations;
- (d) Providing emergency obstetric care;
- (e) Training traditional birth attendants.

505. Most maternal deaths are directly due to obstetric complications. Of the 146 maternal deaths recorded in 2002, 116 were due to obstetric causes and 30 to non-obstetric causes.

506. The goal set with regard to the number of children delivered in hospitals and clinics is to increase that rate by 15 per cent by 2011. The rates achieved in 2001, 2002 and 2003 were, respectively, 53, 48 and 50 per cent.

507. With support from agencies and projects and through the public investment fund, first- and second-level health care units have been equipped for emergency obstetric services and have been provided with equipment and medical and non-medical supplies for normal deliveries. The quality level of the care received by the mothers and infants at the second-level units is monitored by means of appropriate standards, indicators and partograph use during labour.

E. Children and adolescents

1. Legal framework

508. The Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989, was signed and ratified by Nicaragua on, respectively, 6 February and 5 October 1990 and raised to constitutional rank by the National Assembly in 1995 through an act partially amending article 71 of the Constitution.

509. In September 1990, at the World Summit for Children held in New York, Nicaragua signed the World Declaration on the Survival, Protection and Development of Children in the 1990s.

510. The plan of action highlights the importance of the following three documents, on which it is based:

- (a) Convention on the Rights of the Child;
- (b) World Declaration on the Survival, Protection and Development of Children;
- (c) Convention on the Elimination of all Forms of Discrimination against Women.

511. Progress was made, in accordance with the recommendations of the Committee on the Rights of the Child, through the creation, in August 1997, of the National commission for the progressive eradication of child labour and the protection of under age workers, which was attached to MITRAB.

512. CNA (Act No. 287) establishes in all of the relevant Nicaraguan legislation the principle of the best interests and State protection of the child, in line with the Convention on the Rights of the Child. CNA served as a basis for a number of national bodies and plans aimed at providing comprehensive assistance to children and adolescents.

513. CNA provides for all of the rights contained in the Convention on the Rights of the Child and ICESCR, such as the rights to equality; protection against all forms of economic, sexual or social exploitation; and physical, mental and moral integrity.

514. The provisions of the Constitution, the labour code and CNA regarding issues related to children and adolescents are consistent with the spirit of the Convention on the Rights of the Child and ICESCR.

515. Under article 84 of the Constitution, “child labour in tasks that can affect normal development or the obligatory instruction cycle shall be prohibited. Children and adolescents should be protected against any form of economic and social exploitation”.

516. As indicated above, CNA sets the minimum age for working and clearly states that businesses, individuals and corporate bodies may not hire children under the age of 14.

517. Article 74 of CNA also provides that young persons may not perform any type of work in places which are unhealthy or pose a risk to their life, health or physical, mental or moral safety, such as work in mines, underground, at waste disposal sites or in night-time entertainment centres, work involving the handling of toxic or psychotropic objects or substances, or night-shift work in general.

518. In its articles 131 to 137 (title VI, entitled “Work of children and young persons”), the labour code, which has been in force since 31 December 1996, expressly prohibits work by children under the age of 14 and regulates the conditions in which young persons may carry out their work duties.

519. MITRAB can draw on other legal instruments which supplement the legal framework for child labour, including:

(a) The Regulations for Labour Inspectors, 1997 (decree No. 13-97), which include inspectors' duties regarding child labour;

(b) A ministerial decision on the authorization and regulation of private employment agencies, which requires the latter to comply with the labour code and prohibits them from acting as intermediaries between employers and children;

(c) An inter-ministerial decision on minimum measures for the protection of seafaring workers, which prohibits the hiring of children under the age of 16 to perform activities related to work at sea;

(d) A ministerial decision on work in Nicaragua's free-trade zones, which prohibits the hiring of children under the age of 14e.

520. Article 1 of the 1981 act on adoption takes the best interests of the child as the paramount consideration, stating that adoption should be exclusively in the interests of the all-round

development of the child. CNA states that the best interests of the child should be paramount in the implementation of special protection measures.

2. The situation of children

(i) Latent problems

521. Of the children and adolescents under 18, who account for 49.4 per cent of the Nicaraguan population, 50.5 per cent are boys and 48.4 per cent are girls. Nicaragua has the lowest population density in Central America (42.7 inhabitants per km²). Of the total population, 54 per cent live in areas classed as urban, and the estimated growth rate for the period 2000-2005 is 2.6 per cent¹³⁴.

522. Poverty is still the main problem, with 45.8 per cent of the population living below the poverty line, including 15.1 per cent living in extreme poverty. Furthermore, over 30 per cent of poor children and 40 per cent of extremely poor children suffer from malnutrition.

523. The many events that have occurred in Nicaragua in the last two decades, including natural disasters, armed conflicts and structural adjustment policies, have seriously affected the national economy. The greatest impact of that consequence has been on the families of the poorest sectors, mostly in the rural areas. As a result, a large part of the rural population has swelled the numbers of the already crowded marginal urban sectors, creating new shantytowns in the city outskirts, mainly on the periphery of department capitals and Managua. Others remained in the countryside, facing the above effects in conditions of poverty and with few or no opportunities.

524. In view of this ever greater deterioration of socio-economic conditions confronting the families in the least protected sectors (the rural and marginal urban population), ever more children and adolescents every day formally or informally join the labour force in the country's various regions, as a survival strategy, in order to help their families to subsist.

525. The situation of the poor families in the country, to which the working children and adolescents belong, is characterized by, inter alia, unemployment, few opportunities for adequately remunerated employment, lack of the resources that they need in order to work, lack of schooling, wages too small to meet basic needs, exclusion from social programmes (in the areas of health, education, housing and basic services) because of limited coverage, and domestic violence.

526. The same factors have largely contributed to the disintegration of the family in the poorest sections of the population. As a result, many children under 14 lack a permanent home and parents or guardians ensuring their security and well-being. To survive, sometimes they work in the formal sector. Mainly, however, they join the informal economy, engaging in activities that escape control and in some cases are even invisible.

527. As in most countries in Latin America and the world, the main causes of child labour in Nicaragua are directly linked to the deplorable economic and social conditions faced by the

¹³⁴ CONAPINA, "First follow-up report on the implementation of the National plan of action for children and adolescents, 2002-2011".

population, mainly in the rural areas and the marginalized urban sectors. Some of those conditions are the following¹³⁵:

- (a) High illiteracy rates;
- (b) Inadequate relevance, equity and quality in education;
- (c) Insufficient investment in the social sector (health, education, housing and infrastructure);
- (d) Ever faster decline of small- and medium-scale agriculture;
- (e) High unemployment, underemployment and poverty rates in the rural areas;
- (f) Decreasing purchasing power of wages;
- (g) Macroeconomic policies for structural readjustment;
- (h) Migration from the countryside to the cities and abroad for lack of employment opportunities;
- (i) Parents' and society's failure to size up the phenomenon of child labour, which is viewed part of the solution to the problem of family poverty.

528. Moreover, private employers take advantage of the above situation. To them, child labour is an abundant source of manpower that is extremely cheap, since it allows them to pay substandard wages and avoid making employment-related commitments or providing social benefits. This phenomenon escapes control because financial constraints prevent the State from adequately monitoring employment conditions throughout the national territory.

529. The lack of employment opportunities, the inadequate creation of jobs at a satisfactory income level, mainly in the rural areas, and wages that do not permit meeting the basic needs have brought about increasing emigration of adults, adolescents and children, mainly to neighbouring countries, where, although opportunities may be slightly better, those emigrants are subject to exploitation and abuse. Although no specific study has yet been undertaken regarding the incidence of emigration on infantile labour, it is generally known that the responsibility for the children is left to the mothers and that the older brothers or sisters must look after the younger children and the household. On this issue, the strategies provide for surveys, research and statistical studies expected to produce information on which to base relevant action.

530. Although the so-called “domestic tasks” constitute one of the frequent form of child labour, it has been difficult to reliably quantify such activities because of a lack of updated records and because often, under various pretexts and on various grounds, the relevant data are withheld or misreported.

531. According to the general opinion, however, that type of work is in most cases carried out by female children and adolescents who receive no financial remuneration but are prevented from attending school, with expectable negative effects on their development, self-esteem and ability to help themselves.

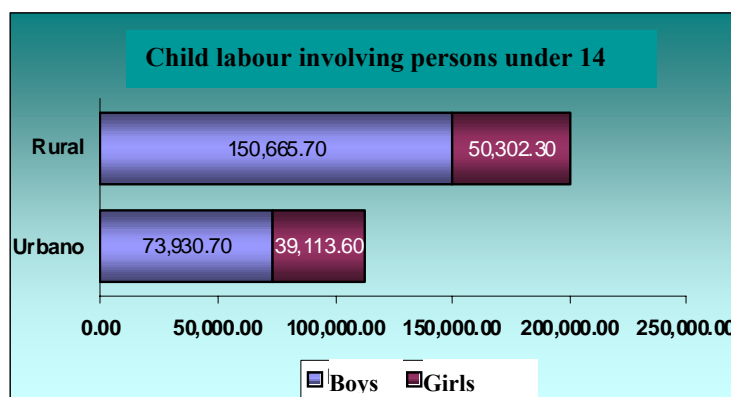
¹³⁵ National strategic plan for the progressive eradication of child labour and protection of adolescent workers, 2001-2005.

(ii) The current situation regarding child labour

532. Although the legal minimum age for employment is 14 years¹³⁶, statistical data show the existence of child labour, especially in the rural areas.

533. There are 2,046,010 children in Nicaragua and they account for 37 per cent of the country's total population.

534. According to the latest Urban and rural household survey on child labour conducted by INEC, of the 314,012 children and adolescents aged 5 to 17 who work, 224,397 (71.5 per cent) are boys; 89,615 (28.5 per cent) are girls; 74.5 per cent are aged 12 to 17; 44.2 per cent are under the minimum age for employment; 13.5 per cent are under 10; while 36 per cent are in urban and 63.3 per cent in rural areas. In the urban areas, 34.58 per cent of those children are girls and 65.42 per cent boys, while in rural areas the respective percentages are 25.03 and 74.97¹³⁷.



535. According to a recent ILO-IPEC survey, both the employers and the children and adolescents employed are largely unaware of the laws regarding child labour in general and domestic child labour in particular.

536. With regard to domestic labour, the above survey showed that the working day is 15 to 16 hours; typically, the employment agreement is oral and the task description is “to do everything”; in exchange for their services, 70 per cent of the workers said that they received some wage, while the rest were given, inter alia, food or school money; 19.2 per cent described themselves as “home daughters”; 81.6 per cent of the girls said that they felt “well” at their work but a very significant percentage presented symptoms associated with chronic depression; 59.2 per cent suffered headaches; and 23.6 per cent were “ready to cry any time”.

537. Of the above the girls, 43.2 per cent had changed jobs several times, the main causes being “too much work” (21.2 per cent) and verbal or physical abuse (13.6 per cent); 5.2 per cent had been physically abused by their employers; 57.60 per cent earned between C\$ 400 and C\$ 600 and 30.8 per cent less than CS400 per month, while the minimum monthly wage set by MITRAB at the time of the survey was of C\$830; 68.8 per cent received their wage in person and, of these,

¹³⁶ Under article 131 of the labour code.

¹³⁷ CONAPINA, “Third report on the situation of children and adolescents in Nicaragua, 1998-2002”.

47.6 per cent spent part of the money on themselves and gave the rest to their family; only 17.2 per cent kept the full wage; only 26.8 and 22.8 per cent had, respectively, the weekend or Sunday off; about half (48.8 per cent) received no vacation pay and an equal proportion did not get the Christmas bonus required by law; and 55.2 per cent wished to stop being a domestic worker. Even when innocent, the girls in question are accused of stealing missing articles and obliged to pay for broken or damaged objects¹³⁸.

(iii) Worst forms of child labour¹³⁹

538. The purpose of ILO Convention No. 182 and Recommendation No. 190 concerning the prohibition and immediate action for the elimination of the worst forms of child labour, both dated 1999, is to immediately and specifically focus on the worst forms of child labour while the broader task of eradicating child labour in all its forms continues.

539. The worst forms of child labour¹⁴⁰ are morally reprehensible practices regardless of the level or stage of development, and include the following:

(a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; and

(c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(d) Work that, by its nature or the conditions under which it is performed, may harm the health, safety and morals of the children carrying it out.

540. In both the urban and rural areas of Nicaragua, child labour takes forms that are especially dangerous to the children and often endanger their lives. Persons at highest risk in the urban areas include waste scavengers, exposed to lesions and diseases; and street workers, risking to be run over by vehicles, fall victims to rape or robbery or be involved in illegal practices (such as drug addiction, theft, prostitution and drug trafficking)¹⁴¹.

541. In the rural sector, even when safeguarded or protected by their parents, children and adolescents are exposed, inter alia, to long working days in order to meet production requirements or carry out necessary tasks, bad weather (working, for instance, in the rain, the sun

¹³⁸ “Ángel de la Guarda” issue No. 5-2002. Save the Children Norway.

¹³⁹ Ibid.

¹⁴⁰ As described in the National strategic plan for the progressive eradication of child labour and protection of adolescent workers, 2001-2005.

¹⁴¹ National strategic plan for the progressive eradication of child labour and protection of adolescent workers, 2001-2005.

or dust storms); noxious animals; long walks to the place of work; poor food; accidents with work tools; pesticide contamination or poisoning; rape or aggression¹⁴².

3. Action taken by the State in support of children and adolescents

542. The Government, in cooperation with NGOs and civil society, takes various steps and measures as part of a number of lines of action.

543. The National strategic plan for the progressive eradication of child labour and protection of adolescent workers sets out the basic strategic guidelines for a comprehensive policy on child labour. The plan is based on three strategies - prevention, eradication and protection - developed in the context of international agreements and domestic legislation.

544. The above three lines of action - prevention, eradication and protection - cut across the seven strategic areas comprised in the plan: Family, education, health, legal framework, organized and systematic participation of society at the central and local levels, registration and monitoring and research.

545. A National commission for the progressive eradication of child labour and the protection of under age workers was set up through decree No. 22-97¹⁴³ to ensure follow-up and implementation of the plan. The role of the commission is to formulate proposals and ensure coordination among the State bodies, workers' and employers' unions and civil society with a view to implementing the processing question. Its main functions are to watch over the promotion and implementation of applicable legislation and to ensure the coordination of activities and measures under the plan.

546. A significant step forward taken during the period covered by this report has been the adoption of CNA.

547. CNA provided for the creation of CONAPINA, which is attached to the Office of the President. It acts as a link between Government bodies and coordinates with the other State authorities and civil society organizations that work with children and young persons.

548. Another key State body set up under CNA in 1998 is the Child labour inspectorate, established mainly for ensuring, through its inspection programme, that no child under the age of 14 is hired and enforcing the legal provisions applicable to the protection of young workers.

549. A proposal has been made to reform title VI of the labour code so that it regulates only the work of young persons over the age of 14, with no exceptions to this minimum age. Consequently, the proposal suggests that this section should be retitled "Work of young persons". It would regulate the protection of young workers, the type of work they do and their working conditions in cases that correspond to the worst forms of child labour envisaged in ILO Convention No. 182, and would provide for penalties, in article 135.

¹⁴² Ibid.

¹⁴³ *Official Journal No. 66*, 10 April 1997.

550. Act No. 351 of 18 May 2000, organizing CONAPINA and the office of the Ombudsman for children and adolescents¹⁴⁴ was passed in May 2002, and 5,000 pocket-editions of the text were published. The implementing regulations for this act were passed by decree No. 63 of 26 July 2000¹⁴⁵.

551. The purpose of the above act was the establishment of the organization and function of CONAPINA and the office of the Ombudsman for children and adolescents.

552. CONAPINA is responsible for formulating and coordinating the implementation of the national policy for the comprehensive care of children and young persons, and fulfils its mandate with the assistance of its executive secretariat. CONAPINA is chaired by the President of the Republic or his/her representative and is made up of one delegate from each of the other institutions¹⁴⁶.

553. With regard to special protection and assistance measures for children and adolescents, taken in order to safeguard them against economic exploitation and employment on tasks detrimental to their morals or health, endangering their life or undermining their normal development, article 82 of CNA provides as follows:

“Having established a fact infringing the rights of children and adolescents, the administrative authority may, on a case-by-case basis, take protective measures within the following options:

- (a) Incorporation into a Government, non-governmental or community programme supporting families, children and adolescents;
- (b) Incorporation into a medical, psychological or psychiatric treatment programme;
- (c) Reintegration into the household with or without specialized psycho-social and/or legal supervision;
- (d) Placement with the family;
- (e) Placement in a foster home;
- (f) Incorporation into a Government, non-governmental or community programme for the rehabilitation and counselling of alcohol- or drug-dependent children and adolescents;
- (g) Placement in a children's home or shelter;

¹⁴⁴ *Official Journal No. 102*, 31 May 2000.

¹⁴⁵ *Official Journal No. 148*, 7 August 2000.

¹⁴⁶ Ministry of the Interior, MECD, MINSA, MITRAB, MIFAMILIA, MHCP, INAA, Nicaraguan Institute for Municipal Development, and Office of the Human Rights Ombudsman. There are also three representatives from the Coordinating Federation of NGOs working with Children and Young Persons, a representative of children and young persons, a representative of the Nicaraguan Red Cross and a representative of the High Council of Private Enterprise.

(h) Adoption (as an exceptional measure).”

554. In 2001, the public policy on the commercial sexual exploitation of children and young persons was drawn up, and 2,000 copies of the text were distributed in the course of 2002. The dissemination of this policy prepared the ground for the development of a national plan to combat the commercial sexual exploitation of children and young persons.

555. The National plan of action for children and adolescents, 2002-2011 was adopted in 2002. It contains the objectives, goals and activities that the State, in its various bodies, ministries and autonomous agencies, plans to carry out in order to guarantee the fulfilment of the right to a name and a nationality, the right to health and nutrition, the right to education, the right to culture and recreation, the right to water and sanitation, the rights of children and adolescents affected by natural disasters and extreme poverty, rights to special protection, the rights and guarantees of adolescents in conflict with criminal law and the right of children and adolescents to participation.

556. The main objective of the plan is the implementation of the national policy for the comprehensive care of children and adolescents with a view to ensuring full compliance with the fundamental rights of children and adolescents under CNA, so that they may live with the love, attention and care that they need early in their in life, a basic education of good quality and, as adolescents, ample opportunities to develop their individual abilities in a conducive and safe environment helping them to become responsible citizens.

557. The idea that children and young persons are full members of society and subjects of law has been reinforced in the mind of the general public. Consequently, children and young persons now have more opportunities to put forward their demands, proposals and ideas for solutions to the problems affecting them for consideration by the national and municipal authorities.

558. MIFAMILIA has developed an active policy in coordination with other bodies, partner agencies and NGOs. That policy has included the following activities:

559. The first session of a forum entitled “For a Nicaragua free of commercial sexual exploitation: Prevention and punishment” was held at Managua in April 2004. The event was organized in coordination with ILO-IPEC and the Institute of Tourism. As an outcome, a code of ethics was signed by the representatives of the country's various tourist boards, contributing to raising awareness in that sector with a view to concerted action for the elimination of the social problem in question.

560. In 2004, with UNICEF (Italy) funding, a project, entitled “Strategy for combating child and adolescent abuse, commercial sexual exploitation and trafficking in the Central American Isthmus”, was carried out and followed by a training process for specialists and community workers on the psychosocial risk prevention model.

561. With of ILO-IPEC funding and in cooperation with an NGO entitled “Asociación Quincho Barrilete”, work has been done on a pilot project on prevention and treatment of cases of commercial sexual exploitation. MIFAMILIA has contributed significant experience related to the identification, attraction and incorporation into the prevention and care system of 200 under age victims of sexual exploitation.

562. The Embassy of Netherlands provided technical and financial support for the implementation of a project entitled "Prevention, detection and treatment of the abuse and commercial sexual exploitation of children and adolescents, with emphasis on HIV/AIDS". Direct care was provided to 500 children and adolescents for five months in 10 MIFAMILIA units - including in border areas - faced with a particularly high incidence of HIV/AIDS in the target population.

563. Under the programme for the comprehensive care of children and adolescents socially at risk and through its 24 local units, MIFAMILIA attracted and treated, in 2004 and the first half of 2005, a total of 734 sexually exploited children and adolescents, providing them with psycho-social care and working with their families.

564. A National coalition against trafficking in persons has been established. Its charter was signed by 15 ministries and State agencies, 51 civil society organizations and 12 international NGOs. The objective of the coalition is to detect, safeguard, protect and rehabilitate the victims and ensure that the offenders are actually punished. That is the first time in the country's history that such a broad coalition has been formed to address a problem cutting across sectors and borders.

565. In 2004, as a member of the executive committee of the above coalition, MIFAMILIA participated in the development and implementation of that body's plan for raising awareness through the media and in the formulation of its strategic plan.

566. Nicaragua has the legal, political and technical instruments and the coordinating bodies in place with which to further improve the observance of children's and young persons' rights at the national and local levels.

567. The following table shows the development of the budget of the specific MIFAMILIA programmes for underage persons¹⁴⁷.

Beneficiary groups		PHYSICAL AND FINANCIAL IMPLEMENTATION									
		2002		2003		2004		2005		2006	
		Coverage	US\$	Coverage	US\$	Coverage	US\$	Coverage	US\$	Coverage	US\$
TOTAL		195,244	8.3	350,165	19.6	548,872	25.8	371,468	22.5	245,318	16.7 0
I.	Vulnerable children under 6, having achieved satisfactory growth and development	82,798	3.7	218,583	7.3	349,051	11.2	98,731	12	88,773	8.10
II.	Children over six and young persons having received health and education services	15,532	2.5	52,149	6.4	90,352	9.5	106,342	6.1	76,623	4.80
III.	Children and adolescents reinstated in their rights	24,278	0.7	32,343	3.5	34,447	3.1	45,074	2.1	24,536	2.20

¹⁴⁷ MIFAMILIA contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

Beneficiary groups		PHYSICAL AND FINANCIAL IMPLEMENTATION									
		2002		2003		2004		2005		2006	
		Coverage	US\$	Coverage	US\$	Coverage	US\$	Coverage	US\$	Coverage	US\$
IV.	Vulnerable women in childbearing age having received care and counselling	10,816	1.5	21,107	1.9	36,747	1.8	60,665	1.9	26,383	1.40
V.	Vulnerable persons having received social assistance	61,820	0.0	25,983	0.5	38,275	0.2	60,656	0.1	29,003	0.20

MIFAMILIA. Data as of 15 January 2007.

(i) Child development centres (CDIs)

568. In the area of childcare, social protection is made available through child development centres (CDIs) which provide attention for children aged 45 days or more but not yet having completed their sixth year of age. Children receive early learning attention up to the age of three and preschool preparation thereafter.

569. In fact, 75 per cent of CDIs were created in the 1980s in a bid to help single mothers and female heads of households who had few resources and needed to work. Most of those CDIs were set up at strategic points, such as markets and communities with a high concentration of labourers (with regard to the various CDIs, cf. annex 2, article 10). According to the latest information (December 2006 data), 3,261 children were attended at the national level in 41 CDIs, of which 30 are located in the capital and the rest in other departments.

570. Although total CDI capacity exceeds 3,500 children, the number of children actually attended is often smaller because of the following two factors:

- (a) Daily attendance rates fluctuate or are below initial registration;
- (b) Existing physical capacity is not matched by the human and material resources available for childcare.

571. The CDI budget is financed by MIFAMILIA through monthly allocations from the following two sources:

- (a) Treasury funds (institutional resources);
- (b) National lottery funds.

572. Total annual CDI allocations amount to US\$2.2 million (US\$1.5 million from source (a) and US\$0.7 million from source (b)) and are paid to 31 of the country's 41 existing CDIs.

4. Measures for promoting children's participation

573. Further to the Committee's recommendation on this subject, to the effect that "the children to be included in the National Council should take into account and represent the interests of all groups of children, especially the most vulnerable groups", it is worth pointing out once again that the Council includes a representative of children and young persons.

574. Efforts to develop these forums have continued, and have included:

- (a) The organization of children's assemblies, to facilitate contacts between children and municipal authorities;
- (b) The election of children as mayors and members of children's municipal assemblies;
- (c) Campaigns by children and young people aimed at the National Assembly and the media in connection with legislative proposals put forward in 2002 to reform CNA, with the aim of publicizing the benefits of the reform in guaranteeing the full exercise of their rights; and
- (d) The introduction of student councils, first set up in secondary schools, into primary schools.

575. In accordance with Act No. 351, the National Council is encouraging the establishment of councils of children and young persons at the national and municipal levels and in the autonomous regions.

5. Disabled children

576. Care for disabled children is governed by No. 202 on prevention, rehabilitation and equal-opportunities measures for persons with disabilities, implemented through the National Council for Rehabilitation and using a model for differentiated rehabilitation care.

577. Action taken in pursuance of Act No. 202 includes the introduction of guidelines for the prevention of disability and the promotion of comprehensive rehabilitation, the provision of physiotherapy units in 22 health centres and 18 rehabilitation services, broader coverage of rehabilitation care, the setting up of prosthetic and orthotic workshops, the conduct of training activities for professional and technical personnel working in rehabilitation, the preparation of handbooks and notebooks for disability prevention and rehabilitation, direct care for disabled children in the country's rehabilitation services, a variety of activities designed to promote community-based rehabilitation and the establishment and running of 23 early stimulation centres operating on an intersectoral basis.

578. Multi-agency awareness-raising seminars have been organized on the human rights of the mentally disabled, with participation by Government authorities, legal officials, journalists, organizations working with mentally disabled children and young people and primary and secondary health-care personnel. A technical cooperation agreement was signed by Chile and Nicaragua for the prevention of disability in infancy and for early detection and treatment.

579. The National Council for Rehabilitation is coordinated by MINSAL and composed of representatives of MIFAMILIA, MECD, Los Pipitos (an association of parents of disabled children) and the National Institute of Technology. One of the Council's first actions was to publicize act No. 202, decree No. 50-97 on the implementation of the Act, and the national policy on prevention, rehabilitation and equal opportunities for disabled persons.

580. In order to broaden the coverage of rehabilitation care, the following levels of care have been identified:

- Level I: Community-based rehabilitation, based in the community and in health units and centres (preventive level).

- Level II: Rehabilitation directed by the basic rehabilitation team. The operational base is the departmental hospital.
- Level III: High-complexity care. Production of orthotic and prosthetic appliances, social welfare services, professional training and research.

581. The National Council for Rehabilitation, through its member bodies, implements programmes of comprehensive care for disabled children and young people which range from physical recovery to remedial care under the different options offered by the Department of Special Education in MECD, and the training programmes provided by the National Institute of Technology. Specific activities in the field of leisure, culture and sport are conducted within the care-providing institutions, and nationally coordinated cultural and public awareness events are also organized to enable disabled children and young people to realize their rights free of all discrimination.

582. The increase in the incidence of child disability in recent years resulting from a number of causes such as the armed conflict in the country, extreme poverty, social exclusion, malnutrition, illiteracy, rapid population growth and population movements and migration has made it hard to provide complete coverage for this problem. MINSA is continuing the training of staff who work in rehabilitation in the health units, while also seeking to strengthen coordination between sectors and agencies to foster a joint approach to the problems linked with disability, with priority given to young children.

583. In the area of care for disabled children, more extensive coverage is provided in the form of special protection (special protection centres), although some social protection projects (in the form of CDIs with occupational therapy arrangements for disabled persons over 18) are available in rural communities to disabled children and adolescents who are offered various types of care, including psychosocial and medical treatment, encouragement and physiotherapy. Both social and special protection services are provided to disabled children and adolescents through private foundations, associations and cooperatives having appropriate experience, in accordance with the technical and legal rules and procedures established by MIFAMILIA in its capacity as supervisory and regulatory body in that area.

6. International assistance

584. International cooperation agencies have become more closely involved in and supportive of the various initiatives taken by the State to enhance the realization of the rights of children and young persons.

585. During the period 1998-2002, Nicaragua benefited from international cooperation in the implementation of projects aimed at capacity-building in State institutions and direct care for children and young people. The total received was US\$42,531,900. According to the Directorate for non-governmental cooperation in the Ministry of Foreign Affairs, the projects carried out aim specifically at protection and assistance for children and adolescents and are promoted by 146 international NGOs.

NGOs having contributed in cooperation with MIFAMILIA towards improving the population's standard of living at the level of the family

International community	Name of programme or project	National NGOs
Inter-American Development Bank (IDB), Central American Bank for Economic Integration (CABEI), Norwegian Agency for Development Cooperation (NORAD)	1. Programme for the comprehensive care of Nicaraguan children (PAININ)	20 participating bodies (EPs)
IDB, CABEI	2. Social protection network programme (RPS)	12 NGOs
UNICEF, Netherlands supplementary social fund (FSS), Norway (FSS), Netherlands (HIV/AIDS)	3. Programme for the comprehensive care of children and adolescents socially at risk 1 (PAINAR)	29 NGOs working with the programme
Governments of Netherlands and Denmark	4. Responsible parenthood promotion project	Molecular Biology Department, Central American University (UCA)

Source: MIFAMILIA.

VIII. ARTICLE 11 – Right to decent living conditions, food and housing

A. Legal framework

586. The State addresses a number of issues related to every person's right to an adequate standard of living with a view to providing the population with services and facilities that effectively improve the quality of life. Chapter III of the Constitution, which deals with social rights, sets the basic framework, stipulating the right to, inter alia, work, education, health, a healthy environment and recreation; and, in particular, the rights described below:

(a) Under article 63 of the Constitution, “it shall be the right of Nicaraguans to be protected against hunger. The State shall promote programmes which assure adequate inevitability of food and its equitable distribution”.

(b) Under article 64 of the Constitution, “Nicaraguans shall have the right to decent, comfortable and safe housing that guarantees family privacy. The State shall promote the fulfilment of that right.”.

587. Moreover, the State assumes an active roll regarding the quality of life. Article 98 of the Constitution is worded as follows: “The principal function of the State in the economy shall be to develop the country materially, abolish the inherited backwardness independence, improve the standard of living of the people and achieve a more just distribution of wealth”.

B. Standard of living

1. Population data¹⁴⁸

588. In almost a century, Nicaragua's population increased by a factor of 10, from four to 42.7 inhabitants per km². However, the latest intercensal population growth rate (1.7 per cent) suggests a significant slowdown.

589. In 2005, the population had reached 5,142,098 and population density, displaying the above value at the national level (148), was heterogeneous, with, respectively, 10, 48 and 52 inhabitants per km² in the Atlantic Coast and the Central and North regions,

590. Between 1906 and 2005, the population of Managua increased by a factor of 26 and currently the capital has a population density of more than 360 inhabitants per km². As a result of that development, Managua accounts for one fourth of the national population, compared to 10 per cent at the beginning of the period, although that share has slightly decreased since 1971. These figures reveal an alarming internal migration rate and a trend towards urbanization of the rural population.

591. Intercensal rates of growth indicate that the demographic weight of most departments has decreased, as their population grew at rates below the national average, and even lower than 1 per cent, as in the case of the departments of León (0.5 per cent), Chontales (0.6 per cent), Granada and Chinandega (0.8 per cent).

592. At the national level, as there are approximately 73 thousand more women than men, women account for 50.7 per cent and men for 49.3 per cent of the population, and the sex ratio is 97 men to 100 women. However, the proportion of women in public or elected office is lower than that of men. In 2005, 50 per cent of the population resided in 20 of the country's 153 municipalities.

593. Life expectancy at birth increased from 66.05 years in the period 1990-1995 to 69.48 years in the period 2000-2005 for both genders (70.4 years for women and 65.7 years for men).

2. Poverty in the country¹⁴⁹

594. Using a consumption aggregate as a general indicator of well-being, various categories of poverty have been established in the country on the basis of adjusted indices accounting for family size, sample design and regional price differences.

595. The consumption aggregate consists of two major component groups, namely food and non-food (including goods and services). The food group comprises all products purchased and consumed in the household, including items produced for home-consumption, donations and gifts and products consumed outside the household. The non-food group includes, in value terms, housing, health, education, equipment, transport, personal services and other

¹⁴⁸ Eighth population and fourth housing census, 2005. Census summary.

¹⁴⁹ INEC, EMVN, 2001.

consumption. The implementation of the consumption aggregate is subject to three adjustments, based in particular on per capita consumption per household, regional price differences (through price index values corresponding to sample dates) and the probability of the inclusion of households in the basic sample.

596. In connection with the above consumption aggregate, two poverty lines - an extreme poverty line and the general poverty line - have been calculated on the basis of the following criteria:

(a) The extreme poverty line is defined as the level of total annual consumption, or food cost per person, necessary for meeting minimum daily calorie requirements, estimated on average at 2,187 Cal;

(b) INEC, EMNV, 2001 sets the extreme poverty line at C\$2,690.71 per person per year. Households with a lower per capita consumption are classified as extremely poor;

(c) The general poverty line is defined as the level of annual food cost per person, necessary for meeting minimum daily calorie requirements (extreme poverty line) plus an additional amount covering the consumption of essential non-food goods and services, such as housing, transport, education, health, clothing and daily- and household-use items;

(d) In value terms, the general poverty line is set at C\$5,157.12 per person per year. Households with a lower per capita consumption are classified as poor. Households with a per capita consumption below the poverty line but above the extreme poverty line are classified as "non-extreme poor".

597. More than two million persons (45.8 per cent of the population) live below the poverty line, including more than half a million (15.1 per cent of the population) living in extreme poverty. On the average, two out of every ten people in the country receive less than approximately C\$224 per month to meet minimum food requirements (equivalent to 2,187 calories per day).

598. In 1993, 50.3 per cent of Nicaraguan households lived in poverty, many - 19.4 per cent - in extreme poverty. Between 1998 and 2001, the general poverty rate declined from 47.9 to 45.8 per cent (including a 15.1 per cent extreme poverty rate). In other words, the percentage of poor and extremely poor households decreased in absolute terms. The rates of decrease of general and extreme poverty were highest in the rural areas, where they respectively attained 8.3 and 8.9 percentage points, while in the urban areas they were only, respectively, 1.8 and 1.1 percentage points.

599. Between 1993 and 2001, the cost of eliminating general poverty in one month increased by C\$184.5 million (from C\$195.4 to C\$379.9 million) because, although the percentage rate of poverty was reduced, the absolute number of the poor increased. That cost has traditionally been higher for the countryside (where it accounts for two thirds of the total). Accordingly, in the above period, that cost increased by C\$122 million and C\$62.3 million, respectively, in the rural and urban areas.

600. As a national average, urban households account for 70 per cent of total (food and non-food) consumption. As poverty expands (and dependence on food consumption rises), the share of rural households increases. That trend did not significantly change in the period 1993-2001.

601. Rural households account for practically 60 per cent of the consumption of poor households (57.1 per cent in 1993, 62.1 per cent in 1998 and 57.6 per cent in 2001) and for as much as 75 per cent of the consumption of extremely poor households.

602. The poorest and the richest quintile of Nicaraguan households approximately account for, respectively, 5 per cent (4.2 per cent in 1993, 5.3 per cent in 1998 and 5.6 per cent in 2001) and 50 per cent (55.2 per cent in 1993, 51.1 per cent in 1998 and 49.2 per cent in 2001) of consumption. On the average, a household in the richest quintile consumes 10 times more than a household in the poorest quintile. That ratio did not significantly change in the period 1993-2001¹⁵⁰.

603. Moreover, at the national level, the poorest and the richest decile of households approximately account for, respectively, 2 per cent (1.6 per cent in 1993, 2.1 per cent in 1998 and 2.2 per cent in 2001) and 36 per cent (39.7 per cent in 1993, 36.1 per cent in 1998 and 33.7 per cent in 2001) of consumption, although this inequality has somewhat abated, as tenth-decile exceeded first-decile consumption by factors of 24.8 in 1993, 17.2 in 1998 and 15.3 in 2001.

604. On the average, and steadily since 1993, 50 per cent of the consumption of Nicaraguans consists exclusively of food. Dependency on food rises as poverty gains ground. The above rate is broken down into 45 per cent among the non-poor, 59 per cent among those living in general poverty and 62 per cent among the extremely poor. The share of food in consumption is 45 per cent in the urban areas and 53 per cent in the rural areas.

605. The two consumption components on which households spend least are health and education, with approximately 5 per cent for each. At the national level, those rates have developed as follows: In the case of health, 3.7 per cent in 1993, 5.2 per cent in 1998 and 6.2 per cent in 2001; and in the case of education, 5.4 per cent in 1993, 4.5 per cent in 1998 and 5.5 per cent in 2001. With regard to the extremely poor, the increasing cost of food consumption significantly restricts health and education consumption, reinforcing a vicious circle.

606. The Gini coefficient has declined slightly, decreasing from 0.49 in 1993 to 0.44 in 1998 and 0.43 in 2001. That development, which has characterized both the urban areas and the regions, is symptomatic of the reduction of consumption inequalities between 1993 and 2001, as borne out by the diminishing difference between consumption by the extreme (first and tenth) deciles.

607. Access to the country's wealth continues to be characterized by significant inequality. That structural situation constitutes a major obstacle to achieving significant short- and medium-term progress and reducing poverty.

(i) Poverty threshold

608. Of the total Nicaraguan population, 2.2 million (42.6 per cent) and approximately 4 million (77.8 per cent) consume less than, respectively, US\$1 and US\$2 a day. On that basis, Nicaragua is the Central American country with the highest percentage of the population living at those consumption levels.

¹⁵⁰ INEC, EMNV, "Comparison of poverty profiles in Nicaragua", 2001. MECOVI programme.

609. Specifically, in the period 1993-2001, 42 per cent of Nicaraguans (44 per cent in 1993, 42.2 per cent in 1998 and 43 per cent in 2001) lived on less than US\$1 per day; and three fourths (74 per cent in 1993, 77.8 per cent in 1998 and 78 per cent in 2001) lived on less than US\$2 per day.

610. The rate of rural inhabitants among the population living on less than US\$1 per day is almost three times greater than that of urban inhabitants. This is so because, during the period in question, in the rural sectors poverty and the number of the poor have grown more extensively, poverty reduction costs have been higher and the poverty gap and squared poverty gap have been two or three times larger than in the urban areas.

611. Generally speaking, poverty is more extensive and deeper in the countryside. Rural poverty is 2.3 times greater than urban poverty. Of every ten poor Nicaraguans, six live in the rural areas. Moreover, extremely poor persons are 4.4 times more numerous in rural than in urban areas. Of every ten extremely poor Nicaraguans, eight live in the rural areas.

(ii) Characteristics of the poor

612. This section is based on INEC, EMVN, "Profile characteristics of the poor in Nicaragua, 2001".

(iii) Household structure

613. Poor households have seven and non-poor households five members. Of the five children of poor households, three are under 13. Poor households (with six persons per room) are twice as overcrowded as non-poor ones and inhabit small and poor-quality housing units.

614. Of the total number of poor households, 16 per cent live in huts or makeshift housing. Sometimes they live in houses, of which 34.6 per cent have wooden walls, 55.7 per cent have a tin roof and 74.7 per cent have an earth floor. To those households, more children signify a greater economic burden, especially if the household members in working age (five in the average) are unemployed. For each household member employed, there are four dependents.

(iv) Housing and basic services

615. Although 78.1 per cent of poor households live in their own housing unit, they often lack a document evidencing that ownership, as 41.1 per cent have no property title (compared to 26.5 per cent in the non-poor section). Clearly, households that, as a result of limited resources, do not manage to own the place where they live and use the property title as collateral are particularly disadvantaged because they have no access to loans for improving their standard of living.

616. The situation of extremely poor households in respect of basic services requires urgent investment because:

(a) Only one fifth of those households are connected to the water supply system, while the rest use other sources (such as public wells or a river);

(b) With regard to sanitation, 36.8 per cent have no facilities, 62.5 per cent have a latrine and only 0.7 per cent have a toilet; (c) With regard to electricity, seven out of every ten poor households have no power supply and use gas, kerosene or no fossil fuel at all;

(d) The waste of only 2 per cent of those households is collected by a garbage truck, while 46 per cent dump their waste in a river or some open space.

617. The above problematic situation is compounded by the use of firewood or coal for cooking in all of the households in question, 15.9 per cent of which cook in the same room where they sleep.

(v) Health

618. The living conditions of the poorest homes make them more vulnerable and have grave consequences for their children under six, who are particularly affected by respiratory diseases and diarrhoea (to the extent of 26.9 per cent), surrounded as they are by sources of pollution as described in the previous paragraph.

619. Not all of the children in question are treated for those types of disease. In fact, only 63 per cent of the children surveyed had received medical attention, and mainly been taken to a health centre (to the extent of 79.3 per cent) in search of cheaper health care. Of the children whose diarrhoea was not treated, the reason was that the disease was known (27.6 per cent) or the parents did not have enough money (23.8 per cent) or the health centre was too far (23.3 per cent).

620. The situation is similar with regard to patients aged over six, only 42.3 per cent of whom had received medical care, mainly (to the extent of 80 per cent) at public health centres. Demand for public health services is strongest among persons in extreme poverty, who as a result do not benefit from the more specialized care provided in hospitals or private clinics. The resulting shortages of medicines in health centres aggravates the situation of the patients.

(vi) Fertility

621. There is high direct correlation between, on one hand, poverty and low education and, on the other hand, fertility. Accordingly, extremely poor uneducated women display an average fertility of 7.1 children per woman, a rate that tends to improve with education. In other words, while women in childbearing age continue to be extremely poor and illiterate, the number of children living in poverty and in need of care will keep increasing.

622. Among 15-49 years old women, the lower their standard of living, the higher the rate of women who have been pregnant. Women stating to have given birth in the last five years accounted for 34.7 per cent of extremely poor women and 19.2 per cent of non-poor women. Of the extremely poor women aged 15-19 and 20-34, 10.1 per cent and 22.5 per cent, respectively, stated that they had given birth in the last 12 months. In that category, women bear children early and frequently.

623. The percentage of women stating to have given in the last five years was 34.7 per cent among extremely poor women without education and 17.4 per cent among non-poor women with

some education. Therefore, there is a significant degree of correlation between lack of education and the high rates of population growth which stifle the poor households.

(vii) Education

624. There is strong correlation between the level of poverty and the rate of illiteracy. Although at the national level that rate remained virtually unchanged between 1998 (20.6 per cent) and 2001 (20.4 per cent), education is less accessible to the extreme poor, 44.1 per cent of whom are illiterate. Of the heads of extremely poor households, 59 per cent are illiterate and none have reached university. On the average, they have completed 1.4 grades. Since they therefore do not qualify for skilled trades, 63.2 and 23.3 per cent of that group are employed, respectively, as unskilled and agricultural labourers.

625. In the case of both children and adults, dropping out of school may be the consequence of insufficient financial resources and of the parents' low educational level. Consequently, gross school enrolment rate is 101.7 per cent at the primary education level, 15 per cent at the secondary and zero at university level. On the average, the parents concerned have completed 2.2 grades. It is revealing that persons aged 10-17 have completed 2.5 grades, those aged 25-39 have completed 2.2 grades and those over 40 have completed 0.9 grades. In the households in question, remunerated work is the priority, in view of their members' needs.

626. Although the current Government has provided universal free access to schools, there is still the problem that the parents and heads of household lack the money to buy the children clothes for school or feed them well enough to perform satisfactorily in their studies.

(viii) Employment

627. As the main alternative for generating income to improve the standard of living of households with insufficient resources, employment is a key factor with regard to poverty. While EAP (55.9 per cent) fails to grow and a part of it (13.4 per cent) is unemployed, extreme poverty may not be reduced. Of the employed workers living in extreme poverty, 76.6 per cent are active in the informal sector and 72.9 per cent in the primary sector, where remunerations are low. Joining the informal sector is a means of earning a survival income.

628. Although they have the same level of education as extremely poor men (2.2 completed grades), extremely poor women (with 2.1 grades completed) have fewer employment opportunities. Only 28.7 per cent of those women are in EAP (compared to 80.7 per cent in the case of men) and 74.4 per cent are employed (compared to 90.6 per cent in the case of men), while 25.6 per cent are unemployed. That is a disadvantage to women, especially single mothers with several children. To meet their needs, they (82.3 per cent of those employed) are obliged to seek informal jobs.

(ix) Emigration

629. One of the consequences of unemployment is emigration. At least one member of 11.9 per cent of Nicaraguan households is abroad (in 93 per cent of those cases, the emigration is related to employment). Of the emigrants, 58.8 per cent are children, 57 per cent are aged 25 to 59, 81.1 per cent have some primary or secondary education, 58.9 per cent have gone to Costa Rica and

75.8 per cent have emigrated mainly for employment-related reasons. Extremely poor emigrants have a low educational level, depending on their age, and work as unskilled labourers to earn a minimum income allowing them to send remittances to their families. Many of the families concerned (19.2 per cent of households receive remittances from abroad) live on that income, which prevents them from sinking into poverty.

630. Emigration mainly occurred in the last 12 years, as 80.9 per cent of the persons concerned left in the period 1990-2001. Conditions became difficult for Nicaraguan households in that decade and emigrating to Costa Rica seemed a necessary alternative.

631. Of the total of households with at least one member that has emigrated, only 4.7 per cent are in the extremely poor category. The extremely poor, however, are compelled to face the problem of domestic unemployment for lack of financial resources, since, to emigrate, they would need to cover the cost of the trip and a place to stay until they find work. Moreover, some (9.1 per cent) have no education and know that they may face rejection abroad. Of the extremely poor immigrants, 91.7 per cent have gone to Costa Rica and 55.6 per cent send remittances to their families.

(x) Home business

632. Owning a business is a means of earning a subsistence income. Of the extremely poor households, 21.7 per cent run at least one, usually (in 78.6 per cent of the cases) on a self-employment basis. In view of their living conditions, the persons concerned cannot afford larger operations, which would require investment and hired personnel. Accordingly, family members provide their services without receiving a wage. These small-scale informal activities (trade, hotels and restaurants account for 34.2 per cent and personal community services and manufacturing for 33.1 and 20.3 per cent of the total, respectively) may be performed by a single person and (to the extent of 35.5 per cent) require no special facilities and are carried out within the home.

(xi) Agricultural activities

633. Some (61.4 per cent) of the extremely poor households engage in agricultural activities. Of these, 60.1 per cent stated that they own and 33.5 per cent that they lease the land that they cultivate. Although rental increases the production costs and decreases the earnings, leasing is practiced when there is no alternative. Not all those who claimed owning the land have property titles (31.8 per cent do not). In view of their poverty, those without property titles may not take out loans to diversify or increase their production. The households in question lack commercial outlets for their output and most of them (79 per cent) produce for home consumption, planting in a field or in their yard.

C. Food

1. The food situation in the country¹⁵¹

634. The Nicaraguan population's right to food security is based on article 25 of the Universal Declaration of Human Rights and, as already indicated, Chapter III, article 63 of the Constitution.

635. Under both instruments, responsibility for the exercise of that right rests primarily with the State. The approach taken, however, involves the participation of the various sectors of civil society, the use of their capacities and the efficient employment of all available resources.

636. Special attention must be paid to ensuring full equality among all persons with a view to improving the standard of living of those living below the poverty threshold.

637. Various vulnerable groups, including mainly extremely poor households, families engaged in small- and medium-sized agricultural production, agricultural labourers, children, breastfeeding mothers and elderly persons are confronted with food insecurity. Approximately 800,000 persons lack the income necessary for access to the 2,187 calories per day per person which are necessary for survival and which constitute the basic food basket designed by MAGFOR, the Food and Agriculture Organization of the United Nations (FAO) and the Institute of Nutrition of Central America and Panama (INCAP). The resulting hunger and malnutrition affects extensive areas of the country.

638. According to anthropometric indicators, the nutritional state of 6 to 59 months old children shows that undernourishment rates have been on a decreasing trend in the period 1998-2001.

639. The principal micronutrients used as a reference for determining the nutritional state of children are vitamin A, whose deficiency must be detected, and iron, which must be measured in order to avoid anaemia.

640. Practically one out of every three children clearly suffers from vitamin A deficiency and anaemia. One of every three women is affected by anaemia caused by inadequate nutrition and absorption or increased losses not compensated by food. These deficiencies tend to be more pronounced in rural and urban groups of a low socioeconomic level.

641. The main causes of a child's inadequate nutritional state include the following: Too short a period of exclusive breastfeeding and premature use of food and liquids of low energy density that satiate but do not nourish the infant; and an inadequate overall consumption of energy and proteins (which, on a per-person per-day basis, should respectively amount to 2,190 kcal and 44-51 g) by the rural poor, compounded by the insufficient consumption of animal products and other vitamin A and iron sources, such as fruit and vegetables.

642. The Second survey on the height of schoolchildren in Nicaragua, 2004, published by MECD/MINSA in 2005, revealed chronic malnutrition as a public health problem affecting 27.2 per cent of children aged six to nine, of whom 6.5 per cent show severe retardation. Stunted

¹⁵¹ MAGFOR, "Food security policy and strategy paper", November 2004.

growth is more widespread among boys in rural areas, where, according to the same survey, the prevalence of malnutrition is greater.

643. According to the above survey, higher malnutrition rates are mainly prevalent among children aged 8 and 9. In fact, as they grow, children run a higher risk of malnutrition as a result of the greater energy requirements and the development of their body.

644. Poverty is one of the main causes of malnutrition. The two are closely connected. Malnutrition rates are 30, 40 and 12 per cent among, respectively, poor, extremely poor and non-poor children.

645. Efforts undertaken by Government, international and private bodies in order to remedy the situation are carried out without focus, conceptual or geographic consistency or common strategy. In most cases, their effectiveness on vulnerable groups is thereby diminished. Many of those activities are implemented as welfare measures, a type of action confused with actual food and nutritional security programmes.

646. In the rural areas, households with sufficient energy consumption barely accounted for 26.3 per cent of those surveyed, while the rate for critical and efficient levels was slightly over 50 per cent.

647. In the period 1990-1999, the daily availability of energy from 11 basic basket agricultural products was, every year, below the recommended level of 2,187 Cal. Starting in 2002, however, that availability improved significantly because of an increase in the production of certain products, such as basic grains, various types of meat and milk, between 1999 and 2002.

648. Nevertheless, in the period 2001-2003, the imports of certain basic foods exceeded US\$300 million.

649. In order to enhance the level of food and nutritional security for the population, and through coordinated efforts undertaken by State bodies and civil society in the form of (current and future) activities, a food and nutritional security policy (SAN) has been developed with a view to boosting the country's economic development.

650. The objective of the above policy is to encourage the attainment of a level of food and nutritional security necessary for the physical and mental development of persons, enabling them to actively and creatively participate in the sustainable development of the country.

651. Under presidential decree No. 65-200 of 31 July 2000, the National Commission on Food Security and Nutrition (CONASAN) was created and entrusted with various responsibilities described in the document entitled "Promoting and coordinating the preparation of the National food and nutritional security policy and plan of action".

652. MAGFOR, as an essential participant in CONASAN and, in view of the key significance of the agricultural sector - in which MAGFOR plays a leading role - for the availability and accessibility of food, is responsible for the formulation and follow-up of the above policy in respect of food availability and accessibility.

653. As it has already been stressed, poverty and hunger are closely interrelated. According to CENIDH, 54 per cent can not purchase the basic basket and over 40 per cent can not purchase the basket's food component¹⁵².

2. Vulnerable groups¹⁵³

654. At least three methodological instruments have been used in Nicaragua for assessing vulnerability, poverty and food insecurity conditions¹⁵⁴, with a view to meeting national requirements for identifying and supporting the population characterized by the lowest incomes, living conditions bordering on the subsistence level, geographical remoteness and a high risk or probability of food insecurity.

655. Based on traditional criteria, investment in human capital has been viewed as the most effective way for ensuring the development of an impoverished country. That investment consists in strengthening mainly education, health and the various basic services (drinking water supply, sanitation, communications and transport), only marginally the production coefficients and still less food security, which continues to be regarded as humanitarian assistance for destitute or potentially vulnerable groups.

656. It is appropriate to consider developing integrated criteria and concepts that allow the formulation of approaches to the triple issue of vulnerability, poverty and food insecurity in the framework of a model for joint action addressing the major marginalized population groups.

657. The municipality is the appropriate geographical unit for measuring vulnerability by means of the various methods. Save for rare and specific exceptions, there are no surveys focused on communities and administrative divisions. The tools used for poverty, human development and food insecurity classifications are the Poverty Map, the Municipal Human Development Index, and Food Insecurity.

658. The conclusion is that, of the country's 150 municipalities¹⁵⁵, 71 (47 per cent) are vulnerable, including 14 (9.3 per cent) that may be characterized as extremely vulnerable.

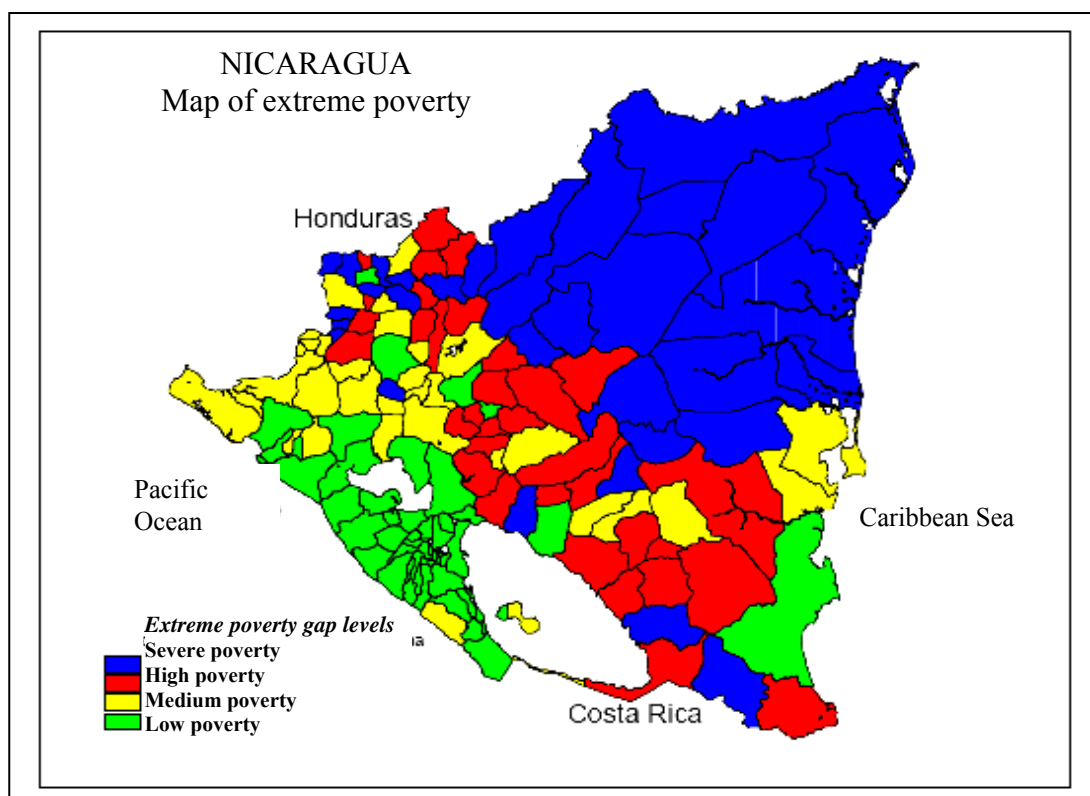
659. The following map indicates the geographic distribution of poverty in Nicaragua:

¹⁵² CENIDH report entitled "Human Rights in Nicaragua, 2006", p. 57.

¹⁵³ INEC, "Analysis of poverty and food and nutritional security in Nicaragua", 2004.

¹⁵⁴ United Nations Development Programme (UNDP) Human Development Index; Emergency Social Investment Fund (FISE) Poverty Map; and Human World Food Programme (WFP) Vulnerability Analysis and Mapping.

¹⁵⁵ In 2007, 153 municipalities.



Source: "Map of extreme poverty in Nicaragua, 1995 Census - EMNV 1998"; 2001.

660. Based on the values provided by each of the aforementioned methods, the average population living in conditions of extreme vulnerability is estimated at 1.9 million (36 per cent) at the national level, and at 1.5 million or approximately 300,000 households in the 40 municipalities.

661. The country's small-scale economy has mainly been characterized by the fragility of poor families in the urban and rural areas. That fragility has been caused by the lack of sufficient and stable income and the concomitant necessity of sacrificing nutrition to production and the fulfilment of pressing needs. In the case of rural families, that situation has led to a gradual process of capital erosion and the poverty and food insecurity levels described above. The effects on the household economy are far-reaching and even irreversible. It has been necessary to sell poultry and livestock (the most valuable asset of the population segments concerned) in order to keep up production and meet the household's needs.

662. In this context, the vulnerable population is in a constant process of pawning and selling off farming assets (land and agricultural tools and implements) in the countryside and movable and immovable property in the urban areas.

663. In view of their situation and in order to meet their needs, vulnerable group families are under constant pressure to consume food and non-food products regardless of the nutritional value or sustainability of the items purchased. That practice has begun, and become common, among urban and rural poor families. Throughout the country, it is habitual to massively

consume less healthy and nutritional but inexpensive food or household and apparel articles that are less costly, mainly second-hand goods (clothes and footwear).

664. Moreover, rural household members engaged in external subsistence activities face numerous disadvantages related to the limited availability of health and food services. Working conditions are depressing and workers are crowded in poorly ventilated sheds in unfamiliar surroundings. Little assistance is offered by the employers. In cases of common disease, let alone major complications, the worker receives no benefits. In that connection, women are most disadvantaged, especially during pregnancy, because of the insufficiency of the rural social security coverage.

665. The above disadvantages are compounded for children that accompany their parents to work. They are entitled to no social benefits beyond those that may be available at the enterprise. Health care – extremely rare in the areas where employment is found – is usually provided by an auxiliary nurse who has a limited number of medicines for common diseases.

666. The pronounced and ongoing inadequacy of food in view of the population's minimum energy requirements (undernourishment) culminates with children, especially under five, suffering from acute malnutrition (based on weight-height ratios) or chronic malnutrition (underweight or stunted growth).

667. Underweight at birth affects 10 per cent of children born alive. It is the consequence of the mother's malnutrition, defective hygiene, physically inappropriate work, addiction and other conditions during pregnancy.

668. General estimates of food consumption and insecurity among the poor have been made. They serve to outline the consumption patterns characteristic of the vulnerable groups (cf. annex 1, art. 11).

669. Although food consumption levels closely interrelate with the population's purchasing power, the list of basic products provided (in the above annex) does not fully reflect the vegetable and animal product varieties available and consumed at the national level, which are significant for differentiating between consumption by the poor and the extremely poor in relation to the national average.

670. Basic grains constitute, respectively, 42.6 and 33.7 per cent of food consumption by the extremely poor and the poor, and account for 22.9 per cent of the national average food consumption.

671. Food consumption is not characterized by much qualitative variation in the case of the average household, let alone of poor and extremely poor families. The standard diet consists of basic grains, sugar, oil, some type of meat, some type of dairy products and bread.

672. In the vulnerable areas, some seasonal yard-grown and wild fruit varieties, supplemented with scarce fauna meet, are consumed in order to meet subsistence needs. That consumption - especially of such fruit as pineapple, mango, papaya, watermelon, plums, avocados and citrus fruit - partly compensates malnutrition among children, particularly in the rural areas, and averts the occurrences of hunger characteristic of some African countries.

673. There is also seasonal consumption of roots and tubers (such as yucca, taro, yam and sweet potato), used in soups, broths and special preparations for children aged 6 months to 5 years and as a breastfeeding supplement.

674. In the rural areas, basic grains (such as maize and beans) are commonly cultivated by families for home consumption and commercialization. Typically, given a manzana planted annually for six persons, home consumption amounts to 40, 25 and 70 per cent of, respectively, the maize, beans and grain sorghum produced and is supplemented with the meat of small animals raised alongside (poultry, pigs, sheep and goats). Save for the Atlantic Coast regions, where the ethnic communities of Miskitos, Sumos or Mayagnas and Creoles store the harvest, “stacking” it (for piecemeal threshing or sale during the year), rice grain is sold to processing enterprises.

675. In view of the specific circumstances that surround it, the largest part of the Nicaraguan population is subject to a vicious circle of vulnerability, poverty and food insecurity, which mainly affects the rural population, in view of its living conditions, its dependence on agricultural production and, in particular, its exposure to weather hazards.

3. Food security policy¹⁵⁶

(i) Food supply availability and stability

676. Although in the last five years the production of the 11 products composing the basic basket has, save for oil, increased to acceptable levels, it has been necessary to import approximately 1.3 million tons of rice, maize, wheat and beans; 322 million litres of oil; and 427 million litres of milk

677. The main problems affecting availability are low productivity, high post-harvest losses (15-18 per cent of basic grains) and failure to correlate imports and exports.

(ii) Access to food

678. In December 2001¹⁵⁷, the average nominal monthly wage for all workers across all sectors amounted to C\$2,995. In that month, the monthly cost of the basic food basket for a family of six amounted to C\$1,650. In October 2002, that cost, as a national average, had increased to C\$1,673.84 at current prices. According to the Enhanced economic growth and poverty reduction strategy (ERCERP), 17.3 per cent do not earn enough to purchase the basic basket. That means that 865,000 persons do not have full access to the basket's contents. That figure should be increased by 203,000 persons who, at the same date, were in open unemployment. In total, therefore, approximately one million persons lack adequate access to food.

¹⁵⁶ Department for food security, General Director for agriculture and forestry sector policies, “National food security policy, 2001”.

¹⁵⁷ Based on MITRAB figures.

679. Agricultural workers deserve special attention. The agricultural sector employs more than 40 per cent of the workers. In the period 1994-1999, the average monthly real wage in that sector was C\$1,000.-.

(iii) Apparent food consumption

680. Energy and protein food consumption is lower in the countryside than in towns. Rural areas are characterized by dependency on such basic foodstuffs as maize, beans and rice. The consumption of animal foodstuffs is higher in the urban areas.

681. According to the apparent consumption model and based on the 1990, 1991 and 1993 MAGFOR consumption survey parameters, lower income groups suffer from a 45 per cent calorie and 55 per cent protein deficit.

682. It has not been possible to conduct a direct survey on basic food consumption levels. Consumption is estimated through family expenditures on various foodstuffs ascertained through the EMNV surveys conducted by INEC every two years.

4. Agricultural production

683. At certain political decision making levels, food and nutritional security is still regarded as provision of food to persons at risk (and is often identified with the delivery of foodstuffs to the urban destitute and poor or to of natural disaster victims), without a comprehensive view of the issue. In fact, food security should be addressed at such basic levels as access to land, conservation of resources for sustainable production and availability of more productive technology. The right type of assistance consists in inputs for ensuring rational production according to the agricultural and ecological conditions pertaining to the farms. Access to appropriate credit and, especially, to internal and external markets at fair prices, ensuring that foodstuffs reach the final consumers correctly priced and in a quality compatible with healthy nutrition, is crucial¹⁵⁸.

684. The current generation of small-scale agricultural producers continues to operate at low-yield technological levels (inadequate inputs and capital assets, limited technical assistance and training capacities, weak marketing services and extensive restrictions on credit) and non-competitive costs. As a result, that population segment has few possibilities to improve its standard of living in the medium term and is bound to continue to constitute a social liability, living on humanitarian assistance in the form of food aid.

685. Activities undertaken in the framework of research, development and technology transfer for the agricultural sector fail to attain more than 15 per cent of the country's small- and medium-scale producers. The technological supply is particularly limited and the process of agricultural transformation, which presupposes the modernization of the respective public mechanisms, lags behind the dynamics required by globalisation.

¹⁵⁸ "Analysis of poverty and food and nutritional security in Nicaragua", chapter II ("Vulnerability, poverty and food insecurity"). MECOVI programme, May 2004.

686. Competitiveness, necessary for acceding to external markets, presupposes that the rural workers produce enough to live on and build further productive capacities through economies of scale. That process, however, runs into objective limits difficult to overcome in the short-term and requires extensive national and local development programmes. As a result, the only source of income left to rural workers is their labour, a resource reduced with time, thereby bringing about a deterioration of their standard of living.

687. It is necessary to remedy certain occurrences of the past, such as the extensive mobility of the rural population towards low-cost employment; and to reduce educational, cultural and language barriers to integration into the national society and into a labour market modelled on the basis of large population centres.

688. Food - especially basic grain - imports are unacceptable, since Nicaragua is the Central American country with the largest expanses of fertile land amenable to mechanized cultivation and irrigation. That land is currently underutilized for lack of macroeconomic incentives to local export-oriented production. In the last two years, more than US\$51 million have been spent on imports of basic grains that could have been produced domestically¹⁵⁹.

689. According to the third national agricultural census (CENAGRO), Nicaragua's production potential in terms of irrigable land amounts to approximately 497,000 manzanas (350,000 hectares) in the Pacific zone plus 400,000 manzanas in the rest of the country. According to the surveys carried out, basic grain productivity coefficients are between 2.5 and 4.6.

690. The problem with foodstuffs, basic grains in particular, is not their production but their accessibility, consumption and proper form of consumption (biological use), which are mainly subject to a crosscutting constraint, income. The population eats but it is not nourished. The consumption of low nutritional value food, particularly sugars, drinks with sweeteners and synthetic preparations, stems from unhealthy habits that have not yet been institutionally addressed on a massive scale.

691. The agricultural limits are advancing incessantly. If land used for basic grain cultivation continues to expand at the rate that prevailed during the last 12 years, keeping up national food production will imply high environmental and biodiversity costs. Such reserve areas as Bosawás and the Atlantic zone indigenous communities have started to be invaded by persons living under precarious conditions, without any control by local or national authorities.

692. In order to promote a plan for enhancing the standard of living of the country's rural communities, various initiatives related to agricultural production are undertaken under the "Programme for development areas" (POLDES IDR)¹⁶⁰. Such initiatives include the following activities:

(a) Supporting agricultural production through the supply of agricultural inputs (fertilizers) at preferential prices with a view to raising productivity;

¹⁵⁹ According to MAGFOR records.

¹⁶⁰ IDR contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

(b) Promoting production support services through, inter alia, road building and maintenance, reservoir construction and earth levelling;

(c) Providing technology transfer for the improvement of farming techniques, encouraging the preservation of the natural resources, recovering degraded areas and promoting sustainable production methods;

(d) Providing producers with organization and training in technology and business management.

5. Government measures for guaranteeing the right to food

693. In the 1990s, a number of policies and plans focused on food for all Nicaraguans were adopted, including the National food plan, the National micronutrients plan and the National breast-feeding plan.

694. Starting in 2000, significant efforts have been made for the establishment of a food and nutritional security structure, comprising CONASAN¹⁶¹, the Technical committee for food and nutritional security (COTESAN) and the Food and nutritional security monitoring information system (SISSAN).

695. CONASAN was set up as a permanent, non-profit, intersectoral, multidisciplinary and inter-agency body attached to MINSA and covering the various social, public and private sectors involved in food and nutritional security. Its main objective is to prioritize, plan, coordinate, monitor and evaluate the food- and nutrition-related policies, strategies and activities developed in Nicaragua.

696. The “Zero hunger” programme mentioned earlier is the most effective measure for ensuring the provision of food to the vulnerable sectors.

(i) Food and nutritional security policy

697. In 2001, in order to enhance the level of food and nutritional security for the Nicaraguan people, and through coordinated efforts undertaken by State bodies and civil society in the form of (current and future) activities, SAN was adopted with a view to boosting the country's economic development.

698. “Food and nutritional security” is defined as “stable and sufficient supply of (culturally acceptable) foodstuffs, daily accessible to all persons, who may consume them without quantitative or qualitative restrictions and benefit from other services (sanitation, health and education) ensuring nutritional well-being and enabling all to make biologically appropriate use of food for their own development, without damaging the ecosystem”.

¹⁶¹ Decree 40-2000 of 5 May 2000. CONASAN is chaired by MINSA, in line with the stress placed by the Government of that period on combining efforts with the private sector, civil society and international cooperation agencies to comprehensively address the country's food situation, which had deteriorated.

699. The general objective of the policy is to promote food and nutritional security conducive to physical and mental development and thereby to encourage active and creative participation in the country's sustainable development. The policy is aimed at the following specific objectives:

- (a) Promoting conditions that contribute to increasing domestic food production in order to enhance the availability of food to the population;
- (b) Facilitating continuous access to a sufficient volume of harmless, culturally acceptable and nutritionally appropriate foodstuffs;
- (c) Encouraging nutritional habit change towards healthy and nutritious food;
- (d) Reducing the rates of deficit in micro-and micro-nutrients;
- (e) Ensuring food quality control;
- (f) Streamlining and coordinating the activities of State bodies.

700. That policy targets small- and medium-state producers, agricultural workers, families in extreme and relative poverty, pregnant and breastfeeding women, underprivileged young children and elderly people, who are confronted with food insecurity risks; and considers women as a key to development.

701. On the basis of, at the outset, the poverty map and EMNV, it is possible to determine the social groups that must be addressed in the short term, and the long-term activities to be undertaken. In the communities, priority sectors and social groups are determined for every period.

702. The components of the policy are food availability, accessibility, consumption and biologically appropriate use.

703. A draft food security act is with the National Assembly for discussion and adoption.

(ii) Food security strategy

704. The strategy in question is a synthesis of feasible alternatives aimed at attaining SAN objectives in relation to availability and access. Generally speaking, the medium- and long-term policy should address the following issues:

- (a) With the participation of various State bodies and international organizations, promoting comprehensive food in nutritional security projects on the model of the “Zapatera, Granada” project;
- (b) Enhancing access to land for cultivation;
- (c) Promoting the development of specific food security projects (PESAs) for the country's dry areas;

(d) Advising and encouraging small-scale producers to join the country's agricultural and food processing activities, mainly through such non-standardized products as fruit and vegetables promoted through incentives, and thereby to diversify their production;

(e) Encouraging surveys on non-standard basic basket projects in connection with food processing chains based on optimized approaches comprising financing, seed supply, production, post-harvest operations, marketing, food processing and supply to the final customer;

(f) By adapting the food processing chain, mainly with regard to commercialization, inciting producers to organize and plan the marketing of their own products;

(g) Seeking changes in food habits through the provision of nutritional information to the population;

(h) Training community leaders and outreach workers in using and promoting nutritional guides, with a view to a multiplier effect;

(i) Continuously updating an inventory of food security projects, indicating their degree of coordination with other activities, target population, outcome, operational effectiveness and, mainly, compatibility with SAN.

(iii) MIFAMILIA mechanisms for providing food to children aged under six

705. MIFAMILIA provides food to children through the mechanisms described below.

706. The “Institutional mechanism” is a procedure for providing care through community child centres (CICOs) in communities meeting the geographic concentration criterion of having 40 or more children under six. The procedure involves the active participation of the family and community and aims at promoting comprehensive development.

707. Under this procedure, MIFAMILIA is active in 494 CICOs located in 66 of the country's communities, providing benefits to 19,760 children. Care services include monitoring the growth and development of children under six and, in that context, the provision of supplementary food.

708. The “Itinerant mechanism” is an assistance procedure comprising training and exchange with mothers and fathers, and follow-up, with regard to various early stimulation issues. It includes health and nutrition care for ensuring the growth and development of their children under six.

709. This procedure is pursued at the community premises, used as the base, and a home. The community premises provide minimum basic conditions available for various activities. The home is made available on a voluntary basis when access to the community premises is difficult. The procedure includes monitoring the growth and development of children under six, and a related component for supplementary food, identical to the “Institutional mechanism” one, save that here the food is provided in the form of non-liquid rations.

710. Families with children under six registered and participating in the comprehensive care programme under this procedure are entitled to the above rations.

711. Grounds for exclusion from food provision activities are the following: (a) Unwarranted failure to attend the early stimulation sessions (for more than 20 per cent of the time in a month) and the growth and development monitoring session; (b) Proven inappropriate use of food provided for the children under six.

712. The community canteens for children (CICs) constitute a food assistance procedure for providing non-liquid food packages through the parents' committees managing the CICs, which have the capacity for 25 to 30 children up to six years old.

713. The food is prepared by mothers taking turns every day in the canteens, Monday through Friday, subsequent to training on phytosanitary and food hygiene and handling issues. In December 2006, the procedure covered 320 CICs (in 29 municipalities located in 10 departments) and 15,398 beneficiary children.

714. Furthermore, MIFAMILIA promotes the creation of community gardens designed to make CICs self-supporting, in cooperation with MAGFOR, which provides seeds and technical assistance. There are currently 169 community gardens with a surface area exceeding 259,579 m². They produce sweet potatoes, pumpkins, pipian zucchini, beans and yellow corn, used to prepare 130 tons of complementary food for approximately 6,000 children under six.

(iv) Implemented programmes aimed at adequate nutrition¹⁶²

715. MINSA describes the following programmes, implemented in order to promote adequate nutrition:

(a) Health and food community programme (PROCOSAN). This programme is referred to in relation to article 12 in this report, under the subheading “Various projects and programmes for the promotion of health”.

(b) National micronutrients programme: This nation-wide programme, headed by MINSA, develops activities of food supplementation and fortification with iron and vitamin A for pregnant women and children six to 59 months old.

(c) National breastfeeding programme: MINSA has developed the promotion of breastfeeding through its nutrition department and, with UNICEF and PAHO/World Health Organization (WHO) support, implemented since 1992 the Baby-friendly and mother-friendly hospital initiative, accrediting 18 hospitals in the country. That activity has been expanded to primary health care through the “ten steps for successful breastfeeding” formula.

The initiative in question led to a reduction of breast-milk substitutes in hospitals and mother and child care centres, the improvement of nutrition and the reduction in the number of services of acute respiratory diseases (ARIs) and acute diarrheic diseases (ADDs). Although the programme is developed nation-wide, of the country's 17 SILAIS, only 12 have been certified.

¹⁶² MINSA report entitled “Coordinated and transparent delivery by the Government, 2002-2006”.

(v) Form in which food is provided through the programmes

716. Nicaragua implements an awareness raising strategy aimed at attitude change with regard to health, food and nutrition and the promotion of adequate and healthy food at the community level through the Health and food community programme.

717. Under the inter-agency agreement concluded between MINSAL-MAGFOR and WFP, beneficiary families receive a food package comprising fortified cereals (corn-soy blend or CSB), legumes, rice, maize and plant oil for preparing rations against food insecurity in the targeted areas. To that end, a permanent inventory is kept through community meetings, where the participants designate the beneficiary families. The food is provided twice a month in the volume established (in grams and kilocalories) as a function of family size. WFP facilitates the programme's logistic, monitoring and supervision procedures and, in its capacity as donor, carries out control visits and interviews with beneficiaries and departmental and municipal MINSAL authorities.

(vi) Implementation of the “Zero hunger” programme

718. The current Government launched the “Zero hunger” programme, aimed at meeting the nutritional needs of the poorest population sectors, in order to ensure that the most vulnerable persons have access to food - such access being one of the Government's major concerns - and to guarantee them food sovereignty.

719. This assistance is part of the programme against hunger through which MAGFOR will every year support 15,000 families (100,000 persons) in the country's poorest areas. The Government's goal is to provide benefits to 75,000 families in five years.

720. In the current year, the plan will cover the indigenous communities of the Coco River, at the border with Honduras. In that region, 17 persons die every month from hunger in the agricultural areas of the Northern departments of Madriz, Nueva Segovia and Estelí and in some municipalities of the department of Managua.

721. The indigenous communities of the Miskito and Mayagna ethnic groups living along the Coco River lead a primitive life, bartering their meagre production of rice, maize and vegetables against small quantities of soap and sugar at the remarkable ratios of 8 lb (3.6 kg) of rice for one bar of soap and 12 lb (5.45 kg) of rice for lb (45 g) of sugar.

722. Under the programme in question, the indigenous people will receive farm animals, such as pigs, cows and poultry, for reproduction and for on-farm consumption and sale of the related products. They will also receive one waste grinder and biogestor per household to generate biogas by anaerobic decomposition and use the rests as manure.

723. The World Bank has made a commitment to support this poverty reduction programme by extending credits of approximately US\$50 million per year on supple terms.

724. The estimated cost of the food project in question is US\$ 150 million dollars. The project was launched on 5 May 2007.

6. Agrarian reform¹⁶³

725. It is estimated that in the 1980s there were 11,833 beneficiary families, accounting at the time for 80 per cent of demand. At the end of that span, in the so-called transition period, many properties which had been under State control, were transferred to private individuals and, under act no. 88, approximately 16,000 agrarian reform titles were issued.

726. Under the Constitution, the agrarian reform shall be the fundamental instrument for the democratization of ownership and the just distribution of land; shall constitute an essential part of the means for the comprehensive promotion and strategy of ecological reconstruction and the sustainable economic development of the country; and shall take into account the socially necessary man-land relationship; while property shall be guaranteed to peasants who are reform beneficiaries under the law.

727. The agrarian reform shall aim at eliminating large idle estates and shall be carried out primarily with land of the State. Should the expropriation of large idle estates affect private owners, the procedures shall be governed by the relevant compensation provisions.

728. Act No. 85 of 29 March 1990 on the transfer of ownership of housing and other real estate belonging to the State and its agencies¹⁶⁴ aimed at guaranteeing the ownership right of any Nicaraguan occupying, by allocation, possession, lease or any other form of tenancy, habitations than were the property of the State and its agencies, such as the National Financial System for Housing, the Housing Bank of Nicaragua, the autonomous and decentralized bodies, State enterprises and municipal authorities. The same entitlement was extended to legal entities with a social mission.

729. Under the above act, all persons who, before 25 February 1990, had been assigned real estate belonging to the State became legitimate owners of that property.

730. Act No 86 of 29 March 1990, containing the special law on the legalization of housing and land¹⁶⁵, recognized the capacity of owner or proprietor to persons to whom land plots or housing units had been assigned by the State and its agencies through distributions coming under the illegal distributions act, progressive real-estate developments or working-class district restructurings, and had not yet received a property title that could be officially registered; and provided those persons with such titles.

731. Real estate under State administration and having the above status was expropriated as from the adoption of the above act. Private individuals affected by such expropriations were entitled to damages.

¹⁶³ MAGFOR, "Land policy framework"; reference document approved by the National agricultural board (CONAGRO).

¹⁶⁴ *Official Journal No. 64*, 30 March 1990.

¹⁶⁵ *Official Journal No. 66*, 3 April 1990.

732. Excluded from the above act were persons occupying the real estate in question without intending to use it as their permanent residence, such as lodgers or boarders, and owners of other real estate.

733. Act No. 87 of 2 April 1990 on the transfer of jurisdiction and agrarian procedures¹⁶⁶ provided the judicial authorities, in particular district civil courts, with specific jurisdiction over agrarian reform issues. Land courts were eliminated and various act No. 14 provisions on agrarian procedures and the jurisdiction of land courts and of the Ministry of Agricultural Development and Agrarian Reform were eliminated.

734. Act No. 88 of 2 April 1990 on the protection of agrarian property¹⁶⁷ confirmed the rights, obtained through agrarian reform, “of the peasants, individual, producers, cooperatives and indigenous communities of the Atlantic Coast to the ownership of land”; and recognized the agrarian reform titles as valid, free-of-charge legal documents establishing ownership.

735. Under the above act, Public real-estate registry officials were under an obligation to enter all agrarian reform titles without extensive formalities and free of charge, regardless of whether those titles were provisional or definitive; and to cancel transactions prior to the agrarian reform, nullifying any transfer of property affected by that reform and still appearing under the name of the previous owner.

736. In the period of the National Opposition Union (UNO) Government, 1990-1996, the agrarian reform followed four specific lines of action: (i) continuation of the process of land redistribution; (ii) establishment of a programme for agrarian property title awards and registration; (iii) establishment of a legal and institutional framework for the review of property uses and allocations; (iv) commencement of the privatization of the State agrarian property area or people's property area (APP).

737. In that stage, many land allocation procedures were completed and a stage of land use conversion and upgrading began. That phase was characterized by the issue of property titles during the transition period and one of the main tasks consisted in allocation reviews, a process that had a high political, social and economic cost.

738. One of the first measures related to agrarian reform was the establishment, in 1991, of the Land management office (OOT), attached to MHCP and primarily responsible for examining takeovers or transfers of real estate carried out pursuant to acts Nos 85 and 86 in accordance with the earlier agrarian reform laws in the period 25 February to 25 April 1990. The task of OOT was to verify whether the prerequisites stipulated in the above laws had been met. If OOT found that they had not, the case was referred to the Office of the State Prosecutor for instituting appropriate invalidation and restoration proceedings.

739. OOT developed procedures for establishing the legitimacy of rights claimed under acts Nos 85 and 86. Compliance with the land management regulations formulated by OOT constituted sufficient grounds for confirming the ownership of real estate affected by agrarian

¹⁶⁶ *Official Journal No. 68*, 5 April 1990.

¹⁶⁷ *Official Journal No. 68*, 5 April 1990.

reform. The act in question also established the Special presidential review commission, later attached to the Office of the State Prosecutor, for investigating cases of property confiscation not meeting the requirements of the law.

740. The Office for compensation assessment (OCI) was established in 1992 in order to determine the amount of the indemnities that the State should recognize in favour of persons whose properties were illegally confiscated or expropriated, duly based on the opinion of OOT and the review commission. The OOT opinion was a means for helping persons affected by illegal expropriations, where restitution of the property was not possible, to receive compensation from the State treasury through the appropriate payment procedures.

741. The Urban land title awards office (OTU) was established in 1994¹⁶⁸ in order to “contribute” to the process of legalizing urban lots acquired under act No. 86. OOT review and disposition clearances are required for the issue of definitive property titles for urban real estate

742. Act No. 209 of 30 November 1995 on property stability¹⁶⁹ was aimed at resolving property-related issues.

743. The above act recognized the validity of ownership based on OOT and OTU clearances and agrarian reform titles in accordance with act No. 14, on condition that the appropriate documents were produced. Moreover, it provided for benefits to the initial owners of land affected by agrarian reform and established new time limits for review and reinstatement requests.

744. In the period of the Government headed by Ms. Violeta Barrios, 23,069 property titles for 837,947 manzanas were delivered to 37,690 peasant families; and 3,262 land disputes were settled through the former Nicaraguan agrarian reform institute (INRA), acting as mediator and conciliator¹⁷⁰.

Land distribution since the introduction of the agrarian reform, 1979-2006

Surface area categories	Surface	Percentage of total surface	Number of producers	Percentage of producers
Up to 50 manzanas	2,215,147.4	24.8	160,356.0	80.4
50-200 manzanas	3,303,456.9	37.0	32,430.0	16.3
200-500 manzanas	1,647,185.1	18.4	5,169.0	2.6
Over 500 manzanas	1,769,231.1	19.8	1,594.0	0.8
Total	8,935,020.5	100.0	199,549.0	100.0

Source: CENAGRO, 2001.

¹⁶⁸ Decree No. 39-94 of 13 September 1994 on the establishment in operation of the Urban land titling office, *Official Journal No. 176*, 22 September 1994.

¹⁶⁹ *Official Journal No. 227*, 1 December 1995.

¹⁷⁰ MAGFOR, “Land policy framework”; reference document approved by CONAGRO.

745. According to INRA, entitlements were still required for 204,935 manzanas, in relation to 6,772 agrarian reform titles¹⁷¹. In view of demarcation and titling needs in the Atlantic Coast indigenous communities and of legalization applications by producers falling outside the scope of the agrarian reform, it is estimated that there are pending legalization requests by small- and medium-scale producers for 700,000 manzanas.

746. Act No. 278 of 1997 on urban and rural property subject to the agrarian reform regulated issues related to tenancy, charges, discharge and the exercise of the right of real estate in the State's possession, under the aforementioned laws. It also contains provisions on unplanned human settlements formed after 1995. This act, which repealed act 2009, constitutes the substantive and procedural legislation currently in force with regard to property-related issues.

747. The concentration of the national surface area in the private sector decreased from 84 per cent in 1990 (when 10 per cent of the surface area was affected by the agrarian reform) to 71 per cent in 2002.

748. Since 1990, there have been difficulties in resolving issues related to property, especially in the agricultural sector. A climate of uncertainty has ensued with regard to legal documentation, creating pressure on the beneficiaries.

D. Housing¹⁷²

749. Housing is crucial to human dignity. A decent dwelling is more than four walls and a ceiling. A key to a normal and healthy life, housing - space for living - should satisfy psychological requirements for privacy, physical requirements for security and protection from the elements and social requirements for developing essential human relations. In many societies, the home also plays a central economic role as a place for important commercial activities.

750. The definition of the right to decent housing is the basis for evaluating the measures taken by States with a view to providing such facilities in response to the citizens' insistent demands.

1. Body in charge

751. Under act No. 428, organizational law of the Institute for urban and rural housing (INVUR)¹⁷³, INVUR is the body in charge of housing at the national level, responsible for prioritizing the development of low-cost housing (VIS). It also coordinates all activities in that sector.

752. Under chapter I, article 1 of the above act, INVUR "shall be a decentralized body affected with a public interest, a legal entity with assets of its own and full authority to acquire rights and contract liabilities of indefinite duration".

¹⁷¹ Based on 1996 data regarding Government assignments to INRA.

¹⁷² INVUR contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

¹⁷³ *Official Journal No. 109*, 12 June 2002.

753. Under act No. 457 of 4 June 2003 on the operation, regulation and procedures of the Social fund for housing (FOSOVI)¹⁷⁴, the main objective of FOSOVI shall consist in granting subsidies for low-cost housing. According to the act, it is in the interest of the State to ensure that such subsidies are granted justly, fairly and transparently.

754. INVUR, whose activities are based on the National housing plan, 2005-2025, aims primarily at transforming the idea of housing from the current perception of it as part of the poverty reduction strategy to a view of housing guided by a policy for the economic and social development of the residential sector.

755. INVUR is the authority guiding and promoting the development and strengthening of the housing sector as a whole, especially with respect to low-income population groups; and encourages the participation of the private sector by favouring the diversification and streamlining of residential buildings through appropriate sectoral policies compatible with the country's development strategy. INVUR pursues the following objectives:

- (a) Decentralizing housing construction and financing towards the private sector and organized civil society;
- (b) Promoting incentives boosting low-cost housing supply and demand, including the subsidy policy, administrative funds and mortgage security funds;
- (c) Establishing criteria for housing operations, such as (legal, social and environmental) sustainability; protection from natural hazards; and spatial planning (regional development) approach.

(i) Subsidy system

756. Inter alia, INVUR offers a residence subsidy for low-cost housing units. Such a unit must have a surface area of up to 60 m² and a construction cost not exceeding the C\$ equivalent of US\$2,000.

757. The residence subsidy is a grant and an incentive extended by the Government to households with limited resources for purchasing, building or improving any low-cost housing unit.

758. Subsidies may be direct or indirect. They are granted on the basis of the criteria listed below. A subsidy shall:

- (a) Fulfil a social function;
- (b) Encourage responsible participation;
- (c) Enhance respect for private and community property;
- (d) Be free of abuse and granted only once;
- (e) Be non-partisan.

¹⁷⁴ *Official Journal No. 117*, 4 June 2003.

(ii) Creation of the National housing board (CNV)

759. In the last quarter of 2005, INVUR, in cooperation with the main actors of the housing sector, formulated the National housing plan, 2005-2025.

760. The above plan fulfils the following roles:

(a) It identifies the problems that have prevented the efficient development of the housing sector;

(b) It proposes the public policies that should be adopted;

(c) It suggests strategies for implementing the above policies with a view to attaining specific short-, medium- and long-term goals.

761. The creation of the National housing board (CNV) is necessary for facilitating social, occupational, technical and cooperation-related agreements with a view to implementing the National housing plan. CNV shall be the sector's permanent consulting body, particularly vis-à-vis INVUR, in the areas of housing programme design, formulation and evaluation. CNV shall also promote discussion, cooperation and coordination between the executive and the other branches of Government and the civil society bodies concerned.

2. The housing situation in the country

(i) General information¹⁷⁵

762. According to the 2005 census, there exist in the country 1,116,540 housing units, of which only 979,530 are actually occupied. On the average, there are slightly over five persons to a housing unit. This figure represents 19.6 per cent of the national total.

763. Geographically, the housing distribution matches demographic distribution. Accordingly, the highest rates are encountered at the departments of Managua (24.3 per cent), Matagalpa (9.0 per cent), Chinandega (7.5 per cent) and León (7.4 per cent).

764. To assess the housing deficit, the census uses the concepts of "housing unit" and "household". A housing unit consists of one or more rooms, is structurally distinct and independent and is designed for lodging one or more persons who may or may not be relatives. A household consists of a person or group of persons, who may or may not be relatives, live under the same roof and prepare their food in common ("common pot").

765. Approximately 95 per cent of the housing units are inhabited by one household, 4 per cent by two and slightly over 1 per cent by three or more. The difference between the total number of households and the total number of housing units implies a housing deficit of slightly over 66,000 housing units.

¹⁷⁵ Eighth population and fourth housing census, 2005. – INVUR contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

766. At the time of the 2005 census, 99.67 per cent of the total population lived in private housing units, 0.32 per cent in collective facilities (such as hotels, boarding houses, hospitals and clinics) and 0.01 per cent were homeless. The following table shows the housing situation in the urban and rural areas:

TYPE OF HOUSING	TOTAL		Urban		Rural	
	Housing units	Population	Housing units	Population	Housing units	Population
COUNTRY	979,530	5,142,098	560,011	2,875,550	419,519	2,266,548
<i>Private housing</i>	978,335	5,124,891	559,153	2,864,718	419,182	2,260,173
<i>Collective housing</i>	1,195	16,488	858	10,187	337	6,301
<i>No housing</i>	-	719	-	645		74

Source: Eighth population and fourth housing census, 2005.

767. The following table shows a breakdown of private housing and its occupants by type of housing and type of area (urban or rural), juxtaposing 1995 and 2005 census data.

TYPE OF HOUSING	1995 census				2005 census			
	Housing units	%	Population	Average	Housing units	%	Population	Average
COUNTRY	751,637	92.8	4,345,954	5.8	978,335	100.0	5,124,891	5.2
House	661,565	88.0	3,854,802	5.8	914,313	93.5	4,803,302	5.3
Country house	3,567	0.5	19,533	5.5	3,829	0.4	17,873	4.7
Apartment	2,471	0.3	10,589	4.3	975	0.1	3,412	3.6
Room in bunkhouse	8,292	1.1	37,171	4.5	1,683	0.2	7,159	4.3
Hut or shack	35,754	4.8	208,338	5.8	32,523	3.3	173,735	5.3
Makeshift housing	38,955	5.2	211,362	5.4	22,298	2.3	107,253	4.8
Shop unit used as housing	1,033	0.1	4,159	4.0	2,714	0.3	12,157	4.5
Urban	427,484	100.0	2,364,354	5.5	559,153	100.0	2,864,718	5.1
House	390,375	91.3	2,176,336	5.6	538,058	96.2	2,766,680	5.1
Country house	968	0.2	5,005	5.2	1,124	0.2	4,983	4.4
Apartment	2,099	0.5	8,822	4.2	956	0.2	3,356	3.5
Room in bunkhouse	5,474	1.3	24,066	4.4	1,172	0.5	4,738	4.0
Hut or shack	3,151	0.7	17,459	5.5	2,725	2.4	13,171	4.8
Makeshift housing	24,780	5.8	130,317	5.3	13,280	0.3	64,251	4.8
Shop unit used as housing	637	0.1	2,349	3.7	1,838		7,539	4.1
Rural	324,153	100.0	1,981,600	6.1	419,182	100.0	2,260,173	5.4
House	271,190	83.7	1,678,466	6.2	376,255	89.8	2,036,622	5.4
Country house	2,599	0.8	14,528	5.6	2,705	0.6	12,890	4.8
Apartment	372	0.1	1,767	4.8	19	0.0	56	2.9
Room in bunkhouse	2,818	0.9	13,105	4.7	511	0.1	2,421	4.7
Hut or shack	32,603	10.1	190,879	5.9	29,798	7.1	160,564	5.4
Makeshift housing	14,175	4.4	81,045	5.7	9,018	2.2	43,002	4.8
Shop unit used as housing	396	0.1	1,810	4.6	876	0.2	4,618	5.3

Source: Eighth population and fourth housing census, 2005.

768. Of the total of 978,300 private occupied housing units in the country, 817,478 (83.6 per cent) are owned by the occupants, of whom, however, 32.6 per cent have no property title, which creates a legal problem.

769. That problem is more widespread in the countryside (41.9 per cent). The balance of 160,857 housing units (16.4 per cent) are in the process of being paid or amortized, leased, transferred or lent or their status is unknown to the occupants.

770. A comparison with 1995 census data shows an increase in the number of housing units with a property title and therefore a reduction in the extent of the legal problem (cf. annex 2, art. 11).

Number of housing units in a good condition (Pacific and Atlantic zones)

TYPES OF PRIVATE HOUSING IN NICARAGUA (Atlantic zone and Rest of the country)

TYPE OF HOUSING	2005 census			
	Housing units	%	Population	Average
COUNTRY	978,335	100.0	5,124,891	5.2
House	914,313	93.5	4,803,302	5.3
Country house	3,829	0.4	17,873	4.7
Apartment	975	0.1	3,412	3.6
Room in bunkhouse	1,683	0.2	7,159	4.3
Hut or shack	32,523	3.3	173,735	5.3
Makeshift housing	22,298	2.3	107,253	4.8
Shop unit used as housing	2,714	0.3	12,157	4.5
Rest of the country	853,572	100.0	4,409,883	5.2
House	803,568	94.1	4,168,940	5.2
Country house	3,687	0.4	16,975	4.6
Apartment	973	0.1	3,406	3.5
Room in bunkhouse	1,656	0.2	7,034	4.2
Hut or shack	19,515	2.3	98,874	5.1
Makeshift housing	21,933	2.6	105,261	4.8
Shop unit used as housing	2,240	0.3	9,393	4.2
Atlantic zone^(*)	124,763	100.0	715,008	5.7
House	110,745	88.8	634,362	5.7
Country house	142	0.1	898	6.3
Apartment	2	0.0	6	3.0
Room in bunkhouse	27	0.0	125	4.6
Hut or shack	13,008	10.4	74,861	5.8
Makeshift housing	365	0.3	1,992	5.5
Shop unit used as housing	474	0.4	2,764	5.8

(*) Including Río San Juan, RAAN and RAAS.

Source: Tabulation of data from the Eighth population and fourth housing census, 2005.

771. Approximately 280,000 persons live in precarious conditions, huts, shacks or makeshift housing of poor quality, made with temporary or discarded materials.

772. Of the total number of private housing units, 5.6 per cent are in the above poor state. In the Atlantic zone, that rate is higher (10.7 per cent) and so is the proportion of persons occupying such housing.

(ii) “Vulnerable” groups¹⁷⁶

773. As indicated at the beginning of this section, there is a deficit of approximately 113,700 housing units. Based on the average number of occupants (5.2) per housing unit, the number of homeless is estimated at 591,240. Moreover, 280,000 persons live in unsafe or inadequate structures.

774. There are no statistical records regarding people living in illegal settlements, evicted, otherwise legally expelled or on a waiting list for obtaining housing.

775. There are groups of persons who, although they live in relatively decent housing, their standard of living is inadequate because of insufficient access to basic services, as described below.

(a) Water supply: 13.2 per cent of the population use river or spring water and 16.7 per cent use (private or public) wells, with negative effects on their health. The situation is even more critical in the rural areas, where those two rates add to more and 60 per cent, while 5.4 per cent of the rural population must carry water from a public supply point to the home (cf. annex 3, art. 11);

(b) Lighting: 67 per cent of the population are connected to the power network. That rate, 93 per cent in the urban areas, is 34.5 per cent in the rural areas, where kerosene is mainly used and where 14.0 per cent of the population use such lighting systems as, mainly, power substations or generators, solar panels, automobile batteries, candles and torches (cf. annex 4, art. 11);

(c) Sanitation: According to the 2005 population and housing census, most of the country's households (58 per cent) and population (60 per cent) use latrines. Among the rural population, the rate is 68 per cent. Furthermore, 15 per cent of the total population (30 per cent in the rural areas) have no sanitation facilities at all.

776. A comparison with 1995 census data shows a decrease in the number of persons without sanitation and an increase in the number of latrines.

777. The following table shows the types of sanitation facilities used (cf. annex 5, art. 11).

¹⁷⁶ INVUR contribution to the 2006 report submitted by Nicaragua under the provisions of ICESCR.

SANITATION FACILITY TYPES USED (2005)

Type of facility*	Total		Urban		Rural	
	Households	Population	Households	Population	Households	Population
COUNTRY	1,045,292	5,128,074	613,627	2,867,346	431,665	2,260,728
Toilet discharging into:	282,448	1,283,205	271,794	1,235,987	10,654	47,218
- Sewer pipes	202,858	926,985	202,858	926,985	-	-
- Cesspit or septic tank	77,299	344,893	67,137	300,502	10,162	44,391
- River or brook	2,291	11,327	1,799	8,500	492	2,827
No toilet but latrine	604,460	3,055,310	315,201	1,527,875	289,259	1,527,435
No sanitation	158,384	789,559	26,632	103,484	131,752	686,075

Source: Eighth population and fourth housing census, 2005.

* In both private and collective housing.

(iii) Waste disposal

778. The waste of 39.3 per cent of the population is collected by garbage trucks and of 34.7 per cent is burnt at dumps. In the urban areas, those rates are 38.8 and 12.5 per cent. In the rural area, the majority (22.2 per cent) of households use burning while 13.2 per cent dump it on uncultivated land or riverbeds and by the roadside or in ravines, increasing pollution and exposing the inhabitants to health hazards (cf. annex 6, art. 11).

(iv) Illegal settlements and illegal housing¹⁷⁷

779. For slightly over two decades, Nicaragua's population has been disproportionately increasing in the urban areas, as migration from the rural areas has been added to natural demographic growth.

780. The implementation of act No. 309 of 1999 on the regulation, management and titling of unplanned human settlements is one of the major challenges faced by municipal authorities. Urban growth tends to be horizontal, residential and unregulated. The resulting settlements on vacant land are hard to dismantle and currently number approximately 300 in Managua and 528 in the rest of the country.

781. It is estimated that, of Managua's total population of 1,262,978 (according to the 2005 census), 45 per cent - namely, 568,340 persons - live in unplanned settlements, with approximately 1,894 persons per settlement (although settlement sizes vary considerably). Extrapolating to the national level, it may be estimated that approximately 30.5 per cent of the country's population (1.568.372 persons) reside in such settlements.

782. The Association of Municipalities of Nicaragua (AMUNIC) and the municipal authorities have launched an Unplanned settlements titling programme, as part of an initiative aimed at legalizing the situation and regulating the activities of the population living in such settlements and improving its standard of living.

¹⁷⁷ Ibid.

783. The above initiative pursues the following specific objectives:

- (a) Building the management capacities of local authorities in the area of property title awards through legal counsel and technical support for the implementation of act No. 309;
- (b) Establishing mechanisms and procedures for citizen participation at the local level to facilitate the property title award process in settlements prioritized by the municipal authorities;
- (c) Encouraging community organization with a view to formulating social development projects through participatory micro-planning and building the management capacities of the inhabitants based on an understanding and advantageous implementation of the legal framework.

784. The incentive is funded mainly by the Government, which earmarked to that effect a total of US\$330,725 over four years, broken down as follows:

- 2003: C\$1,000,000 (approximately US\$ 56,000);
- 2004 and 2005: C\$2,000,000 (approximately US\$ 109,890) per year;
- 2006: C\$ 3,000,000 (approximately US\$ 164,835).

785. The main beneficiaries of the initiative are inhabitants of the municipalities of Altagracia, Boaco, Mateare, Moyogalpa, Ciudad Sandino, Tipitapa, Nandaime, Granada, San Marcos, Jinotepe, Dolores, Diriamba, Tola, Tisma, Concepción, Diriomo, Villa El Carmen and Estelí.

786. According to INVUR, approximately 222,000 families lack the income necessary for obtaining a housing loan in view of the payment capacity limit stipulated by the Government¹⁷⁸.

3. Housing legislation

(i) On the right to housing

787. Under article 64 of the Constitution, “Nicaraguans shall have the right to decent, comfortable and safe housing guaranteeing the privacy of the family. The State shall promote the fulfilment of this right.”

(ii) On the role of municipalities

788. Legislation regarding municipalities aims at their administrative and financial decentralization and contains provisions on, inter alia, their governance, structure, powers, creation, resources management and right to their natural resources.

789. The main laws regarding municipalities are the following:

- (a) Act No. 40 on municipalities, and its implementing regulations, Act No. 261;
- (b) Act on political and administrative division;

¹⁷⁸ On the basis of the mid-term evaluation of the Multiphase low-income housing programme, September 2005.

- (c) Act on the municipal budget system;
- (d) Act on budget allocations to municipalities;
- (e) Act on careers in municipal administration, and its implementing regulations;
- (f) Act on citizen participation, and its implementing regulations;
- (g) General on the national land register, and its implementing regulations;
- (h) Act on the municipal tax clearance certificate;
- (i) Schedule of municipal taxes;
- (j) Schedule of municipal taxes of the municipality of Managua;
- (k) Decree on real estate tax;
- (l) Act on the community property system of the indigenous peoples and ethnic communities of the Atlantic Coast autonomous regions;
- (m) Act establishing the national system for disaster prevention, relief and assistance (SINAPRED);
- (n) Act on local property;
- (o) Act on the immunity of municipal assets from seizure.

(iii) Laws on land management

790. Currently, there is no land management act. A draft land management act has been presented to the National Assembly.

791. Decree 78-2000 on land management rules, standards and guidelines is the only legal instrument in force, which is available for the implementation of development policies. It views land management as an instrument for environment management aimed at sustainable development through maximum rationalization of relations between society and the environment. It provides for the appropriate use of land with a view to avoiding environmental degradation; and aims at providing municipalities with a technical and legal tool for an adequate implementation of municipal land-management plans and of the municipal planning framework.

792. The above decree defines such key terms as, inter alia, urban and rural areas, human settlements, rural and urban settlements, wetlands, catchment basins, land management, soil and municipal territory.

793. The decree provides nation-wide rules regarding land-use and distribution, soil use and urban zonation. A general city planning act is currently before the National Assembly for adoption.

(iv) Laws on expropriation

- (a) Act No. 229 on expropriation;
- (b) Decree No. 442 on asset confiscation procedures;
- (c) Decree No. 760 on the appropriation of abandoned assets;

- (d) Decree No. 895 on the expropriation of urban vacant lots;
- (e) Decree No. 903 on the expropriation of empty land property in the inner city of Managua;
- (f) Act No. 85 on the transfer of property and other real estate belonging to the State;
- (g) Act No. 209 on property stability.

(v) Laws on compensation

- (a) Decree No. 51-92 establishing the Office for compensation assessment (OCI);
- (b) Decree No. 56-92 on the compensation system;
- (c) Decree No. 07-93 containing the operational regulations of OCI;
- (d) Act No. 180, special act on determining the value of compensation vouchers.

(vi) Laws on community participation

794. Note should be made of act No. 475 of 22 October 2003 on citizen participation. It was published in *Official Journal No. 241* of 19 December 2003.

795. The purpose of the above act is to encourage the fulfilment of the citizens' role in the political, social, economic and cultural areas through the establishment and operation of institutional mechanisms facilitating interactions between the State and society, thereby strengthening freedom and participatory and representative democracy according to the Constitution.

796. The provisions and regulations in question are based on articles 7 and 50 of the Constitution, expressions of the recognition of participatory and representative democracy and of the right to participate under equal conditions in public affairs, in State management and in the implementation of the international human rights instruments signed and ratified by Nicaragua and of the related general legal principles that are universally accepted.

797. The creation and operation of institutional mechanisms that allow interaction citizens' organizations is incumbent upon the State.

(viii) Laws on leases

798. Act No. 118 of 1991 on leases regulates the leasing of residential real estate whose land register value is less than C\$30,000 in the city of Managua or C\$20,000 anywhere else in the country. The lease amount is subject to restrictions and should be proportional to the surface area of the housing unit.

(viii) Various forms of protection against eviction

799. There are no provisions currently in force for general protection against eviction, a procedure explicitly provided for under civil law. Alternative forms of protection in this area are provided for in the legislation described below.

800. Under act No. 112 of 1973 on lease contracts for urban property, such a contract may not be terminated on the grounds that the property is used for purposes other than those agreed upon, where the lessee, in addition to using it as residence, sets up a school or small-business in part of the property.

801. The partial subleasing the leased property by the lessee without the lessor's consent shall not constitute grounds for eviction or restitution. However, the sublease amount may not exceed 50 per cent of the lease amount that the lessee pays to the lessor.

802. Under the 1993 act on a nine-month suspension of the basic measures provided for in civil code article 3446, civil proceedings in relation to a precarious real-estate loan may be suspended for nine months, provided the property is a housing unit and the precarious-loan proceedings commenced before the act entered into force. After the suspension period, the proceedings shall continue.

(ix) Laws on building

803. The General Directorate for building standards and urban development in the Ministry of Transport and Infrastructure (MTI) contributes to construction planning and urban development nation-wide through the formulation, regulation, promotion and control of activities conducive to enhancing the quality of life in residential terms.

804. Decree No. 90 of 1973, containing the building code for the region of the capital, stipulates technical standards for resistance to earthquakes and refers to specifications and regulations that must be observed in relation to the design, construction, building procedures and quality of materials for the various types of buildings

805. The National building regulation (1984) stipulates requirements regarding the design and construction of new buildings and the repair and reinforcement of existing ones with a view to:

- a) Avoiding loss of life and reducing the probability of injuries;
- b) Resisting minor earthquakes, without damage;
- c) Resisting medium-intensity earthquakes, with slight structural damage and moderate non-structural damage;
- d) Avoiding the collapse of buildings as a result of severe earthquakes, containing the damage within economically acceptable limits;
- e) Resisting the effect of winds and other accidental occurrences, without damage.

806. MTI amended the New national building regulation in 2005, 20 years after it had taken effect and without any other updates since then.

807. No information has been obtained on laws prohibiting discrimination in the housing sector or on laws incompatible with the right discussed here.

(x) Laws on the illegal housing sector

808. Act No. 309 aims at establishing a legal framework for urban planning, demarcation and titling in the country's unplanned human settlements. Such a settlement consists in a grouping of

housing units at an urban location in a municipality, which have been built gradually by occupant families that took possession of the grounds. Those settlements, characterized by a disorderly distribution of urban space, high density of housing and lack or inadequacy of basic services, include settlements built on the land of cooperatives or individuals whose urban property titles were invalidated under acts Nos. 209 and 278.

809. The above act provides for the rights and obligations of settlement inhabitants, who may form associations under acts Nos. 309 and 40. Through their representative, settlement inhabitants may file a settlement legalization application with the competent municipal authority.

810. The surface area of individual lots in settlements may not exceed 300 m². During the settlement legalization procedure, they may not be transferred and their occupants may not be evicted for failure to make payments or on any other grounds.

(xi) Laws on the environment

811. The legal framework concerning environmental protection comprises numerous acts, regulations, decrees, ministerial decisions, technical guidelines and ratified international instruments that ensure the protection of the country's natural resources and encourage a culture of sustainable development. That framework includes the following instruments:

- (a) Act No. 217 containing the general law on the environment and natural resources;
- (b) Fundamental law for the regulation and control of pesticides, toxic and dangerous substances and similar substances;
- (c) NTON 05012-02 on air quality;
- (d) Decree 68-2001 on the establishment of environmental management units;
- (e) Act No. 462 on forest sector preservation, support and sustainable development;
- (f) Act No. 559, special act on offences prejudicial to the environment and natural resources.

4. Measures adopted to ensure the right to housing

(i) Measures to further the strategy of facilitating housing

812. The purpose of the Institute for Urban Housing is programming urban and rural development, seeking to facilitate, diversify and rationalize the construction of all kinds of buildings intended as dwellings. Accordingly, it should:

- (a) Develop the national housing policy needed to bring about fulfilment of the constitutional right to decent housing, promote conditions of dignity, habitability, safety and suitability of housing, including public initiatives in coordination with municipalities;
- (b) Coordinate with other public or private institutions linked to the housing sector with respect to socially desirable housing construction and improvement programmes implemented with State funds, including the provision of basic services and infrastructure and their quality;

- (c) Support private initiative for activities that contribute directly or indirectly to providing Nicaraguans with decent housing;
- (d) Promote and encourage all housing construction and improvement programmes in the country, including by facilitation of mass marketing of construction materials in general at prices affordable to the popular sectors;
- (e) Encourage savings and domestic and foreign investment in the housing sector; stimulate the operation of efficient and sound short-term and long-term credit mechanisms;
- (f) Promote improvement of the housing situation and extend the advantages of decent housing to as much of the population as possible;
- (g) Compile, maintain and disseminate key statistics on the operation of the housing sector;
- (h) Oversee research and development with regard to the regulatory, legal, economic and technical framework affecting the housing sector, in order to improve its institutional functioning and coordination; promote the use of safe and appropriate construction technology enabling all Nicaraguan citizens to have access to decent housing;
- (i) Design and administer programmes for the implementation of its goals in keeping with the provisions of the present Law;
- (j) Administer a specific housing subsidy fund, geared to improving the quality of life of low-income citizens and to stimulating demand for social housing in a manner regulated by the present Law and its regulations;
- (k) Promote participation by individual families, citizens' groups, community organizations, non-profit organizations and municipalities in the solution of housing problems;
- (l) Seek to ensure that information provided by housing developers is truthful and does not involve confusion or deceit, and to ensure that users or consumers are protected against construction flaws or defects.

813. Agencies and instrumentalities of the State have an obligation to cooperate with the Nicaraguan Institute for Urban and Rural Housing (INVUR) with regard to those activities and projects in which their cooperation is sought, in keeping with their purpose. No State entity or institution may engage in housing programmes without planning and coordination by INVUR.

814. INVUR facilitates the execution of socially desirable housing projects through auxiliary entities which, pursuant to this Law, are considered auxiliary entities of INVUR and consequently of the Social Housing Fund (FOSOVI), those which, in addition to placing their own resources, act as intermediaries in the placement of resources of the housing programmes promoted by INVUR through FOSOVI.

815. These entities shall be entrusted with granting to final beneficiaries the subsidies intended to finance the purchase or rehabilitation of social housing units.

816. The following are considered auxiliary entities:

- (a) Banks;
- (b) Housing cooperatives;
- (c) Savings and loan associations for housing, governed by the law which authorizes their operation;
- (d) Offices of mayors;
- (e) Other duly constituted micro-credit institutions which satisfy established requirements;
- (f) Other public or private institutions of a social character which satisfy the requirements laid down by INVUR.

817. With regard to measures adopted by the State to build housing units and other affordable rent alternatives, INVUR indicated that the State has not yet facilitated that kind of socially-oriented affordable-rent construction, since it is focusing on promoting family ownership through socially-oriented housing programmes.

(ii) Measures adopted to develop lands that are in use, under-used and unduly used.

818. The question of property is a sensitive one in the country and the Government of Nicaragua is pursuing a project to restructure property relations, the Property Management Project (PRODEP), with the aim of conferring legal security on land tenure. The project is part of a comprehensive approach to resolving property issues and relies on co-financing from the World Bank and the Nordic Development Fund. PRODEP is scheduled to be executed over a five-year period (2003-2007) and will serve as the basis for the development of a National Property Management Programme with a long-term perspective.

819. The medium-term goal is to establish a legal, institutional, technical and policy framework in a coherent manner that ensures the secure and transparent administration of property rights.

820. The long-term goal is to contribute to resolving the problem of property at the national level with a technically consistent, comprehensive approach in order to regulate property rights in urban and rural settings, benefiting the reformed private sector, indigenous and ethnic communities, protected areas and municipalities.

821. Executing agencies of the project:

- (a) Ministry of Finance (Department of Property);
- (b) Supreme Court of Justice (Public Registry of Real Property and Office of Alternative Dispute;
- (c) Directorate of Alternative Dispute Resolution (DIRAC);
- (d) Ministry of the Environment and Natural Resources (MARENA), General Office for Protected Areas);
- (e) Ministry of Agriculture and Forestry (MAGFOR), Office of Land Policies;

- (f) Nicaraguan Institute for Territorial Studies (INETER) and Offices of Mayors;
- (g) Civil Society (grass-roots organizations, NGOs).

822. Goals of the project:

The project seeks to regularize property by three parallel processes:

- (a) Systematic regularization in three departments (Chinandega, Estelí and Madriz), including the demarcation and consolidation of 11 protected areas;
- (b) Demarcation, issuance of title and registration for nine indigenous territories selected in the North Atlantic and South Atlantic Autonomous Regions (RAAN and RAAS); support for issuance of title of six indigenous territories in the Bosawás Nature Preserve;
- (c) Issuance of title and review of remainders of the reformed sector in the rest of the country (urban and rural).

823. With regard to financial measures relating to the budget of the Ministry of Housing, the national budget does not contain a specific percentage assigned to INVUR (the agency in charge of housing). Annual budgets are prepared based upon projects to be carried out and funds assigned to them, as well as funds necessary for execution.

824. INVUR's budget share by year:

Year	Percentage
2004	1.0%
2005	0.7%
2006	0.6%

825. Regarding measures to ensure that international aid is directed to the most disadvantaged groups, INVUR reported that it is preparing a study entitled "Establishment of a System of Housing Indicators" which will enable it to identify investments in these areas independently of the source of financing and of the sector towards which financing is targeted.

(iii) Measures to promote development of urban centres

826. Strategies under the National Development Plan contemplate the creation of Centres for Service Providers (*Centro Proveedores de Servicios (CPS)*) whose main purposes are to enhance access to services by the population of territories heretofore excluded, increase the social impact of public expenditure, leverage the social capital of local communities and governments, and improve distributive justice at the local level.

827. The specific goals of the CPSs are aimed at strengthening the social dimension in small localities which, by virtue of their accessibility and population density, have a significant impact on bringing help to the poorest. Those localities have the following features: they have from 100 to 2500 inhabitants; they are located no more than 3 km from an all-weather road and have at least a minimal education and health infrastructure. During the period 2005-2009, the CPS strategy will adhere to the following guidelines:

(a) Establish a national coordination range and develop an implementation plan to meet the specific needs of CPSs, through an operational methodology to be approved by the appropriate authority;

(b) Improve efficiency as regards access and quality in the provision of basic services to remote rural localities with a socially marginalized population, through the execution of a series of projects in the areas of health, education, water supply, sanitation, social protection, housing, roads, rural electrification, communications, community development and production, to contribute significantly to reaching the goals set in the social and productive sectors.

(iv) Measures adopted during renovation projects and new development projects.

828. These measures have been adopted through decrees and laws laying down procedures and forms of compensation for property owners affected by improvement or urban renewal projects in municipalities.

829. Those laws include the following:

a) Legislative Decree No. 163, the Law on Urban Renewal¹⁷⁹, which authorizes the National Office of Urban Renewal, on its own initiative, to formulate and prepare renewal programmes in urban areas. Any programme or plan must be submitted for review and approval by the President of the Republic or the respective Municipalities.

b) Decree No. 833 (1981), the Law on Value Accruing from Execution of Public Works or Improvements, published in the *Official Journal No. 234* of 16 October 1981. This Decree regulates the value acquired by rustic urban or suburban properties as a result of public works or improvements, regardless of whether said works involved expropriation.

5. The problem of land tenure¹⁸⁰

830. Uncertainty of land ownership in Nicaragua has become a true hindrance to long-term investments, either with one's own capital or through mortgage loans, given the high risk involved for the financial markets. It also affects the sustainable use of natural resources, since, without security of ownership, the occupant tends to plunder resources by exploiting them to the maximum within the shortest possible time.

831. Some of the major problems of insecurity of tenure are the following:

(i) Weak and dispersed legal and institutional framework

832. The weakness of the legal system is due in large measure to inconsistencies in the legislation in force and the institutional structure regulating property rights and land tenure. There are estimated to be more than 60 laws, executive decrees and ministerial agreements

¹⁷⁹ Published in the *Official Journal No. 9* or 11 January 1956.

¹⁸⁰ "Framework of Land Policy", Ministry of Agriculture and Forestry. Document for consultation, made official by the National Agricultural Council (Consejo Nacional Agropecuario) (CONAGRO).

dealing with this issue, granting powers to more than 25 agencies of the three branches of the State which operate with overlapping mechanisms of negotiation, administration, distribution and assignment of rights. The foregoing directly increases both the time and the cost involved in legalizing properties, also affecting confidence, physical safety and legal security of property.

(ii) Little articulation between productive sector institutions and property

833. One of the main weaknesses of the Government is weak coordination between institutions linked to property and the productive sector. According to information from the Ministry of Finance (MHCP), of 1,567,033 *manzanas* [1.75 acre lots] handed over by the Agrarian Reform, projects by the Rural Development Institute (IDR) have reached only 13%, due to lack of pre-project or post-project coordination; plans for regularization of a given area or municipality are not known to the majority of productive-sector institutions, and beneficiaries therefore cannot gain access to the different technical and financial services afforded by productive-sector institutions.

834. The lack of institutional coordination is identified as a key problem by agents of the Ministry of Agriculture and Forestry (MAGFOR) who cover the national territory, ranking even above the problem of land invasions, which is among the priorities of producers.

835. A start was made towards remedying that lack of coordination in 2005, with the formulation of a Rural Sectoral Programme (PRORURAL) which includes the member institutions of the Rural Agricultural Public Productive Sector (SPAR), with the aim of effectively coordinating demand by producers. PRORURAL began its implementation in 2006 with participation by MAGFOR, INTA (Nicaraguan Institute for Agricultural Technology), IDR (Rural Development Institute) and INAFOR (Nicaraguan Forest Authority) and, as of 2007, will also include FCR (Rural Credit Fund) and ENABS.

(iii) Slow and costly legal procedures

836. Depending on the origin, size and location of the property, among other factors, the time required for legalization can range from weeks to years. Similarly, the costs per *manzana* [1.75 acre lot] can run into the thousands of córdobas. The cost of the procedures also increases when the origin of the property is national or through title granted by the Agrarian Reform, in view of the legal procedures for verifying the legitimacy of the title. The origin of the title has an impact on reducing the price of the land in relation to market values. The smaller the property and the more distant it is from urban centres where administrative services are located, the higher the cost of the procedures. Such costs can account for a significant percentage of the value of the property or even exceed that value.

837. The lack of incentives or sanctions has nurtured a culture of informality. Many producers whose property is not legalized do not see in legalization a significant added value that would compensate the investment in time and money that the process involves.

(iv) Invasions of lands

838. This problem takes the form of public and private properties being taken over by organized groups who demand that the Government legalize what they have invaded. At present, the State

does not have the technical and financial resources necessary to complete processing of claims arising from demobilization agreements which imply the purchase of farms to be handed over to ex-combatants. Speculators take advantage of the situation to promote invasions of lands, temporarily transferring groups of people from one place to another within the country in order to exert pressure on institutions to grant title. Once title is obtained, the groups are moved on to other lands. The problem of invasions and speculation is taking on unexpected proportions, even resulting in deaths in different parts of the country, affecting many families' real chances of earning a livelihood and in general affecting the investment climate and the development of financial markets, for which stable mortgage security interests are a key concern.

(v) Lack of demarcation of indigenous lands

839. Indigenous community areas on the Atlantic are under pressure due to growing migration by families from the central and northern areas of the country towards the agricultural frontier and protected areas. The lack of demarcation and recorded title of indigenous territories has meant that in many cases beneficiaries of the reformed sector and demobilized groups have often been located by State intervention and, like private owners and settlers, have moved into agricultural frontier areas and have displaced communities from their ancestral lands.

840. The adoption of Law No. 445, the Law on the Regime of Community Property of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua, has been a great stride towards recognizing the rights of those minorities.

(vi) Lack of recording and demarcation of protected areas

841. Appropriate management and control of protected areas is very limited in some areas and non-existent in others. Defining limits and subsequently setting landmarks to mark off the protected area is carried out with a view to the natural resources that are to be protected. Management plans involve different property regimes.

842. In most areas, the legal status of property is uncertain, which complicates the task of demarcation on the ground and drawing up of management plans. Protection is weak or non-existent. Nicaragua has 76 protected areas, accounting for nearly 18% of the national territory. Half of the protected areas do not benefit from any institutional presence and only 7 have management plans. The most worrisome aspect is that only one of them is recorded in favour of the State (Masaya Volcano) and none have been demarcated.

(vii) Distortion in the land market

843. Land is in demand but the mechanisms for gaining access to it are inefficient, tending to channel information towards organized groups which exert pressure to get land granted to them free of charge. They in turn speculate and deal with potential buyers, completely devaluing the price of land.

844. The sale of lands in the reformed sector through informal channels has created increased distortion of the land market. The main source of land in the informal market for over a decade has been properties handed over or assigned title through agrarian reform. The majority of those properties handed over or given provisional title are subject to restrictions on sale, but they have

been sold through informal channels (notarized bill of sale, promise of forced sale), creating successive unrecorded transfers of property. Land prices have been further distorted, as these sales usually take place at a fraction of the market price for similar land, given the risk of legal insecurity of the property assumed by the buyer.

(viii) Poor coverage by property registers and lack of land survey

845. There is much insecurity as to the legality of titles to property, and a large share of properties (approximately 40%) are recorded more than once in the Registry of Property. This is more common in rural areas that have not been surveyed, where legal subterfuges are used to evade controls and produce complementary titles and other judicial proceedings such as (simulated) forced sales which order the registrars of property to open new registration accounts for properties which may or may not have an active registration account in favour of another person.

846. More than 50% of the properties of small and middle-sized producers have some kind of legal problem, regardless of the origin of the ownership of the land, due to lack of legal supporting documents, since many property transfers (by purchase, inheritance, community assignment, gift) are carried out informally, memorializing the transaction in private documents or writings with flaws of form or substance that invalidate them for registration.

(ix) Inconclusive legalization

847. The mechanisms used for issuance of title pursuant to the Agrarian Reform of the 1980s were to some extent inconclusive, making it difficult to consolidate property rights. That is because some of the properties handed over in the 1980s were backed by provisional Agrarian Reform Titles that were made definitive during the period of transition pursuant to Law No. 88 mentioned above. The number of property cases pending resolution is estimated to be ten thousand.

(x) Changes in land use and inappropriate land use

848. Only 5 million hectares of the country's 13 million hectares are suitable for agriculture. The rest is devoted to forests and conservation. There are at present 8,935,000 *manzanas* [1.75 acre lots] of land distributed among some 200,000 producers. Of that area, some 83% is used for farming, 33% of the soil is under-used, and the 53% needs sufficient conservation to become sustainable. Those remaining areas have significant limitations and vulnerable ecosystems. Poor farmers are often located in marginal districts that are environmentally fragile, not suited for traditional farming systems, and could benefit from improved soil and water management practices.

6. Policies needed to address land problems¹⁸¹

849. The policies designed to address the land problem in the coming years have as their aim resolving the existing problematic situation while bearing in mind that, when it comes to land problems, achieving comprehensive solutions is a long-term process.

850. The essential policies are as follows:

(a) Regulation of property: This policy will be aimed at resolving the pending situations of the 1980s and those originating in the experience of the period from 1990 to 2006;

(b) Elimination of trafficking in land: Immediate sanctions are needed against all those who attempt to take over land. Trafficking in land should be criminalized as a well-defined offence in the Penal Code. One person must never receive two titles under the reformed sector. Should that happen, both titles, and the corresponding entries recorded, should be cancelled.

(c) Assistance with issuance of title for rural lands already handed over: This task should be undertaken in a manner that attends to the needs of the beneficiaries in a comprehensive way, giving special prominence to the participation of women. In this regard, it is essential to establish and make effective coordination with other institutions linked to production and to women. It would be advisable to establish cooperative relations with social organizations on the ground in order to ensure that the State's outreach benefits women.

(d) There should be no more free land or cancellation of debt, since there are speculators who are promoting land invasions. Processes for handing over land and granting title should be performed for purchases, linked to a comprehensive package of services for the other factors of production.

(e) Demarcation and issuance of title for indigenous communities: Actions should seek to ensure that title granted to the communities is strictly in keeping with the culture, traditions and cosmology of those communities regarding their lands. Differences between communities, according to Law No. 445, should be resolved on a first-come-first-served basis.

851. Demarcation and issuance of title require processes of negotiation with participation by community leaders and indigenous and ethnic leadership, beyond legal considerations.

E. International assistance¹⁸²

852. The principal actions of the international community relating to the work of the Property Administration Unit have been directed towards activities of measurement, sanitation and granting of title to lands. To a lesser extent, they have comprised logistical support, equipment and wages.

¹⁸¹ Report of the Property Administration Unit, for the preparation of the Report on PIDESC, 2006.

¹⁸² Ibid.

853. The following countries and organizations have participated: Austria, European Union, the Netherlands, Denmark, Sweden, Germany, Italy, India and the World Bank. Two NGOs have supported the work: Ayuda en Acción of Spain and Novid of the Netherlands.

Support by the International Community

Agency	Country	Type of Cooperation		Department
Austria	Austria	Surveying, Sanitation, Land Titling	Logistical Support, Office Equipment	Chontales, Nueva Guinea, Río San Juan
Ayuda en Acción	Spain	Surveying, Land Titling		Nueva Guinea
World Bank		Surveying, Sanitation, Land Titling	Logistical Support, Office Equipment, Vehicles, Salaries	Nationwide
CEDEPER	European Union	Surveying, Sanitation, Land Titling	Logistical Support, Office Equipment	Managua, León, Masaya, Granada
CHINORTE	Netherlands	Surveying, Sanitation, Land Titling	Logistical Support, Office Equipment, Vehicles	Chinandega
DANIDA	Denmark	Surveying, Sanitation, Land Titling	Logistical Support, Office Equipment	Río San Juan
ENDEFTI	Denmark	Surveying, Land Titling	Subsistence allowances	Jinotega
FONDEAGRO	Sweden	Surveying, Land Titling	Subsistence allowances	Jinotega
GTZ	Germany		Logistical Support, Office Equipment, Vehicles	Nueva Guinea
NOVID	Netherlands	Surveying, Land Titling	Logistical support, Housing	Nueva Guinea
PRA-DC	Italy		Logistical support, Fuel, Stationery	Nueva Guinea
PRODERBO	European Union	Surveying, Land Titling	Logistical Support, Office Equipment, Furnishings	Matagalpa
PRODES	Netherlands	Surveying, Land Titling		Nueva Guinea
TECNOSERVE	India	Surveying, Land Titling		Matagalpa

Source: Report of the Property Administration Unit (IP) for the preparation of the Report on PIDESC, 2006.

IX. ARTICLE 12 – The right to the highest attainable standard of physical and mental health

A. Legal framework

854. The right to health is guaranteed in the country's Political Constitution under Article 59, which provides: "Nicaraguans have the right, on the basis of equality, to health. The State shall establish the basic conditions for its promotion, protection, recovery and rehabilitation. It shall be incumbent on the State to direct and organize health programmes, services and initiatives and to promote the participation of the people in the defence of health. Citizens shall have an obligation to comply with health measures enacted."

855. In this area a number of advances have been achieved that are described below, and there has been a distinct enhancement of the legal framework. Regulations have already been enacted

pursuant to Law No. 423, the General Law on Health (adopted 14 March 2002), whose aim is to protect everyone's right to enjoy, preserve and recover health, in harmony with legal provisions and special measures.

856. Law No. 423 provides that the Ministry of Health shall adopt measures and conduct activities necessary to promote good nutrition, and shall carry out actions to prevent malnutrition and specific deficiencies in micro-nutrients in the population at large, especially children, expectant women and older adults.

857. Another important aspect pertaining to health is the Draft Law on Health Careers, which has been submitted to the National Assembly, and the corresponding Wage Policy which is under discussion, with a view to having a stable, adequate and conciliatory frame of reference to strengthen human capital in the health sector, through the Directorate of Regulation. There are Guidelines and Standards for most areas of activity in the health sector in order to regulate the care that people receive, as well as to govern the conduct of personnel who attend to the population coming into contact with health services.

858. To foster a healthy environment it is necessary to create the conditions for it, and Article 60 of the Nicaraguan Constitution guarantees that right: "Nicaraguans shall have the right to live in a healthy environment. It shall be the obligation of the State to preserve, conserve and rescue the environment and natural resources".

859. Another law favouring health is Law No. 238, the Law on the Promotion, Protection and Defence of Human Rights with regard to AIDS¹⁸³. That Law was enacted for the principal purpose of affording a framework of legal protection for persons affected by HIV-AIDS, as well as promoting social solidarity and avoiding all kinds of discrimination against persons carrying the virus.

860. The aim of the Law is laid down in its Article 1, which guarantees respect, promotion, protection and defence of human rights in the prevention of infection by the HIV virus and in the treatment of the AIDS syndrome. The basis of its provisions is the right to life and health, the human rights enshrined in the Declarations, Covenants and Conventions and contained in Article 46 of the Political Constitution, and the ethical principles of non-discrimination, confidentiality and autonomy, which are to govern its application and the rules derived from it.

861. A very important article of this Law is Article 3, which guarantees human rights non-discrimination, confidentiality and personal autonomy.

862. Likewise, Article 19 provides that any person carrying the HIV/AIDS virus has the right to be provided with advice, counselling, support and treatment, individually or in groups. The care may take the form of at-home or ambulatory care and shall be designed to attend to the person's physical, psychological and social needs.

863. Article 26 of the same Law indicates that persons living with AIDS have the right, upon request, to receive information, counselling and reproductive health and family-planning services.

¹⁸³ Published in the *Official Journal No. 232*, of 6 December 1996.

864. With regard to the right to health of persons deprived of their liberty, that right is guaranteed by Act No. 473 of 2003, the Prison System and Enforcement of Sentences Act, discussed below.

B. Conventions

865. With a view to securing the right to health, Nicaragua has been creating a conducive environment, ratifying the United Nations Convention to Combat Desertification (UNDCD) (ratified by the National Assembly in 1997) and the Montreal Protocol on Substances that Deplete the Ozone Layer (ratified in 1993) which became national law upon ratification, thus strengthening the national legal framework.

866. Another important convention ratified by the Nicaraguan Government to ensure the right to health among children is the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, ratified on 5 October 1990.

C. Health

1. Competent institution

867. Article 4 of the General Law on Health provides that the Ministry of Health (MINSAL) shall be lead entity in securing that right and is entrusted with coordinating, organizing, supervising, inspecting, monitoring, regulating, ordering and overseeing activities related to health. It is directly linked with hospitals, clinics and private providers whose specific concern is the health of individuals, the family and society.

868. In accordance with Article 26 of Law No. 290 on the Organization, Competence and Procedures of the Executive, the Ministry of Health performs the following functions:

- (a) Propose plans and programmes for health, coordinating the participation of other entities concerned with such work;
- (b) Coordinate and direct the execution of the State's health policy with regard to promotion, protection, recovery and rehabilitation of health;
- (c) Foster campaigns of environmental sanitation and dissemination of hygienic habits among the population. Formulate standards, supervise and monitor the execution of sanitary provisions with regard to food, hygiene and the environment;
- (d) Organize and direct health programmes, services and initiatives of a preventive and curative character and promote participation by social organizations in defending health;
- (e) Direct and administer the system of supervision and monitoring of health policies and standards;
- (f) Formulate and propose rules and standards for quality control and monitoring of imports of medicines, cosmetics, instruments, devices and medical equipment for human use; monitor healthy food production and marketing, including sanitary monitoring of carbonated beverages and water for human consumption; administer and monitor the regime of health

permits, licenses, certificates and registrations for the domestic market in Nicaragua, in keeping with its powers and with provisions in force, and administer the registration of the foregoing;

(g) Administer the registry of health-care professionals and technicians in keeping with its powers and with provisions in force, and monitor their professional practices;

(h) Promote scientific research and dissemination, training, continuing education and maintenance of professional standards among health-care providers;

(i) Coordinate and direct the national system of vital statistics and information concerning public health;

(j) Propose and supervise programmes for the construction of public health units;

(k) Formulate policies, plan initiatives, regulate and issue standards and supervise the production, importing, exporting, planting, industrial processing, dealing in and storage of narcotic and psychotropic substances and their precursors.

869. In regard to the right to health, the Nicaraguan Social Security Institute (INSS) is the institution entrusted with applying mandatory social insurance provisions pertaining to health. The Nicaraguan Institute for Water Supply and Sewerage (INAA) is the regulatory agency for the Nicaraguan Water Supply and Sewerage Corporation (ENACAL), which deals with all aspects relating to the supply of drinking water for home, industrial and other uses.

870. Another important aspect regarding health is the Nicaraguan AIDS Commission (CONISIDA), dating from 1992, which took shape through a multi-sect oral process of consultations between the Ministry of Health and NGOs.

2. The health situation in the country¹⁸⁴

871. Based on the latest survey of population and health (ENDESA 2001) population growth is at 2% per year; the overall fertility rate is one of the highest in Central America with 3.2 children per woman; the birth rate is 26.9 new births per 1,000 inhabitants.

872. Life expectancy at birth rose from 66.05 in 1990-1995 to 69.48 in 2000-2005 for both sexes, with variations of 70.4 years for women and 65.7 years for men.

873. Demographic indicators show that there are favourable conditions from the standpoint of health, such as the decline in the infant mortality and in the rate of maternal mortality according to SINEVI-MINSA (see Annex 1, Art. 12).

874. The Nicaraguan population is experiencing a demographic and epidemiological transition, resulting in the co-existence of infectious and chronic diseases, representing a prevention and care challenge for the health care system.

¹⁸⁴ According to MINSA Report «Orderly and Transparent Change of Government 2002-2006».

875. The country has “Local Comprehensive Health-care Systems” (*Sistemas Locales de Atención Integral en Salud*) (SILAIS)¹⁸⁵, centres which perform functions assigned to them under the General Law on Health and Law 290, as well as those which they are directed to perform by the higher authorities of MINSA.

876. The report of the Nicaraguan Centre for Human rights (CENIDH) shows that over the last 15 years the Nicaraguan health care system has been unable to provide the population with quality medical services. Infrastructure has been established but has proven insufficient, as it falls short of growing demographic needs. One of the problems arising with investment in new buildings, some donated with all the necessary medical equipment, is that they do not have the budget needed for maintenance, both preventive and corrective. This results in losses for the State and reduces the quality of care which the public health system provides to the user population¹⁸⁶.

877. Similarly, CENIDH indicates that most people in Nicaragua seek health care at centres managed by the State, which attend to the needs of the majority of the population but do not offer access to tests, hospitalization or surgery over the short or medium term under adequate conditions, or to medicines¹⁸⁷.

878. The basic list of medicines of MINSA is insufficient for the treatment of pathologies frequently encountered at health centres and hospitals administered by that institution. Users of the system generally leave a medical visit with prescriptions for medicines and tests and go in search of the wherewithal to buy the medicines.

879. The Government of reconciliation and national unity, concerned about the health of the Nicaraguan people, authorized the elimination of private services in State hospitals; access to basic health services is free of charge to all the population without discrimination of any kind.

(i) Mental health¹⁸⁸

(a) Budget

880. Nicaragua’s scarce resources are insufficient to provide comprehensive mental health care. The budgetary demand in this area is large, as there is a need to respond to many situations described below, and the Psychiatric Hospital has only C\$ 32,000,000 million earmarked for it. That budget was not wholly disbursed because sometimes the government in office has disbursed only C\$ 14,000,000 million, which implies shortfalls in provision of care.

¹⁸⁵ There are 17 delegations, or local administrative headquarters, of the Ministry of Health. They are located in 15 departmental capitals and 2 autonomous regions.

¹⁸⁶ Report of CENIDH 2006, Op. Cit., p. 73.

¹⁸⁷ Ibid.

¹⁸⁸ Report of the Psychiatric Hospital, for the preparation of the Report on PIDESC, 2006.

881. Most of the Hospital's budget is used to provide food for admitted patients. A substantial part of the resources is also used for non-psychiatric medicines, since some elderly patients have illnesses such as pneumonia or fractures requiring pain treatment, or other health problems.

882. Medical care in this sector is costly in both human and economic terms, since the patients are cared for by a psychiatrist, a therapist, a psychologist, a social worker and a general practitioner. The average cost per patient is C\$150 per day.

883. Managua has 30 health centres, 5 of which offer psychiatric care. This increases the demand for services at the country's only psychiatric hospital and its requirement for economic and human resources. Dealing with the population's needs would require at least two such hospitals.

(b) Latent problems of the psychiatric hospital

884. Nicaragua needs stronger legislation in this area since, at the present time, it does not have a law reflecting the rights of persons with mental health problems. It also needs to include this pathology under its social security coverage.

(c) Patients

885. A problem which the country needs to improve upon is the fact that admitted patients often do not have an identity card.

886. Another unfortunate situation for patients is that they are often abandoned by their relatives. As a result of that abandonment, it becomes rather difficult for patients to obtain personal care items, making them vulnerable to mycotic conditions such as fungus. Once discharged, they have nowhere to go and most of them end up in the capital city's markets.

887. The hospital needs to improve recreation for patients, which is very beneficial for their recovery because it keeps them occupied in order to avoid contagion from a mental point of view.

(d) Hospital

888. This hospital centre needs to renew its stock of medication with latest-generation medicines in order to achieve better reactions from the patients and obtain better results in their psychological improvement.

889. Moreover, due to the condition of the patients, beds become damaged and have to be repaired or replaced periodically, causing a budget shortfall that is offset by help the hospital receives, often from civil society.

890. A fairly worrisome situation for the hospital is the lack of lighting. Gang members living in the adjacent areas take advantage of this situation, cross the fence and rob items such as cement and wood from the hospital grounds. Moreover, the infrastructure is inadequate, dating from the 1930s.

(e) Personnel

891. The hospital's small budget limits the earnings of nurses and aides, which means that those people must take on extra work to meet their needs, affecting their performance, as they are sometimes sleepless and tired.

892. It is necessary to increase the hospital's auxiliary staffing in order to cover day-to-day demands. There is also a need for a laboratory technician, since the hospital has a very well-equipped laboratory which is not being used due to lack of personnel.

(f) Measures for the benefit of mental patients

893. To ameliorate the hospital's precarious situation, donations are constantly solicited. Once a year, a Talkathon is held to collect clothing, personal hygiene items and shoes, so that funds need not be spent on those kinds of necessities and can be invested in other needs.

894. Similarly, partnerships have been formed with the American Foundation and the Rotary Club, which provide regular donations, e.g. the American Foundation helps with milk and soy, and the Rotary Club provides monthly lunches.

895. New personnel are trained on the basis of the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care.

896. Something that is extremely helpful to the patients is the fact that relatives can visit them from 8 A.M. to 6 P.M.. The Hospital considers it a priority to have relatives nearby, as the family's love often helps patients to improve. Relatives can also bring the patients food.

897. Another positive aspect is the fact that undisciplined patients are segregated in order to prevent them from hurting the other patients.

898. Despite the limitations, patients are attended to by an interdisciplinary team composed of a doctor, a psychiatrist, a resident student, a social worker, a psychologist and a nurse.

899. It is important to point out that inmates with mental problems are treated as patients, not as someone different, and participate in all the activities in which other patients participate. These include an activity called Daily Living and another focused on physical education for mobility.

900. Once the patient is discharged, the family is offered hospital day service, which consists of a kind of therapy to keep the patient doing manual tasks that help him or her not to suffer a relapse.

(ii) Mental health programme

901. Nicaragua participated in the development of the Mesoamerican Diagnostic Study of Addictions (*Diagnóstico Mesoamericano de Adicciones*) (Inter-agency and International). A situational diagnosis was prepared with data from SIMINSA and other institutions. The Mesoamerican Diagnostic Document on Addictions is available, as well as a summary of consumption of tobacco, alcohol and other drugs in the Mesoamerican region. A diagnostic study of establishments is being carried out.

902. In connection with the Treaty on Technical Cooperation (TCC) between El Salvador, Guatemala and Nicaragua, the mental health services of Chinandega were restructured with the Pan-American Health Organization (PAHO); in 2004-2005 an analysis of mental health services in the Chinandega SILAIS was carried out.

903. Special interventions were conducted, such as the Survey of Mental Health in Nicaragua (*Investigación del Estado Situacional de la Salud Mental en Nicaragua*) (IESM), activities relating to suicides and prevention of suicide in Jalapa.

904. The first stage, encompassing 2006 and 2007, is under way, with work such as review of documents and planning of activities for committees to pursue:

- (a) Plans, policies and programmes;
- (b) Legislation and human rights;
- (c) Information systems;
- (d) Guides, standards and protocols.

(a) Training

905. There was active participation in all activities to provide care to victims of natural disasters with therapies to minimize the sociological effects on the affected population, forming mental health brigades made up of professionals of the Managua services network.

906. It is important to note the role the programme has played in responding to the psychological manifestation of Grisi Siknis in the Atlantic Coast region, where traditional medicine was combined with allopathic medicine.

907. Similarly, in 2003 there was active participation in the Nicaraguan Survey of Disabilities with the National Rehabilitation Programme and National Mental Health Programme (INEC and MINSAs).

(iii) Communicable diseases

908. Infectious or communicable diseases still occupy an important place, although there are intervention programmes to curb them.

(a) Dengue

909. Dengue is a grave disease with epidemiological, social and economic impact. The country has all four serotypes of the dengue virus, and there is widespread dissemination of the vector with high indices of infestation. There is no vaccine, and there is no chemical prophylaxis or specific treatment for the disease. An effective strategy to control the vector is truly lacking.

910. Up to 1990 there were 23,035 cases. From 1990 to 1997 cases increased to 61,302, representing an increase of over 100% over those reported in the 1980s. In the last nine years, up to 2006, the increase in cases reported represents 58% (106,635). Over a 22-year period there

have been 190,972 cases of the virus. Circulation of the four serotypes of the virus increases the risk of hemorrhagic dengue epidemics. The number of people who have died from hemorrhagic dengue since 1985 is 103.

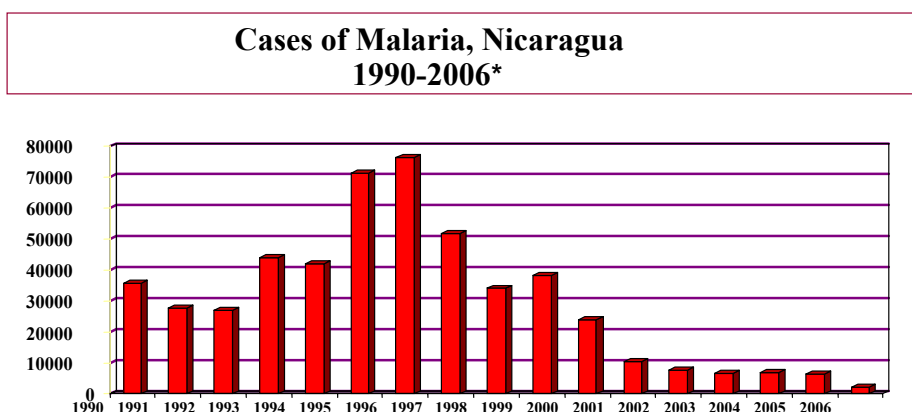
911. In response to this situation, the Office of Vector-Borne Diseases (*Dirección de Enfermedades de Transmisión Vectorial*) decided to introduce the new management approach for prevention and control of dengue, beginning with the creation of the National Dengue Technical Group (*Grupo Técnico de Dengue Nacional*) (GT-DENGUE), a group of experts who, based on a comprehensive analysis of the situation in the country, is pursuing a new method of work geared to making strategic efforts and promoting new partnerships in order to modify existing practices and set in motion this new approach or model of prevention and control of dengue. The strategy is horizontal, intersectoral and based on behavioural change.

912. Thus, in 2004 Nicaragua became the first country developing its Integrated National Strategy (EGI), accompanied by the Central-American Technical Group on Dengue (GT-Dengue), with a multi-sectoral, intersectoral and interdisciplinary approach.

(b) Malaria

913. Malaria is an endemic disease whose transmission is currently reported in 13 of the 17 SILAIS of the country, since four of them --Carazo, Granada, Madriz and Masaya-- have no reported positive cases. According to the epidemiological stratification for malaria, some places in the country are at greater risk than others. At present, 5.7% of the population is living in high-risk areas (RAAN and RAAS) and 94.3% live in low-risk areas (15 departments, the rest of the country).

914. In Nicaragua, the incidence of malaria has been associated with only two types of parasites: *Plasmodium vivax* and *Plasmodium falciparum*, which is the cause of cerebral malaria and thus of deaths from that cause. According to the final figures for the year 2005, the country had 6248 reported positive cases of malaria, of which 1051 (17%) were caused by *Plasmodium falciparum*.



Source: PN MAL MINSA. 2006: August 2165 cases.

915. The level of transmission of malaria has declined markedly in recent years, with many SILAIS and municipalities in the country now being at a low-risk epidemiological stratum, which means little or no transmission. This is the result of intervention efforts to control the parasite and the vector by Vector-Borne Diseases personnel in areas with the highest transmission, mainly those where the population finds access to health services difficult and the indices of malaria from *Plasmodium falciparum* are higher.

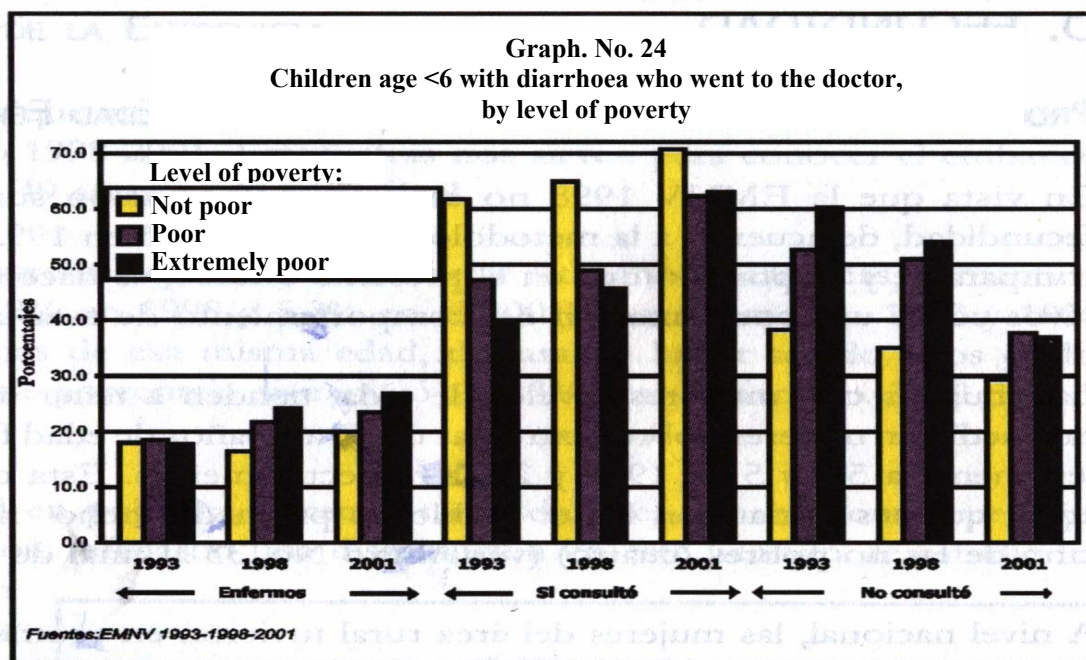
916. It must be mentioned that the age group most affected by malaria in 2005 is the 15 to 49 age group, which accounts for 34.2% and corresponds to the economically active population, followed by the 5 to 14 age group, accounting for 31.4% of cases, then the 1 to 4 age group with 19.9%, the over-50 age group with 12.2%, and those under 1 year of age, with 2.3%.

917. The trend since 2005 has been a decline in the transmission of malaria. This year there are 56.2% fewer cases than the previous year, when the lowest number of positive cases had been reported. The trend is expected to continue, provided financial resources, equipment and materials for systematic control campaigns are available.

(c) Diarrhoea

918. Diarrhoeal conditions are being closely monitored today, seeking to identify the causal agents and thus to determine procedures to be followed in order to prevent their propagation and fatal consequences for the population. There are comparative chronological series which allow appropriate and timely decisions to be taken.

Reported cases of diarrhoea, by year, Nicaragua, 1993-2001



919. With regard to medical visits for diarrhoea, there has been an increase in the number of visits both among the non-poor (from 61.7% in 1993 to 70.7% in 2001) and among those in extreme poverty (from 39.7% in 1993 to 63% in 2001).

920. In 1993 those in extreme poverty asserted that they could not take children under 6 years of age with diarrhoea to the doctor due to lack of money. That increased in 1998 (18.3%) and in 2001 (23.8%). This problem had the highest impact in rural areas. (See Annex 2 and 3, Item 12)

3. National Health Policy

921. Against this backdrop, the Government of Nicaragua, through the National Governmental Development Plan (*Plan Nacional de Desarrollo de Gobierno*) (PND), has developed strategies focusing on disease prevention and promotion of health of people and of the environment, especially for the vulnerable population groups, including those located in areas with little access to health services, to whom services are to be provided with guarantees of coverage and of quality.

922. In pursuit of those strategic guidelines, MINSAs initiated the implementation of its National Health Policy 2004-2015 and the National Health Plan 2004-2015, which are being operationalized during this period in the Five-year Health Plan 2004-2009. The central objectives of the Plan are: 1) Increasing coverage and quality of health services; 2) Strengthening the network of health establishments (posts, centres and hospitals); and 3) Oversight, development, institutional strengthening and decentralization.

923. MINSAs has concentrated on two aims. Firstly, it seeks to ensure that any person considered vulnerable (mostly mothers and children in poverty) have timely and fair access to

the first level of care (offered at health centres, posts and Maternal Houses) and to a Basic Package of Health Services (PBSS) under which services are geared to promoting health and preventing diseases. The challenge for the second level is to improve conditions of infrastructure and equipment and to have medical supplies in quantities sufficient to enhance the ability of hospitals to deal with the needs of patients.

(i) Health budget

924. Data from the National Health Statistics 2003 show that social public expenditure was 8.8% of Gross Domestic Product, MINSA's expenditure grew to 3.0% of GDP, while MINSA's per capita expenditure on health was \$22.7 dollars. In 2005, social public expenditure was 13.3% of GDP and MINSA's expenditure was 3.43% of GDP.

925. In the period 2002-2006 MINSA contributed to improving the state of health of the population by directing its investments towards four basic pillars of the National Governmental Development Plan and the National Health Policy 2004-2015, achieving a cumulative investment of 2,706.65 million 2002 córdobas as of 2 January 2006.

926. The years with the highest budgetary appropriation were 2004, with C\$ 745.8 million and 87.4% implementation, and 2005, with C\$ 636.1 million and 89.4% implementation (see table).

Investments 2002-2006¹⁸⁹

Year	Updated Budget C\$	Executed Budget C\$	% Exec.	% Exec.
2002	495.416.219	370.400.841	74,77	13,68
2003	594.592.769	539.850.399	90,79	19,95
2004	745.880.641	652.316.675	87,46	24,10
2005	636.173.750	569.118.819	89,46	21,03
2006	696.935.911	574.972.867	82,50	21,24
Totals	3.168.999.290	2.706.659.600	85,41	100,00

Source: Report of the Ministry of Health (MINSA), for the preparation of the Report on PIDESC, 2006.

927. The resources referred to came from two sources of cooperation: (a) External cooperation: loans, donations (bilateral sources); and (b) Treasury resources (Treasury funds, IDB relief, World Bank relief).

928. In general, investments have been oriented towards development of the following components: Infrastructure (Design and Infrastructure), Equipment (medical, non-medical, maintenance of equipment, instruments), Health Promotion, Prevention, Education and Communication (community initiatives, obstetric care, medical supplies, strengthening of the

¹⁸⁹ Source SIGFA.

SILAIS, environmental and epidemiological security, etc.), expansion of coverage (strengthening primary care) and strengthening of institutions.

929. The table below shows performance for the period 2002-2006. In the year 2002 strengthening of institutions absorbed 30.8% of the year's resources. In 2003, 37.5% of resources were earmarked for health promotion, prevention, education and communication. In 2004, 2005 and 2006, most resources were earmarked for the infrastructure component, with the whole network of services (primary care and hospitals) being overhauled, and construction starting on the replacement of the Departmental Hospital of Boaco.

Investment 2002-2006 by components

Components	2002	2003	2004	2005	2006	Total	%
Infrastructure	109.096.504	160.060.101	283.094.886	191.579.478	207.171.407	951.002.376	35,14
Equipment	38.197.781	4.502.620	5.994.953	94.729.903	59.592.987	203.018.244	7,50
Promoting Prevention, Education and Communication	91.352.119	202.644.276	210.186.188	184.115.992	81.329.757	769.628.332	28,43
Expanding Coverage	17.304.000	61.010.379	52.698.909	91.639.735	194.034.827	416.687.850	15,39
Strengthening Institutions	114.450.436	111.633.024	100.341.739	7.053.711	32.843.888	366.322.798	13,53
Annual Total	370.400.841	539.850.399	652.316.675	569.118.819	574.972.867	2.706.659.600	100,00
Percentage	13,68	19,95	24,10	21,03	21,24	100,00	

Source: Report of the Ministry of Health (MINSa), for the preparation of the Report on PIDESC, 2006.

(ii) Impact of investments by component

930. In 2002 the country's network of public health services consisted of a total of 1,059 health care units (32 hospitals, 176 health centres, 850 health posts and one polyclinic). In 2006, with the aim of improving preventive care, the network was increased to 1,081 establishments, with the addition of 21 new medical units distributed in high-priority areas.

931. Of total investments for the period 2002-2006, the infrastructure component executed the largest share of resources (domestic and external), using 40.14.9% of the treasury resources and 34.11% of the external resources. Overall, external resources represented a very large share in the strengthening of health services, accounting for 82.9% of total execution. The table below reflects the type of resource with which each component was executed during the period under discussion.

Investments 2002-2006 by Component – Source of Funding

Components	Treasury Resources		External Resources		Total	%
	Córdobas	%	Córdobas	%		
Infrastructure	185.440.672	40,14	765.561.704	34,11	951.002.376	35,14
Equipment	64.447.637	13,95	138.570.607	6,17	203.018.244	7,50
Promoting Prevention, Education and Communication	64.923.854	14,05	704.704.478	31,39	769.628.332	28,43
Expanding Coverage	111.647.633	24,17	305.040.217	13,59	416.687.850	15,39
Strengthening Institutions	35.530.134	7,69	330.792.664	14,74	366.322.798	13,53
Total	461.989.930	100,00	2.244.669.671	100,00	2.706.659.600	100,00
Percentage	17,07		82,93		100,00	

Source: SIGFA/MINSA/02-01-2007.

4. Health indicators**(i) Infant mortality¹⁹⁰**

932. During the last 20 years, mortality of children under 5 years of age has been declining constantly and at a steady rate, from 137 deaths per thousand live births in 1974 to an estimated 38 per thousand live births in 2005. Despite advances in this area, according to the first follow-up report on compliance with the Millennium Development Goals, developed by the United Nations system, the World Bank and the IDB for Nicaragua in 2003, it was estimated the chances of reaching the goal ranged from “possible to somewhat improbable”.

933. If the present trend continues, it is likely that the goal of reducing the mortality rate for children under age 5 by two thirds between 1990 and 2015 will be reached. This would require greater investments, since it would be necessary to expand coverage and the capacity of resolution of the health care system, especially for the neonatal period, and at the same time to maintain current advances.

(ii) Measures to reduce infant mortality

934. Children are a very vulnerable and high-priority group. Among the principal measures to reduce infant mortality are:

¹⁹⁰ Data from prior studies and ENDESA results were used as sources.

- (a) Growth and Development Monitoring Programme, which will in future become the Monitoring Programme to Promote Growth and Development, and which is provided at all primary health care units in the country;
- (b) Implementation of the Strategy for Integrated Care of Prevalent Childhood Diseases (AIEPI), providing care nationwide to children under age 5 since 1998;
- (c) Strengthening of actions for immunoprevention with application of vaccines to women of childbearing age (DT), children under one year (BCG, anti-polio, Pentavalent, Rotavirus), and children under five years (MMR, anti-polio, DPT, DT);
- (d) Implementation of the National Programme of Maternal Lactation in all health care units in the country;
- (e) Supplements for children under age five with ferrous sulphate and Vitamin A, and for expectant mothers with ferrous sulphate and folic acid;
- (f) Fortifying foods with micronutrients (Vitamin A, B complex, iodine, and recently negotiating folic acid fortification with rice growers);
- (g) Implementation of the Community Health and Nutrition Programme (PROCOSAN).

(iii) Drinking water supply

(a) Access to drinking water and waste water systems

935. In Nicaragua the supply of water for human consumption and sewerage includes a process of measuring the quality of drinking water through physical analysis and tests for residual chlorine that ensure bacteriological quality.

936. According to monitoring done by INAA to verify the quality of service provided by ENACAL, the water meets the standards of water quality set by this regulatory agency.

937. Monitoring is done by INAA. As the competent regulatory agency, it conducts technical inspections, environmental inspections, economic inspections of drinking water and waste water systems, and conducts home inspections in response to complaints by consumers referred to INAA.

938. Taking as a reference the data from the Sectoral Analysis of Drinking Water and Sanitation for Nicaragua issued in 2004 and developed jointly with the Government, represented by INAA, ENACAL and the Pan-American Health Organization, with funding from ACDI, COSUDE, IDB, the World Bank, JICA and UNICEF, the percentage of drinking water coverage in urban and rural areas appears as follows:

Historical Indicators of Coverage (1992-2006)

Drinking Water Coverage	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Urban %	75.95	78.81	82.53	80.8	82.43	86.9	88.31	88.52	89.33	89.64	90	91.23	91.3	92.3	95
Rural %	22.03	24.5	27.0	29.69	31.9	34.23	36.52	39.57	41.8	44.6	46.59	50.63	51.6	52	52.81

Source: Report of the Nicaraguan Institute of Water Supply and Sewerage (INAA), for the preparation of the Report on PIDESC, 2006.

939. Nationally, the country's situation regarding this service in 2006 appeared as follows:

Indicators of National Coverage, 2006

Item	National		Urban		Rural	
	Population	Coverage (%)	Population	Coverage (%)	Population	Coverage (%)
Drinking Water	3 912 500	76.71	2 720 444	95.52	1 189 358	52.81

Source: Report of the Nicaraguan Institute of Water Supply and Sewerage (INAA), for the preparation of the Report on PIDESC, 2006.

940. The fact that 23.29% of the population lack basic drinking water supply is due to many factors, such as:

- (a) There is a lack of infrastructure in the distribution network;
- (b) Rapid growth of human settlements in cities does not allow orderly control and affects the levels of water pressure, which often precludes a decision to create more connections in given areas;
- (c) Inappropriate use of drinking water diminishes adequate flow and hinders expansion.

941. CENIDH indicates that 72% of inhabitants of rural areas do not receive this service. They depend on manually-dug shallow wells or natural sources such as rivers, streams and lakes. It should be noted that many of those sources are polluted by pesticides, sewage, industrial effluents and toxic substances¹⁹¹.

942. There is also a lack of investment projects¹⁹² to make it possible to overhaul obsolete water systems, to build new systems, or to drill wells where present ones are polluted or dwindling in output. Such investments are necessary and are embodied in the sectoral drinking water and

¹⁹¹ CENIDH Report 2006, Op. Cit., page 58.

¹⁹² Although there is a five-year 2007-2011 ENACAL Plan, annexed to this Report (Annex 5, para. 12).

sanitation strategy for 2005-2015, referred to above. Coverage needs to be expanded so that citizens can have a secure water supply and improved quality of life. To that end, through the Sectoral Subcommittee on Water, funding is being sought for execution of investment projects which do not yet have a source of funding and which would create wider access to a secure water supply.

943. One way of promoting health is the project aimed at restoring Lake Managua. That project, today almost a reality, had reached a rate of completion of 30.75% in January, 2007. Construction is scheduled to be completed in May, 2008 and operation should start in July, 2008.

944. The water treatment system (cleaning process) consists of the following:

- (a) Pre-treatment (screens, sand separator, grease trap and gauge);
- (b) 12 primary sedimentation tanks;
- (c) 8 trickling filters;
- (d) 10 secondary sedimentation tanks;
- (e) Sludge treatment (2 gravity separators, 5 anaerobic digestors, and dehydration by press filters);
- (f) Discharge to lake.

(b) Strategic Plan for Drinking Water and Sanitation 2005-2015

945. INAA, as a member of the National Commission on Drinking Water and Sewerage (*Comisión Nacional de Agua Potable y Alcantarillado Sanitario*) (CONAPAS), has taken part in the development and revision of the sectoral Strategic Plan for Drinking Water and Sanitation (2005-2015), following arduous work done by the Technical Committee of CONAPAS and the Technical Secretariat of the Presidency (SETEC). Following nationwide consultations regarding this Strategy with all actors in the sector and all sectors of the population, it is being edited in order to initiate the process of dissemination and publicity. The Sectoral Strategy encompasses decisive actions that lead over the short and medium term to improvements in coverage, operation, maintenance and sustainability of drinking water and sanitation systems. It was financed with funds from the Interamerican Development Bank (IDB).

946. Under the same programme of work, as a CONAPAS member, a Sector-wide approach to urban and rural water supply and sanitation (SWAP) is being developed, for which funds were received from the Swiss Agency for Development and Cooperation (SDC/COSUDE) and an expert was retained to assist CONAPAS in the design of the Road Map. To date, work has been proceeding satisfactorily with the Water and Sanitation Subcommittee formed by cooperating agencies and Government. A Code of Conduct has been signed with five of the cooperating agencies.

947. At the same time, the Strategic Plan for Drinking Water and Sanitation 2006-2015 is being developed. This Plan will operationalize the actions defined in the matrices of the sectoral strategy, with which the sector will be ready to proceed with improvements and rehabilitation to

meet the goals set out in the National Development Plan for Nicaragua and to advance towards the Millennium Development Goals.

948. With respect to elimination of excrement, explanation is provided under section 11 of this Report, under the heading “Housing”.

(iv) Maternal mortality¹⁹³

949. In 1996, MINSA began implementing the Supervising System of Maternal Mortality nationally and has continued developing it throughout the period 1999-2002 as an instrument that will contribute to improving information about maternal mortality and on the basis of which efficient actions will be framed to combat that scourge against women. The results were: improvement in reporting and recording of deaths at home and in institutions.

950. Despite these substantive advances, MINSA recognizes that cases of maternal death continue to be under-reported. The explanation is that, in some cases, deaths occurring at home are not reported. This is aggravated by the fact that most maternal deaths occur in rural areas where access to health care services is geographically limited.

951. The age group for which maternal deaths have been reported in recent years has not changed: the group most affected is the 20 to 34 year old age group. Deaths occur to a lesser extent at the extremes of life referred to as the “risk ages”. However, when the risks to those age groups are estimated, it is found that both women under age 15 and those over age 35 have 3.4 times the risk of dying due to childbirth and/or its complications compared with women aged 15 to 34.

952. In light of the health situation of Nicaraguan women, MINSA has included a Safe Motherhood initiative as part of its plan to reduce maternal mortality. Actions planned in order to have an impact on this important public health problem include the following strategies: (a) increase delivery of contraceptive methods as well as information with a view to reducing the number of children per woman, spacing births and reducing pregnancies at the extremes of the reproductive age; (b) improve the quality of prenatal care services; (c) provide childbirth care by qualified personnel at health care units, hospitals, centres and posts; (d) provide emergency obstetric care; and (e) training for midwives.

953. According to the document “Prospects for the Millennium Goals in Latin America and the Caribbean” (*Perspectivas de los Objetivos del Milenio en América Latina y el Caribe*) maternal mortality continues to be one of the major public health problems, reflecting the state of health of women of reproductive age as well as the existence of inequalities with regard to health.

954. The level of maternal mortality reached in 2005 and the 2015 projected reduction by three quarters (from 1990 to 2005) indicate that the goal is likely to be achieved, although much additional effort will be required to maintain the distinct downward trend.

¹⁹³ We used as a reference for the base year a study on Reproductive Health in Ramos, available at the United Nations Statistical Division. Official UN data for the MDG indicators. The rest of the data used the MINSA System of Statistical Information as a source.

955. It appears essential to attain greater investments in order to expand coverage, strengthen the network of Maternal Houses and improve the capacity of critical routes for emergency obstetric care.

956. Under Article 10 there is a section concerning maternity which describes the legal framework and measures to increase coverage in maternity-related services.

(v) Different health projects and programmes

957. Among the programmes in operation during the period 2002-2005 were the following:

(a) Programme of comprehensive care for children

958. The Programme of Comprehensive Care for Children has been implemented through the strategy of Integrated Care of Prevalent Childhood Diseases (AIEPI).

959. Outputs to date are:

(a) Implemented the AIEPI strategy in primary and secondary care units;

(b) Strengthened intersectoral coordination in implementing the AIEPI strategy with support from other actors (Nicaraguan Red Cross, CARITAS of Nicaragua, Community Movement Network and NICASALUD);

(c) Incorporated AIEPI NEONATAL into the standard for Comprehensive Childhood Care;

(d) Incorporated new components into AIEPI: child development, child abuse, neonatal reanimation.

960. An analysis was carried out of the implementation of AIEPI in 2002 and the results were disseminated to permit improvement of the AIEPI strategy. Also included was the morbidity component of the Community Health and Nutrition Programme (PROCOSAN).

961. In connection with the implementation of the Friendly and Healthy Schools Initiative (IEAS), promotion of health in primary schools has also been strengthened.

962. The National Plan for Reduction of Maternal, Perinatal and Infant Mortality 2000-2004 was implemented once it had been developed and implemented in each SILAIS according to the strategies and activities of the National Plan.

963. Standards of Neonatology were developed by MINSA with respect to care for children less than 28 days old and are currently being printed.

964. With respect to PROCOSAN, it is being implemented in 12 SILAIS around the country, in 1,650 communities, through its child growth and development monitoring components for children under 2 years of age, and with respect to morbidity for children under five years of age.

(b) Community Health and Nutrition Programme (PROCOSAN)

965. PROCOSAN is a community health and nutrition programme which relies on mobilizing volunteers. It seeks to promote self-care for children within families and communities, to combat malnutrition, and to foster adoption of appropriate behaviours among mothers with a view to the health and nutrition of expectant women and of children under age 2 in poor rural communities with little access to health care units. The aim is to improve growth, prevent malnutrition and keep children from getting sick by improving or strengthening home habits which enable children to grow satisfactorily and avoid becoming sick.

(c) Programme of Comprehensive Care for Women and Adolescents

966. This programme was proceeding in 2002 under the Model of Comprehensive Care for Women and Children (*Modelo de Atención Integral, Mujer y Niñez*). The adolescent age group was then added because there is a need to focus more on this group, reproduction being associated with numerous risk factors and Nicaragua being one of the Latin American countries with the highest rate of adolescent pregnancies.

967. It should be noted that this programme has developed systematically with technical and financial support from UNICEF, Delivery and the USAID Quality Assurance Programme, UNFPA, SARED (Programme of Reproductive Health Equity and Rights), NICASALUD, and Ipas, with the establishment of multiple partnerships at the central and local level in pursuit of its activities.

(d) Adolescents

968. The adolescents programme was incorporated into the programme of comprehensive care for women, updating manuals for the Organization of Adolescent Clubs, updating standards of comprehensive care for adolescents, strengthening the processes of adolescent organization with the component of friends-of-teens units in conjunction with NGOs, mayors' offices, churches, projects and other local actors, who have also supported annual meetings to exchange experiences between and with adolescents in the country.

969. Technical exchanges have taken place between MINSA and NGOs on the theme of adolescents. A Latin American and National Forum on Adolescents was organized.

970. The National Plan for Adolescent Health was developed.

(e) Maternal Lactation

971. With regard to promotion of the practice of maternal lactation through consistent and systematic educational work of an intersectoral and interdisciplinary character, a basic 18-hour course on breast feeding was held for nutrition teachers at the National Autonomous University of Nicaragua (UNAN) in Managua. A training-of-trainers course was held on "Child Nutrition Counselling and HIV". Support was provided to the Ministry of Health of El Salvador for training of evaluators of the initiative entitled "Child-friendly and Mother-friendly Hospitals and Health Units" (*"Hospitales y Unidades de Salud Amigas de la Niñez y la Madre"*)

972. Another important aspect for the benefit of women is training for the programme entitled “Maternal Houses or Shelters Strategy” (“*Estrategia Casas, o Albergues Maternos*”) (CAM).

973. The Maternal Houses (CAM) , created to house women during pregnancy, are designed to help improve access to and quality of childbirth care, post-partum care, and care of newborns of rural women, strengthening actions for promotion and protection of health.

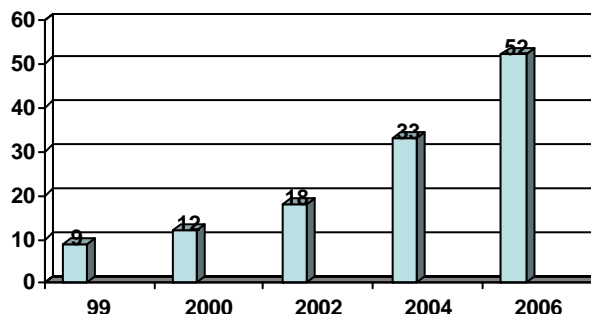
974. Since 1999, MINSA has been implementing the Maternal House strategy¹⁹⁴ through a model of participatory management and financing in municipalities, with local actors who coordinate the operation of the Maternal Houses, in particular: cooperatives, women's associations such as the Luisa Amanda Espinoza Nicaraguan Women's Association (MNLAE), the National Union of Farmers and Cattle-Ranchers (UNAG), Catholic and evangelical religious congregations, and mayors' offices. A no less substantial number is administered by MINSA.

975. The National Strategy starts by giving priority to the Atlantic Coast, Río San Juan and Matagalpa, areas with a mother-and-child care deficit. Feasibility studies and designs for the organization and operation of the Maternal Houses were done with a view to their implementation, as well as definition of technical and financial support in the areas of equipment, minor works, construction and subsidies for costs of operation.

976. The results have been encouraging, especially during the period 2002-2006 covered by this report. Modest advances had been expected but there has been instead an explosive growth, thanks to steadfast support from municipal and community authorities and with the backing of international cooperation through FONSALUD and other international agencies, as presented in the table below.

¹⁹⁴ Building on the experience of shelters managed by women's organizations in nine localities, which began in the 1980s.

Trend of implementation of Maternal Houses for years 1980-1999 and 2000 to 2006



Source: Maternal Houses Plan, MINSAs.

977. During this period, a plan was framed for national expansion of Maternal Houses to include historically excluded, indigenous and remotely located communities.

978. The Maternal Houses strategy has benefited rural women with the following characteristics: 80% come from poor families of rural origin; 30% are adolescents; 30% have stable relationships or “marriages”; 50% have a history of previous at-home childbirth, and the distances from their homes to the nearest care centre are an average of 3 to 8 hours' travel, mostly on foot.

979. As part of the programme of comprehensive care for women and adolescents, the following family planning measures were adopted:

Community Delivery of Contraceptive Methods (*Entrega Comunitaria de Métodos de Anticoncepción*) (ECMAC) was implemented, accompanied by a methodology of counselling, achieving an expansion of coverage to remote communities.

Family planning guidelines have been updated.

A post-obstetric event contraception manual (APEO) was implemented, improving its application in 20 hospitals (2 indicators), institutionalizing post-obstetric event contraception as part of the family planning pillar in Safe Motherhood activities.

The Integrated System of Contraceptive Logistics (*Sistema Integrado de Logística de Anticonceptivos*) (SIAL) is being consolidated on the basis of the new SIGLIN system of all the MINSAs inputs.

The contraceptive counselling support flip-chart has been updated.

The Committee to Ensure Supply of Contraceptive Items in Nicaragua (DAIA) was formed, implemented and is being developed. An operational manual for the Committee has been prepared, containing a budget proposal for the phased purchases of contraceptives with fiscal funds.

Support has been provided for the process of integrating information systems concerning contraceptives and medical supplies, and for strengthening services for post-obstetric event contraception.

Purchases have been programmed according to actual consumption in the country, thus ensuring adequate supply to 100% of health care units.

(vi) Environmental health

980. A health care/environment component that has been successfully complementing interagency activities is the Friendly and Healthy Schools Programme, which is being implemented in the 17 SILAIS across the country as part of the MINSA-MECD-ENACAL interagency agreement. There have been advances on several fronts: school hygiene, environmental health, health and nutrition, citizenship and democracy, safe physical and environmental conditions, and quality, child-friendly education. Information is designed for and provided to teachers to incorporate interactive and community activities into the formal curriculum.

981. In the area of environmental health, activities to promote health and community initiatives have been coordinated with the volunteer organization *Amigos de las Américas* (“Amigos”).

982. Since 2003, volunteers in the Nicaraguan communities of Carazo, Masaya and Granada, together with community leaders, townspeople and families have hosted in their homes approximately 45 to 53 young people yearly for a period of 8 weeks. These young people come from 16 U.S. states as part of a growing programme of sociocultural exchange and youth leadership. The programme includes activities to promote and conduct community projects through interaction with the community. The community projects are designed to strengthen environmental education, management of solid wastes, organic fertilizer, and clean-up campaigns.

983. At health centres and posts, community volunteers and leaders have been conducting activities with children and mothers together with MINSA health-care personnel, involving the community.

984. In another major outreach effort, an environmental sanitation event entitled “Environmental Health Days” (*Jornadas de Saneamiento Ambiental*) was held in the capitals of several departments around the country as part of prevention and health promotion activities. Such activities include hygiene and environmental sanitation inspections implemented at health-care units, schools and housing units with a view to controlling environmental risks that can be controlled in order to mitigate and monitor vector-borne diseases and diarrhoeas, thus contributing with community participation to the development of healthy environments. There have also been advances in the gradual reduction of chemical substances as part of sanitary control activities.

985. Hospitals and Health Districts are implementing the programme of appropriate management and disposal of solid hospital wastes as part of sanitation activities.

986. Monitoring of water quality is done in the 17 SILAIS and the network for production and distribution of chlorine is being strengthened. The network of chlorine production plants in the country's 153 municipalities has also been strengthened with the support of the Community Network (*Red Comunitaria*), for distribution and use of chlorine in water for human consumption, benefiting over five thousand rural water works that did not have disinfection systems, complying in part with the strategy for health risk prevention and safe water.

987. With a view to assessing health risks involving water, an initial field investigation was conducted covering water sources and the system of water distribution, evaluating its parameters. The aim is to contribute to evaluating water quality with a view to timely prevention of risks to health through preventive and corrective interventions, helping to improve the state of health. Nicaragua was selected because it is one of the countries of the Americas that has been pursuing initiatives and pooling national efforts to overcome pending gaps with regard to basic services, primarily in water for human consumption, a fundamental aspect of preventive health. Similarly, the Water Assessment for the year 2000, for an evaluation of the decade, known as EVA-2002, reveals the work that has been done since Hurricane Mitch, through interagency and intersectoral cooperation.

988. The following parameters were analyzed: temperature, turbidity, residual chlorine, fecal coliforms, streptococci, fluoride, copper, arsenic, and nitrates. Preparatory workshops were held with national technical personnel from the SILAIS and laboratories of the the Nicaraguan Water Supply and Sewerage Corporation (ENACAL), the Centre for Diagnosis and Reference (CNDR), the National Engineering University (UNI), and personnel from INAA and MARENA.

989. The information system was managed by the National Engineering University. The results were presented to the technical team with a view to framing strategies and seeking alternative local treatment solutions in the case of arsenic, and to seek resources to drill new wells, together with engineering studies in hydrogeology and socioeconomic and epidemiological studies in order to set up the Monitoring System for Health Risks (*Sistema de Vigilancia de Riesgos Sanitarios*) in population centres within the area of influence, relying on participation by the MINSa research team acting pursuant to the Law on Health and its regulations.

990. Intersectoral and interagency coordination has led to concrete results helping to support drinking water and sanitation strategies. The participating agencies were members of CONAPAS, comprising MINSa, MARENA, INETER (Nicaraguan Territorial Studies Institute), INAA, ENACAL, SETEC (Technical Secretariat of the Presidency), and FISE. The aim is to help promote the growth of investment in water and sanitation in order to contribute to reaching the Millennium Development Goals by providing access to drinking water to 90.3% of the population that lacks drinking water and increasing access to sanitation for 92.2% of families at risk of illness due to unhealthy environments around their homes.

991. In the field of education for health and environment, there has been growth in water and sanitation campaigns and environmental education campaigns. Key messages have been created for urban and rural audiences, and every project now incorporates this component as part of sustainability, contributing directly to changes in behaviour. We are ensuring that in the relatively near term campaigns will be systematic, sustainable and monitored. They should be coupled with preventive actions in urban and rural areas.

992. In León, municipal authorities have assigned the hospital an area at the El Fortín dump for handling the final disposal of hazardous hospital wastes. At present, the hospital buries wastes near the site and does not segregate them at the hospital, as is recommended in training courses and in technical guidance.

993. Managua has installed capacity at two incinerators located at the Antonio Lenín Fonseca Hospital (donated by the Embassy of Japan) and the Manuel de Jesús Ribera, La Mascota Children's Hospital, acquired with IDB financing through PMSS-MINSA. Based on the needs of all the hospitals, this is sufficient to incinerate all the hazardous wastes generated at Managua's nine hospitals.

994. Incineration is mandatory for sharps and infectious materials, which must be segregated where they are generated, sorted, stored in red bags and gallon plastic containers where sharps are concerned, and disposed of at a location authorized by the Committee on Solid Wastes and the hospital administration. Later they are transported to the incinerator via a collection route that is laid out according to the location of the incinerators.

995. The incinerator at La Mascota Hospital is planned to support Roberto Calderón and Alemán Nicaragüense Hospitals. The incinerator at Lenin Fonseca Hospital supports Berta Calderón Hospital, F. Vélez Paiz Hospital, Aldo Chavarria Hospital, and the Psychiatric, Dermatological, Oncological and Ophthalmological Hospitals. All of the incinerators can, if necessary, support incineration of sharps (needles) used during Vaccination Days (*Jornadas de vacunación*).

996. Common wastes from health care units will be sorted and disposed of in containers properly packaged and organized for transport by the municipality via a special route laid out for that purpose.

997. Each hospital unit is responsible for acquiring containers and bags for the daily solid waste management procedure, and hospitals are not authorized to keep wastes on site.

998. There are 17 SILAIS strengthening sanitary inspections and applying the Law on Health and its regulations on strengthening of inspection and re-inspection and basic sanitation of health care units (primary and secondary), schools, markets, cemeteries and municipal slaughterhouses, among other locations.

999. Sanitation contingency plans have been advanced in neighbourhoods and communities located in flood zones and near watercourses and channels in all of the SILAIS of the country, coupling water and environmental sanitation concerns with emergency and disaster preparedness.

(vii) Measures to prevent, treat and combat epidemic diseases

(a) National programme of immunizations

1000. The country's programme of vaccination includes the following vaccines:

BCG (grave tuberculosis)

OPV (poliomyelitis)

Pentavalent (ferine cough, diphtheria, hepatitis B, haemophilus influenza, tetanus)

MMR (measles, parotiditis, rubella)

DT (diphtheria, tetanus)

1001. In the last 15 years, Nicaragua has taken major strides in eradication, elimination and control of preventable diseases with vaccines, including:

Maintaining and consolidating eradication of poliomyelitis (the last reported case in Nicaragua was in 1981);

Consolidating the elimination of measles (the last reported case in Nicaragua was in the 14th week of 1994);

Keeping cases of diphtheria at zero;

Maintaining the elimination of neonatal tetanus as a public health problem;

Successful vaccination campaign against rubella in the population aged 6 to 39;

Successful National Health Days;

Successful follow-up vaccination campaigns against measles;

Sustained high vaccination coverage;

Strengthening of cold chain equipment;

Successful introduction of the vaccine against Rotavirus;

Strengthening of epidemiological vigilance against measles and acute flaccid paralysis.

1002. Vaccination coverage is monitored at all SILAIS by programme officers who provide information on their vaccination activities through systematic monthly reports by biologicals applied, by age group, and by strategy.

1003. Then, by means of consolidated reports sent to statistics, an analysis is done by SILAIS and by municipality, and according to indicators of accessibility, efficiency, and desertion, thus following up on the specific objectives of the programme, such as delivery of sustainable, effective, high-quality immunization services in the framework of comprehensive care.

1004. As part of National Health Days, vaccinations are brought to every corner of the country, using a variety of strategies, such as home visits, travelling teams for remote locations, and fixed vaccination posts.

1005. In October and November of 2005 a national campaign against rubella was conducted, aimed at men and women aged 6 to 39, with the goal of eliminating rubella and congenital rubella syndrome. Coverage was 100%, with 3,845,869 Nicaraguans vaccinated.

1006. Every four years, follow-up campaigns against measles are mounted, targeting children aged 1 to 4, with the aim of consolidating the elimination of measles. These campaigns have been successful, achieving a vaccination rate of over 95% with the combined rubella-measles vaccine.

1007. High rates of vaccination have made it possible to maintain the eradication of acute poliomyelitis and infantile paralysis and the elimination of measles, and to keep under control other diseases preventable by vaccines, such as neonatal tetanus and diphtheria, among others.

Cases of immunopreventable diseases, Nicaragua 1990-2006*

Cases	2002	2003	2004	2005	2006
Measles	0	0	0	0	0
Death by Measles	0	0	0	0	0
Poliomyelitis	0	0	0	0	0
Neonatal Tetanus	1	0	0	1	0
Non-Neonatal Tetanus	8	5	5	8	6
Ferine Cough	10**	0	0	1	1
Diphtheria	0	0	0	0	0

Source: MINSAs, for the preparation of the Report on PIDESC, 2006.

* Data to week 43 of 2006

** By clinical criteria

1008. Despite the strike during the period 2005-2006, the programme has succeeded in maintaining acceptable indicators for rubella and measles.

Fulfilment of Indicators for Monitoring of Measles/Rubella, Nicaragua, 2002-2006

Indicators	2002	2003	2004	2005	2006
% Units reporting weekly	100	100	100	100	100
% Cases properly investigated	73	79	79	76	70
% Cases with satisfactory blood sample	98	99	100	100	99
% Samples reaching laboratory in <= 5 days	72	82	74	77	60
% Samples with laboratory result in <= 5 days	58	66	85	80	96
% Cases ruled out by laboratory	100	100	100	100	100

Data to October 2006.

Source: Report of Ministry of Health (MINSAs), for the preparation of the Report on PIDESC, 2006.

1009. Monitoring of flaccid paralysis is one of the activities that needs to be complied with strictly in order to maintain eradication of poliomyelitis and its certification.

(b) Introduction of new vaccines

1010. On 27 October 2006, a new vaccine was introduced to prevent diarrhoea caused by rotavirus, aimed at children aged 2 months and above, with a vaccination pattern of three doses (at 2, 4 and 6 months). The goal was to protect children less than one year old against the especially acute diarrhoea caused by rotavirus.

1011. In the period 2002-2006, vaccination coverage was kept above 85% and vaccination coverage as of May 2006 showed a significant advance compared to past years, reaching fulfilment levels above 90% for all biologicals, with an increase in fulfilment for the different biologicals observed for 2006.

1012. This increase in coverage with all vaccines in the regular programme, in relation to previous years, is due in part to an adjustment in population, carried out in 2005, based on the review conducted by INEC with the support of the Latin American Statistical Centre (CELADE), from which we may conclude that administrative coverages are becoming more consonant with reality.

1013. In this way the following fulfilments were achieved with the different biologicals:

With the BCG vaccine: 99% (including achievements during the first Health Day);

With the oral anti-polio vaccine: 99%;

With the pentavalent vaccine: 100%;

With the MMR vaccine: 100%.

1014. Accessibility of vaccination services with the pentavalent vaccine reached 100%, exceeding the 92% achieved in 2005, in the part of the year elapsed.

1015. The national immunization programme has defined different strategies to guarantee vaccination against immunopreventable diseases:

Ongoing monitoring of coverage by municipalities, which permits identification of risk areas and execution of intensive vaccination actions;

The National Health Days, during which the different biologicals of the programme are applied, reaches fulfilment goals above 95%;

Strengthening systematic vaccination activities at health care units, striving to minimize missed opportunities for vaccination;

Forming travelling teams to reach remote localities.

1016. In October and November 2005, Nicaragua carried out a National Campaign of Vaccination against rubella, with the goal of eliminating rubella and the congenital rubella syndrome and consolidating the eradication of measles. The campaign focused on men and women from 6 to 39 years of age.

1017. Various modalities were used for vaccination, such as vaccination of captive populations, vaccinations in high-traffic locations, home visits, vaccination posts, community vaccination, and vaccination at health units. In this major undertaking, the vaccination teams adopted a flexible approach, using all the known modalities and adapting their schedules to the population's demands.

1018. The planning stage was fundamental to the successful development of the campaign. It encompassed all levels of management, down to local micro-programming, which is what made possible effective participation by persons to be vaccinated and enabled 100% coverage to be reached.

1019. Different technical components of the campaign played a very important role, particularly broad promotion, dissemination and the support of the media.

1020. Over 100% of the proposed goal of 3,623,606 was achieved, with 3,845,869 vaccinations, over target by 6.1%. The great majority of SILAIS reached coverages above 95%. Goals by sex and by age group were also achieved, reaching the proposed goal of 109.6% for women and 102.7% for men.

1021. The country has not experienced any shortage of vaccines during the past year. The stock of vaccines is sufficient to offset a six-month delay in the arrival of the vaccines purchased yearly.

1022. Among the actions under way are an Epidemiological Monitoring and Surveillance Plan, a Cold Chain Vigilance Plan, a municipal-level training plan on VE (Vaccine Effectiveness), ESAVI (Events Attributed to Vaccination or Immunization) and Cold Chain, strengthening of the national programme, and introduction of new vaccines against influenza and papillomavirus.

(viii) Measures to secure health for all the population

1023. MINSAs, through the Programme for Modernization of the Health Sector, has promoted new financing mechanisms for health services geared to vulnerable populations, with institutional providers (MINSAs health care units) and non-institutional providers (essentially NGOs). These mechanisms have aimed at guaranteeing a set of basic high-quality health services for vulnerable populations, the poor, primarily in urban areas, for ethnic communities and special population groups such as women and children.

1024. Until 2004, these interventions took place through contracting with two non-governmental entities in Los Chiles, Río San Juan and Siuna, with highly satisfactory results. Basic services were provided to an underserved rural population, satisfactory levels of vaccination attained in a short time (over 90% coverage for a population that had less than 20%), prenatal monitoring, family planning, and general medical consultations for the whole population. Assessments revealed a positive impact on reducing infant mortality.

1025. In the institutional sphere, a Fund for Safe Motherhood and Childhood (*Fondo para la Maternidad e Infancia Seguras*) (FONMAT) was formed, which reached 40 poor municipalities in the country, seeking to broaden the coverage of care for expectant women and children under two years of age. Similarly, coverage was increased, reducing maternal and infant mortality.

1026. The institutional machinery for these processes was designed through a strategy of expanding coverage of health services that began in 2005 with 80 municipalities selected by level of poverty, health situation, accessibility and financial requirements to give sustainability to achievements already in hand.

1027. The process was incorporated into the institutional reorganization already under way. Within the Division of Planning and Development, a Division of Health Services Delivery (*División de Aseguramiento de Servicios de Salud*) was created, as embodied in Decree 25-2006, published in May 2006. The Division assigns functions to guide the process of procurement of health services through management and development commitments of the Office of the Social Assessor (*Auditoría Social*) among others. The Directorate-General of Health Services is entrusted with verifying compliance with the management commitments and with the provisions of the Strategy to Extend Coverage (*Estrategia de Extensión de Cobertura*).

1028. Work has been proceeding on preparation, dissemination and training for SILAIS, municipalities and hospitals with an operational manual for the Strategy, which began to receive funding from the second half of 2005. To date, the Strategy has shown development only in its institutional aspect, and preparations are under way for contracting of non-institutional providers in the first half of 2007.

5. Other health indicators

(i) HIV/AIDS¹⁹⁵

1029. Nicaragua recorded its first case of infection by HIV in 1987 and since then there has been a steady and accelerating increase in the number of reported cases. Nevertheless, Nicaragua has the lowest rate of infection by HIV and AIDS in Central America.

1030. Epidemiological surveillance of HIV and AIDS began as of the appearance of the first cases and is done by the Office of Epidemiology (*Dirección de Epidemiología*) both at the central level and at the intermediate level, that of the Local Comprehensive Health-care Systems (SILAIS). Since then, AIDS and cases of HIV infection have become part of the diseases subject to monitoring and mandatory notice, being included under the system of monitoring of communicable diseases.

1031. MINSA's system of epidemiological surveillance for ITS/HIV/AIDS has recorded a cumulative total of 2,296 cases, of which 306 are cases of AIDS and 1,327 cases of persons infected with HIV, as of September 2006.

1032. With these data, which reflect cases recorded in the system from 1987 until September 2006, we can arrive at a prevalence for HIV of 23.6 per 100,000 inhabitants and a prevalence for AIDS of 5.4 per 100,000 inhabitants. Some cases are disregarded because we do not know the condition and certain data are missing. This is because the data were not entered on the form or were incompletely or incorrectly provided by the patient. From 1987 to September 2006, there were 622 deaths due to AIDS, yielding a mortality rate of 11.1 per 100,000 inhabitants and a lethality rate of 27%.

¹⁹⁵ Source used: MINSA System of Epidemiological Monitoring.

1033. The monthly average of laboratory-diagnosed cases of persons living with HIV/AIDS has been gradually increasing: 4.8 in 1996, 10.7 in 2000, 15.9 in 2002 and 35 at the end of 2005. In September 2006 the average number of cases diagnosed was 29 per month, despite a six-month medical strike during which no cases were being submitted.

1034. Cases among males number 1,608 (71%) while among females cases number a total of 647 (29%) up to the month of September 2006. The ratio of males to females is thus 2.4/1.

1035. During the last five years, the increase in Nicaragua has appeared in all age groups: the 15-24 age group has a percentage of 28%; the 25-34 age group shows the largest proportion, with 38%; and the 35-44 group has 22%. In other words, 88% of the total number of people living with the AIDS virus (1,985 people) is concentrated within the 15 to 44 year old age group, which means that we are losing our potential labour force. (See Annex 4, Art. 12).

1036. In Nicaragua sexual transmission remains the most frequent form of infection, for a total of 92% (2,119) of cases reported. Transmission from mother to child accounts for 3% of cases, 2.8% are linked to persons dependent on drugs, and 0.2% are associated with blood transfusions.

1037. The population which identifies itself as heterosexual is the group with the largest number of cases, accounting for 75%, with 15% corresponding to men who have sex with men and 10% to the bisexual population.

1038. The epidemic in Nicaragua is still in a concentrated phase, which makes it possible to continue developing interventions to prevent it from evolving into a generalized epidemic.

1039. Efforts to boost prevention and control of AIDS, and initiatives to ensure availability of and access to medicines for people with AIDS have played a significant part in bringing about advances in the fight against this disease.

1040. Among the main factors that have played a role are:

- (a) Updating of the Strategic Plan to Combat ITS/HIV/AIDS for the period 2006-2010;
- (b) Approval of the Global Fund to Fight AIDS, Tuberculosis and Malaria has enabled the country to receive additional funds for activities relating to prevention and control of these diseases;
- (c) Strengthening of the capacity to diagnose HIV/AIDS: This may be a factor in the marked rise in incidence in recent years. With the support of the Global Fund to Fight AIDS, Tuberculosis and Malaria, the diagnostic capacity of MINSA's laboratory network was improved;
- (d) Support to provide antiretroviral treatment to AIDS patients;
- (e) Development of protocols for diagnosis and treatment. The free supply of first-line and second-line Anti-retroviral (ARV) drugs to all patients requiring first-line and second-line treatment (335); 100% coverage of AIDS cases, cases of pregnant women and children, as established by the World Health Organization and the Centers for Disease Control. At present,

782 PLWAs (persons living with HIV/AIDS) are being monitored and could require treatment at any time;

(f) Promoting the test and providing it free of charge;

(g) Strengthening of preventive campaigns;

(h) Intersectoral coordination through CONISIDA. The member agencies and institutions of CONISIDA, especially of the expanded CONISIDA¹⁹⁶, as well as of the Coordination Mechanism, have supported efforts to monitor the spread of HIV/AIDS in Nicaragua.

1041. The three administrative levels of MINSA (Central, SILAIS and Local) as well as INSS and NGOs participated in epidemiological surveillance activities, each with its own well-defined responsibilities within the system. Part of the private sector and NGOs have clinics for patient care, but only some units report their HIV and AIDS cases to the national epidemiological surveillance network. The country has a national surveillance system, which covers the length and breadth of the national territory. However, there are remote areas where monitoring is less frequent.

6. Health of vulnerable groups

(i) Persons with disabilities

1042. According to the National Survey on Disabilities in Nicaragua, performed by INEC in 2003, there are many predisposing factors conducive to a significant prevalence of disability:

(a) War situations have involved broad strata of the population;

(b) The epidemiological profile corresponds to a transitional stage, where infectious diseases, re-emerging diseases such as pulmonary tuberculosis and cholera, and emerging diseases such as HIV/AIDS still persist;

(c) The population has grown sixfold in the last 40 years;

(d) Growth in the number of vehicles and lack of adequate thoroughfares for urban and inter-urban transportation;

¹⁹⁶ CONISIDA Institutions:

1- State sector: MINSA, MINED, MIGOB, INJUVE, MIFAMILIA, Office of Human Rights (Procuraduría de Derechos Humanos), MITRAB and INSS;

2- Civil Society: Nicaraguan Red Cross, CNLSSC, ASONVIHSIDA, FETSALUD, CENIDH;

3- Private Sector: Nicaraguan Chamber of Health (CANSALUD);

4- Autonomous Caribbean Regions: CORESIDA RAAS and CORLUSIDA of the North Atlantic Autonomous Region.

- (e) A lack of appropriate procedures for handling complex machinery and lax enforcement of worker safety standards and regulations, generally increasing those risks;
- (f) A growing number of older people in the country, while the number of people under age 15 also continues to increase;
- (g) Increasing life expectancy fosters the incidence of chronic degenerative diseases, such as those of the circulatory system, and tumours;
- (h) The pattern of fertility reveals that women with many children have their children very often, from their youth until an advanced age;
- (i) The increase in the number of people living in poverty makes them more vulnerable to suffering a disability or some complication of a disability;
- (j) Limitations on coverage and degree of resolution in the health care system make it more difficult to achieve timely and appropriate management of diseases with a high potential for disability. Examples of this are mental illnesses and diabetes;
- (k) Similarly, insufficient coverage by rehabilitation services, especially in rural areas with high predisposition factors, means that the complications of a disability will be greater;
- (l) The low educational level of the population in general regarding appropriate management of persons with disability and regarding those persons' self-management makes it more difficult for persons with disabilities to exercise their activity and participate in society, compounding the level of disability.

1043. Health care for persons with disabilities is aimed at promotion of health, prevention of disabilities, accident prevention, comprehensive and rehabilitation by levels of resolution. There are 35 primary-level care units with rehabilitation services, 21 second-level hospitals, and two third-level hospitals with this service.

1044. Work has been done on providing prosthetic and orthotic appliances and the services network has been strengthened, building units in the North Atlantic region, improving equipment and providing necessary technical assistance. The process of defining protocols for ensuring quality service has also begun.

1045. Most of the country's public health units have begun the process of adapting physical infrastructure, building access ramps, bathrooms and sanitary services appropriate for persons with disabilities. The technical capacities of health care personnel to provide better care for persons with disabilities have also been enhanced.

1046. The new units that are being built include standards of accessibility for persons with disabilities.

(ii) National Rehabilitation Programme

1047. The following are among the processes under way:

- (a) Workshops have been developed for health care personnel as well as personnel of statistics and rehabilitation programmes who will participate in the Pilot System of Information on Rehabilitation and Disability. Workshops have been conducted on the International Classification of Disability, Functioning and Health (ICF);
- (b) Draft design of the System of Epidemiological Monitoring of Disabilities, currently being analyzed by the Office of Supervision of Public Health;
- (c) Installed capacity has been strengthened in the Information System of the Rehabilitation Programme, and enough material has been reproduced and distributed for the Registry of Physical Therapy and Functional Assessment in Rehabilitation throughout the country. Distribution of ten computers for the Information System has begun;
- (d) Software for the Rehabilitation Information System has been designed. Pilot projects are under way at two health care centres and seven rehabilitation services based in hospitals;
- (e) Regarding the definition of the Disability Certification Process, organizational processes are being defined in each SILAIS with a view to developing Standards for Certification of Disabilities and defining an instrument for evaluating disabilities, developing disability certificates and constituting groups for certification;
- (f) Priority has been given to strengthening technical capacity of rehabilitation personnel through process of training and refresher courses, for which support materials have been developed;
- (g) Emphasis on training and preparation of rehabilitation personnel in thematic areas of human communication, PCI, CIF, RBC, rehabilitation management, epidemiology of disabilities, management of disabled divers, and rehabilitation planning;
- (h) A study has been prepared of the sociocultural characteristics of Miskita populations with disabilities;
- (i) Visits to various SILAIS for promotion, prevention of disabilities and preparation of persons with deficiencies to be referred to rehabilitation services;
- (j) Within the plan for expanded coverage in rehabilitation, interventions have been conducted in the SILAIS without a doctor of physical medicine and rehabilitation through Rehabilitation Brigades in order to evaluate the needs of persons with disabilities;
- (k) Interventions in communities to evaluate the needs of divers affected by diver's decompression syndrome, conducting medical checkups of divers at Puerto Cabezas, Ostional, San Juan del Sur, Gigante, and El Astillero;
- (l) There was participation in the conduct of the Nicaraguan survey on persons with disabilities, with results pending from INEC;
- (m) We have made headway in participation by persons with disabilities, their families and communities in actions for prevention, rehabilitation and equality of opportunity, supporting and participating in discussions on the Health Plan;

(n) Law 202 has been made known to institutions; exchanges and support have been provided for policy development at the Ministry of Labour, the Ministry of Education, Culture and Sports and the Ministry of the Family, Children and Adolescents (MIFAMILIA);

(o) The Project on Equality for Persons with Disabilities has been developed in partnership with MINSA and the Government of Finland through the Directorate-General of Health Services and the National Rehabilitation Council. The project is expected to be completed in 2006, but with a remainder of 3,258,925 execution will be completed in the first half of 2007;

(p) In regard to promoting participation by persons with disabilities, their families and communities in programmes of prevention, rehabilitation and promotion of equal opportunity, an awareness-raising and prevention campaign was conducted for five months on television, radio and 17 roadside-fence displays located in the departments;

(q) Support was provided for provision of equipment for the units in order to improve service at rehabilitation units in 17 hospital rehabilitation services and 13 physical therapy services at health centres;

(r) The National Council for Rehabilitation (CONARE) has been provided with equipment and infrastructure; there was participation in the development of technical standards of accessibility; and funding was provided for ramp/handrail construction and various accessways at health care units.

(iii) National Centre for the Production of Technical Aids and Orthopaedic-prosthetic Devices (CENAPRORTO)

1048. CENAPRORTO is an administrative unit which forms part of MINSA, constituted by the Goods and Services Enterprises of MINSA, begun with international financial, equipment and technical support and at present depending on its financial management for self-sustainability.

1049. In 2002, a process of re-engineering was completed, expanding installed capacity to produce up to 600 prosthetic devices per year.

1050. Among CENAPRORTO's main clients are the International Committee of the Red Cross, the Organization of American States, Project Concern International, the Nicaraguan Social Security Institute, Prodinic, and the National Rehabilitation Council through the project on equal opportunity. Products are also sold to individuals.

1051. Technological development has helped to expand the supply of prosthetic and orthotic appliances and technical aids such as facial masks for patients with burns.

1052. With the end of the ICRC-MINSA cooperation agreement in 2003, it became difficult to sell 40% of the production; the situation was alleviated thanks to the purchase by the National Council for Rehabilitation of a minimum of 100 devices for donation to disabled persons.

1053. The prospect for growth resides in expanding the portfolio of clients through INSS and other agencies which donate prosthetic and orthotic appliances and technical aids to disabled adults and children.

(iv) Persons deprived of their liberty¹⁹⁷

1054. The right to health in this sector is guaranteed by Law No. 473 of 11 September 2003, the Law on the Prison System and Enforcement of Sentences¹⁹⁸. Article 38 of the law refers to medical checkups: “Every private citizen deprived of his liberty shall undergo a medical check-up upon admission to a correctional institution in order to determine and establish his state of physical and mental health. When the person deprived of his liberty presents some form of lesion, the appropriate judicial authority shall immediately be informed so that appropriate measures may be taken according to the criminal procedural law in effect”.

1055. The same Law No. 473 provides that the National Prison System (SPN) at each correctional institution “shall have a basic medical and preventive services unit to attend to persons deprived of their liberty who are detained there, who shall without exception receive attention and care without discrimination at the various facilities of the Ministry of Health or its respective public health units” (Art. 91).

1056. In the National Prison System, from the time an inmate enters the correctional centre a general physical check-up is conducted¹⁹⁹ to detect whether he has some type of problem before he is interned and his clinical file is opened. Subsequently, if he complains of a health problem in his cell, he informs the re-education officer in the cell block, who takes him to the medical post to explain his problem and receive treatment. Appointments are made if the doctor has doubts about the condition and suggests that tests be done for a better diagnosis.

1057. Some tests are done at SPN but in other cases the inmate must be taken to some clinic (for a more rigorous test) to arrive at a better diagnosis.

1058. There is a staff doctor and a nurse at all prisons. It should be noted that at the Tipitapa prison, which is the largest, there are three doctors and a nurse.

1059. All custodial establishments have places for seniors, who are a vulnerable group. Medical care focuses on the more vulnerable, such as elderly people and people with chronic illnesses who need daily care, e.g. taking blood pressure. Those with diabetes need to have rigorous examinations and their pathology must be kept under control.

1060. With regard to medicines, all correctional centres have a small dispensary to provide needed medicines. If a medicine is not available there, steps are taken to obtain it. If it cannot be obtained, a relative or friend is contacted to donate the medicine. The aim is to solve the problem.

¹⁹⁷ Interview with Warden José Mora, Director of the Division of Information, Planning and Statistics of the Prison System.

¹⁹⁸ Published in the Official Journal, No. 222, of 21 November 2003.

¹⁹⁹ To take blood pressure, ask the inmate about his symptoms, and prepare a medical report on the patient.

1061. In the case of inmates with AIDS, Law 238 imposes confidentiality and prohibits disclosing the names of inmates who have the disease. Tests to determine who has AIDS are voluntary; no inmate can be obliged to have the test done.

1062. When a patient is at the advanced or terminal stage of AIDS, the patient is kept at the SPN clinic, in a special ward. Patients with AIDS who are not at the terminal stage are free to mingle with other inmates, without any discrimination.

1063. All prisons have conducted vigorous campaigns informing about what HIV/AIDS is and how to avoid it. The whole prison population has participated in these campaigns, which include holding talks and showing videos in order to create awareness both among people who are carrying the virus and among those who are not, in order to prevent fear and discrimination of carriers.

7. Results obtained in the area of health during the period 2002-2006

1064. During this period the Human Resources Division developed and presented to the Commission of Ministers of Central America (COMISCA) the Project for the Development of Human Resources with a human focus, for the Central American area, the Dominican Republic and the Caribbean, supported by WHO and PAHO.

1065. Work is well advanced on the formulation of the draft Law on Health Care Careers, which is pending approval in the National Assembly and dissemination to all health care units in the country. Also under way is the design of a human resources compensation policy based on job hierarchies, performance and contract types in keeping with the Law on Health Care Careers. The diagnostic of standards of internal oversight of the General Division is being updated and a code of conduct is being developed.

1066. A manual of central-level organization and functions of MINSA has been submitted to the technical secretariat of the Office of the President of the Republic and approved by that Office. Basic staffing of health care units has also been defined, to determine human resource requirements in health care services.

1067. A decentralized management tool for the Public Employee Payroll System (SISCAPNOM) has been developed for 28 of 50 units at the national level, representing 55% of advances, with only 22 units pending.

1068. Administration is ensured for the public employee payrolls, in-house funds, the supplementary social fund, physicians' fees, physician fellowships, retirees, pensioners and payments for professional services.

1069. Collective wage agreements for 2003-2005 and for 2006-2008 have been approved.

1070. Application has been ensured for the various salary components, validations and promotions derived from the Collective Wage Agreement arrived at between senior authorities and trade-union and professional organizations. Salary increases approved by the National Assembly have been applied in coordination with trade-union organizations.

1071. Management and follow-up of labour and social benefits, as well as health workers' social security, have been assured in keeping with the Collective Wage Agreement and labour legislation in force.

1072. Follow-up has been ensured of fulfilment of agreements signed with trade-union and professional associations with regard to labour demands.

1073. A very important achievement during the period was fulfilment of clause XI on delivery of uniforms and footwear to 21,943 health workers and 725 medical students, for a total of C\$ 147,181,901,311.75, most of that amount in benefits for the period. An investment on protective equipment of C\$ 1,541,828.62 was made, benefiting 3,160 workers including nursing personnel, tropical disease personnel, security personnel, cooks, sterilization staff, laundry workers and drivers at all health care units nationwide.

1074. With MINSA clause XV on the rights of women workers, benefits have been extended to an annual average of 286 expectant and breast-feeding women at a cost of C\$ 1,424,790 for the period.

1075. The Single, Total and Definitive Compensation Plan was implemented in two stages with coordination by the trade-union organizations, making it possible to remove inactive personnel from the Public Employees Payroll.

1076. With regard to social benefits, the Government of Nicaragua undertook to guarantee 50 million córdobas as a revolving fund for the housing programme. To that end, MINSA formed a National Housing Commission, developed and approved the funding use profile for 12 units of 55 applicants, thereby benefiting approximately 605 workers. The funding will be disbursed in 2007.

1077. The implementation of Clause XII of the Collective Agreement included 300 scholarships for children of workers, 240 stipend fellowships and 400 salary fellowships.

1078. Intersectoral activities were completed with State institutions such as the Ministry of Labour, INSS and the Directorate-General of Fire-fighters to comply with standards of occupational health and safety in health care establishments.

1079. Fifty-two joint Occupational Health and Safety Commissions were formed in coordination with MITRAB, INSS and the Directorate-General of Fire-fighters.

1080. A diagnostic survey of health and safety was performed for the country's 32 hospitals, jointly with the Joint Occupational Health and Safety Commissions of the Health Care Units. Technical and organizational regulations for health and safety in the workplace were developed; they are now with the Directorate of Regulation of the Ministry to be sent to MITRAB. Also completed was the Manual of Workplace Health and Safety Policies for MINSA, which is also with the Directorate of Regulation and Legal Affairs of the Ministry for approval.

1081. With guidance from ILO and PAHO-WHO, a draft on Workplace Safety and Health was prepared.

(i) Human resources training and preparation

1082. Coordination was strengthened with the areas of the Directorate-General of the Central Level, especially with health and hygiene services and with epidemiology services, to formulate training programmes for service and technical personnel of health care units, focusing on the management of and approach to the main pathologies affecting the Nicaraguan population, such as sexually transmitted diseases, HIV/AIDS, diarrhoea, dengue, malaria, etc.

1083. Human Resources Development Plans were formulated in 17 SILAIS and 11 decentralized hospitals.

1084. With funding from the International Development Association of Canada (IDAC) distance learning was provided to 117 nursing aides in priority areas of the SILAIS of Madriz, Nueva Segovia and the South Atlantic Autonomous Region. The distance learning modality will enable personnel of those areas to receive refresher training programmes.

1085. To improve quality of care for women and adolescents and to have an impact on maternal and perinatal morbidity and mortality indicators, an initial contingent of 60 nurses has been approved to receive a training programme that will grant 500 approved certifications (*licenciaturas*) in obstetrics and perinatology. This project began in 2005 and will span five years (2005-2009), with the aim of reducing maternal and perinatal mortality in areas prioritized by MINSA, financed by the Swedish International Development Agency (SIDA) (Nicaragua-Sweden and MINSA-UNAN interagency agreement).

1086. Through the MINSA-UNAN agreement, 1,694 medical students fulfilled their rotating internship and social service in priority areas. In addition, there were 145 placements in social services nursing and 36 in bioanalysis.

1087. A diploma in human resources management was granted to 32 human resources officers at health care units. In addition, 247 nursing aides achieved academic equivalency to the secondary school diploma (*bachillerato*) level with funding from FUEDEM (Foundation for Women's Development) and in coordination with the Ministry of Education (MECD).

1088. The Virtual Information System has been strengthened with a web portal linking to complete texts --monographs of medical specialties, historical documents, laws, decrees, ministerial resolutions -- to aid institutional memory and develop the Nursing Web page.

1089. There were 513 graduates in medical-surgical specialties, and 506 administrative officers of SILAIS and hospitals trained in public service ethics, the law on accountability and standards of internal control. Through the National Technological Institute (INATEC) fund, 870 administrative workers were trained in the following thematic areas: financial management, equipment maintenance, computing, English, use and handling of firearms, inventory management, and techniques of internal control.

1090. During the 2002-2006 period, the Division of Education and Research, in coordination with the Directorates-General of the Central Level, trained 16,514 workers of various profiles in the following subjects: leadership, culture of quality, performance management, Master's in Public Health, methodology of the human resources development plan, biosecurity, occupational

health, labour legislation and emergency planning, and standards and protocols of the various programmes with a view to improving the quality of health services.

1091. A self-teaching methodology was introduced, training 510 persons (first-level management teams). Based on this methodology, modules were developed on breast-feeding, safe motherhood, sexual and reproductive health, training 300 persons (doctors, nurses, aides).

1092. Forty-seven persons (doctors, nurses and other health workers) have been trained abroad, through fellowships provided by countries such as Chile, Mexico, Japan, Brazil, United States, etc.

(ii) Performance management system

1093. During the last four months of 2003, a programme was planned and developed for the promotion and validation of the Performance Management System (SGD) through introduction and piloting of the system at selected pilot health care units covered by the Programme of Modernization of the Health Sector (PMSS) and in the General Division of Human Resources itself.

1094. The Division of Education and Research has conducted a series of sessions on methodological transfer of the Performance Management System which seek to promote its introduction, highlighting its importance as a directive management tool and for personnel development. To date, it has reached 1,970 civil servants trained at different SILAIS, municipalities, hospitals and National Reference Centres.

8. International Assistance

1095. In 2002-2006, the Department of Donations and International Medical Brigades, as part of the regulatory governance function of MINSA, has had a legal mandate to regulate the inflow of donations of medical supplies and to authorize international medical delegations and brigades to enter Nicaragua in order to provide humanitarian medical help in the country.

1096. A total of 1,129 International Medical Brigades have been received, mainly from the United States, Canada, Spain and France, as well as 172 medical delegations, especially in 2005 and 2006.

X. ARTICLE 13 – The right to education

A. Legal framework

1097. Nicaragua has been pursuing activities inspired by a clear awareness that education is a right and a fundamental instrument of socio-economic growth and wellbeing. In other words, education is viewed as one of the main factors driving the country's development, an appropriate way to break with conditions of inequality, exclusion and poverty, so that it is a matter of priority to create a diversified range of educational opportunities in keeping with the needs and characteristics of students and of national development.

1098. The Universal Declaration of Human Rights guarantees the right to education: “Everyone has the right to education. Education shall be free, at least in the elementary and

fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit” (Art. 26(1)).

1099. Article 58 of the Political Constitution of Nicaragua provides for the right to education: “Nicaraguans have the right to education and culture”.

1100. Similarly, Title VII of the Constitution, on Education and Culture, provides in Articles 117, 118 and 119 that education is one single democratic, creative and participatory process which links theory with practice, manual with intellectual labour, promotes scientific research, promotes the participation of the family, the community and the people in education, and guarantees support of the means of social communication for this purpose. Education is an undecidable function of the State. The national educational system functions in an integrated fashion and in accordance with national plans. Its organization and functioning are determined by law.

1101. There are likewise other articles dealing with education, such as Articles 122, 123 and 124, which provide for continuing education for adults and freedom of both public and private education, all geared to eradicating illiteracy and providing special protection for the neediest student population.

1102. The Constitution provides literally that education shall be mandatory and free of charge:

“Access to education is free and equal for all Nicaraguans. Primary education is free of charge and mandatory at State centres. Secondary education is free of charge at all State centres without prejudice to any voluntary contributions which parents of the family may make. No one may be excluded in any form from a State centre for economic reasons. The indigenous peoples and ethnic communities of the Atlantic Coast have the right in the region to intercultural education in their native language, in accordance with the law” (Art. 121).

1103. With regard to university education and higher-education centres for technical education, these enjoy

“academic, financial, organic and administrative autonomy in accordance with the law”. They are exempt from any class of taxes and fiscal contributions, regional and municipal. Their assets and revenues may not be the object of intervention, expropriation or seizure, except when the relevant obligation originates in civil, business or labour contracts.

Professors, students and administrative workers participate in university management.

“Universities and Higher Technical Schools, which according to law are to be financed by the State, receive an annual allocation of 6% of the general national budget, which is distributed according to law. The State may make additional contributions to pay for extraordinary expenditures of said universities and higher technical schools”.

“Academic freedom is guaranteed. The State promotes and protects freedom of creation, research and dissemination of the sciences, technology, arts and letters, and guarantees and protects intellectual property” (Art. 125, Constitution).

1104. Similarly, Law No. 287, the Children and Adolescents Code (CNA) provides in Article 43 that all children and adolescents have the right to education and that it is the duty of the State to

“guarantee educational modalities that permit inclusion of girls, boys and adolescents who for various circumstances are excluded from compulsory primary education”.

“The State should adopt measures to promote regular school attendance and to reduce repetition rates and school-leaving rates” (Art. 47, CNA).

1105. Children with disabilities enjoy the aforementioned rights. In addition, the Code provides that “The State shall guarantee their right to receive special care with regard to mobility, education, capacitation, health and rehabilitation services, preparation for employment and recreational activities” (Art. 77(2), CNA).

1106. In addition to the aforementioned legislation, Nicaragua has Law No. 582, the General Law on Education (LGE), enacted 22 March 2006²⁰⁰. Its purpose is to lay down General Guidelines on Education and the National Educational System, the powers and obligations of the State, and the rights and responsibilities of persons and of society in their educational function. It regulates all educational activities pursued by natural persons or by legal persons, public or private, throughout the country.

1107. Among the law's most important features is the financing of education, and it provides that the budget for education up to the level of higher education will increase annually, taking inflation into account. Similarly, it provides that teachers are to receive raises to be reviewed and negotiated annually, in an amount which depends on tax revenues.

1108. The LGE provides for a maximum teacher/student ratio of 1/20 in pre-school and 1/35 in primary and secondary school. The Ministry of Education, Culture and Sports (formerly MECD, now MINED) estimates that fulfilling the provisions of the LGE would require 2,315 to 7,853 teachers nationwide.

1109. Law 238, the Law on Promotion, Protection and Defence of Human Rights in regard to AIDS, also guarantees the right to education: “Persons living with HIV/AIDS and their children have the right to education. They may not be prevented from entering educational centres” (Art. 24).

B. Education

1. Competent institution

1110. In this far-reaching area, the entity in charge is the Ministry of Education (MINED), which, pursuant to Law 290²⁰¹ on the Organization, Competence and Procedures of the Executive Branch (Art. 23) is given the following powers:

²⁰⁰ Published in the Official Journal, No. 150, of 3 August 2006.

²⁰¹ Law 612, adopted 24 January 2007, published in the Official Journal, No. 20, of 29 January 2007.

- (a) To propose national policies, plans and programmes in education; to direct and administer their execution, with the exception of Higher Education;
- (b) To formulate proposals regarding educational standards, to direct and administer their application;
- (c) In accordance with applicable law, to grant authority for educational administration, assign educational personnel, issue plans and programmes of study and educational services, and to direct and administer the system of supervision and control of national educational policies and standards;
- (d) To regulate the common policy governing educational diplomas for primary, basic, secondary and technical schools, in the latter case in coordination with INATEC, and to direct and administer the issuance and registration of such diplomas;
- (e) To formulate and propose policies, plans and programmes for school infrastructure and equipment for the sub-system of basic and intermediate education and for teacher training;
- (f) To coordinate participation by the family, professional organizations, the community, local governments and social organizations in education through the bodies established by the applicable law;
- (g) To propose plans and programmes on education, environment and the Nicaraguan cultural heritage;
- (h) To administer and direct the implementation of teacher training plans and programmes and the rules governing the registration and classification of teachers and their evaluation; and to supervise and control the foregoing in accordance with the applicable law;
- (i) To formulate, promote, foster and execute programmes, projects and policies in areas that ensure comprehensive participation and development of Nicaraguans;
- (j) Such other functions as the laws or the President of the Republic may assign to it within its sphere of competence.

2. Education in Nicaragua²⁰²

(i) Coverage

1111. School coverage refers to the educational opportunities offered by the System of Basic and Intermediate Education, i.e. the services that the system provides to the Nicaraguan population.

²⁰² “The State of Basic and Intermediate Education 2005”, April 2006. Managua, Nicaragua. Ministry of Health. EFA 2000.

1112. The present educational system has three subsystems: the subsystem of general education, the subsystem of technical education and vocational training, and the subsystem of higher education.

1113. The Ministry of Education is in charge of the subsystem of general education, which comprises the programmes of initial education, primary education, special education, adult education, secondary education and teacher training.

1114. In 2005, total enrolment in the educational system, basic and intermediate, was 1,674,699 students in the various programmes. Growth in enrolment was greater for preschool, secondary and adult education.

1115. Preschool education: the system attended to 213,672 children, representing growth of 7.1% compared to 2004. This increase is reflected in the sustained growth of the preschool Net Schooling Rate (TNE), which rose from 26.8 in 2000 to 32.7 in 2005.

1116. The results were achieved in large measure due to significant participation by community preschools, which account for 52% of enrolment in this educational programme.

1117. Primary education: Enrolment in the programme was 632,882 in 1990, with girls accounting for the larger share of 51%. The share of urban areas was 57.7%. With regard to gender equity in urban and rural areas, girls accounted for 51% and 50.6% respectively.

1118. The trend of enrolment during the period 1990-1991 shows a gradual and moderate increase, with 816,701 students enrolled in 1999, revealing a growth rate of 2.09% equivalent to 173,819 students. The share of the urban area is 51%, so that the urban-rural gap was narrowed by 6.7 percentage points compared to 1990, and a similar change occurred in gender equity, since the respective figures in that regard are 49.9% and 49.3%.

1119. The Net Schooling Rate in 1990 was 75.4% and shows an upward trend, reaching peaks in 1992 and 1993 with 79.7% and 78.9% respectively. The Net Rate for 1995 was 75.2%, 3.4 percentage points less than in the three previous years.

1120. From 1996 to 1998 the System showed capacity to sustain coverage of the 7 to 12 year old population, since the Net Rate was maintained at 73.2%, 73.6% and 73.1%, rising to achieve net coverage of 75% in 1999 despite the impact of Hurricane Mitch in November 1998, which destroyed 1,640 classrooms and affected 7 of the country's 17 departments.

1121. With regard to objectives and goals, priorities have remained consistent through the 1990s, such as "increasing coverage for the school-age population, increasing retention and promotion, reducing repetition and school-leaving and enrolling more boys and girls in sixth grade of primary education". All of the foregoing are aimed at curbing potential growth in illiteracy.

1122. The Ministry of Education has been exerting joint efforts with donor countries and agencies helping to resolve problems of the period 1990-1999.

1123. It is important to note that Bilingual Intercultural Education has shared in the benefits, as the coverage of the Bilingual Intercultural Education Programme (PEBI) has increased steadily,

incorporating new schools and tending toward coverage of the whole population in need of bilingual education (Miskito, Mayagna, and Criollo). It is noteworthy that textbooks have been produced in each of the languages addressed by the programme. Educational standards are being implemented on a pilot basis in all areas of the curriculum and model schools as from the year 2000.

1124. In 2005 enrolment in this programme was 945,089 students, with 3% growth over 2004, this increase being lower than the population growth rate and leading for the third consecutive year to a decline in the Net Schooling Rate for primary schools.

1125. It is important to note that Net Schooling Rates are calculated in terms of the enrolment of school-age children (numerator) and the school-age population corresponding to different educational programmes (denominator). Population data presented here are projections of population based on the Population Census for 1995 conducted by the National Statistical and Census Institute.

1126. Secondary education: Secondary education refers to the population aged 13 to 18 in the modalities of Daytime Secondary, Night-time Secondary which is for adolescents, young people and adult workers, Distance Secondary for those over age 18 and Mature Secondary (*Secundaria por Madurez*), a module comprised of self-teaching modules for those over age 20.

1127. Secondary enrolment has grown at a rapid pace, the 1990-1999 growth rate being approximately 4.88%. The Gross Schooling Rate in 1990 was 28.3%, showing an upward trend and reaching about 43% in 1999, that is 15 percentage points over the start of the decade.

1128. The schooling rate behaves similarly to the gross rate, so that attendance increased by about 12 percentage points, since it was 20.9% in 1990 and reached 32.6% in 1999. The productivity of the school system expressed in indices of retention and promotion was higher in each class during the period. In secondary day school the index of retention grew by about 4 percentage points, rising from 86.85% in 1990 to 90.9% in 1999. The index of promotion went from 56.8% in 1990 to 80.6% in 1998 and fell to 70.7% in 1999.

1129. Night-time secondary school is geared to the working population, with a curriculum and system of evaluation similar to that of daytime secondary school, and most centres are located in the urban areas. From 1990 to 1999 there was no clear upward or downward trend in enrolment.

1130. Enrolment in this programme for 2005 increased by 5.3% over the previous year, reaching a total of 415,273 students. This significant growth may well be related to an increasing demand in Nicaraguan society and in the labour market for higher educational levels, which is consistent with making secondary education more cost-effective (companies would be rewarding higher levels of education with better salaries). It is also important to note that during the last five-year period there has been a linear trend of growth in the secondary Net Schooling Rate, which rose from 34.7% in 2000 to 41.9% in 2005.

1131. Adult education: Historically a developing country, Nicaragua has experienced high rates of illiteracy: from 50.2% in 1971 (population census), it was reduced to 12.6% with the literacy campaign according to 1980 official records, then rose to 24.69% in 1985 (ESDENIC/85 standard of living survey), a rate which has remained more or less steady. According to the 1995

population census, the rate was 25.8%, and the official standard of living survey of 1998 places it at 23.4% of the population aged 15 and above (Source: INEC)

1132. It is adult education that has shown the most significant increase in enrolment, with 19.4% compared with the previous year (2004), reaching a total of 91,961 students. These results bear witness to the determination to eradicate illiteracy as a key strategy in the fight against poverty.

1133. Special education: In 2005, 3,353 students with special educational needs were enrolled. The decline in enrolment is in response to implementation of an inclusive educational strategy, described below, through which students with special educational needs are admitted to regular schools.

1134. At present, the national illiteracy rate is holding steady at 20.5% according to data from the National Statistical and Census Institute (INEC).

1135. The most recent goal of the Ministry of Education is to declare Nicaragua free of illiteracy by 2008.

3. Statistical data on education

1136. With regard to initial enrolment, it should be added that in 1995 there were in total approximately 1,146,240 students at all stages of education (from preschool to secondary, including special education, teacher training and adult education). By 2005 this figure rose to 1,674,699. The tables below give a breakdown of the number of students enrolled initially at all stages of education, and the number of children who finish primary school in six years.

Initial Enrolment by Programme - 1995, 2000, 2005

Programme	1995	2000	2005
Special Education	3,009	3,164	3,353
Preschool	99,145	166,715	213,672
Primary	764,587	838,437	945,089
Secondary	220,746	315,354	415,273
Teacher Training	7,460	5,752	5,351
Adult Education	51,293	86,149	91,961
Total	1,146,240	1,415,571	1,674,699

Source: Report of the Ministry of Education for the preparation of the Report on PIDESC, 2006.

Percentage of Children Completing Primary in Six Years (Rate of Primary Opportunity)

Year	Total	Female	Male	Urban	Rural
1997	27.0	29.0	24.0	42.35	14.95
1998	31.0	34.4	27.2	48.81	16.84
1999	32.2	35.7	28.9	49.52	18.73
2000	35.4	39.2	31.9	54.19	21.57

2001	36.3	40.5	32.4	52.58	23.37
2002	38.5	42.8	34.6	59.23	27.73
2003	40.8	45.3	36.7	58.93	30.24
2004	40.9	45.1	37.0	60.80	30.22
2005	41.2	45.6	37.2	58.2	31.2

Source: Report of the Ministry of Education for the preparation of the Report on PIDESC, 2006.

1137. With regard to the trends of recent years (1993-2001), the table below shows that there has been a decline in the number of people who did not complete any level of study (25.8% in 1993 to 20% in 2001), while there has been growth in the number of years of study successfully completed for years 7 and above (13.7% in 1993 to 15.6% in 2001). From the first to the third year of study, rates of completion have generally declined; however, from the seventh year onwards, the increase is approximately 2%.

**Percentage distribution of the population by years of school
successfully completed 1993-2001**

Gender, Area of Residence and Region	Years of school successfully completed					
	None	1_3	4_6	7_9	10_12	13 +
Nationwide 1993	25.8	20.6	27.9	13.7	8.6	3.4
Men	12.7	10.2	13.4	6.4	3.9	1.9
Women	13.1	10.4	14.5	7.3	4.7	1.5
Nationwide 1998	21.3	20.2	28.5	16	9.1	4.9
Men	10.5	10.5	13.7	7.5	3.8	2.5
Women	10.8	9.7	14.8	8.5	5.3	2.4
Nationwide 2001	20	19.5	28.8	15.6	10.3	5.8
Men	9.8	10.4	14.2	7.7	3.9	2.9
Women	10.2	9.1	14.6	7.9	6.3	2.9

Source: National Statistical and Census Institute (INEC).

1138. With regard to school-leaving, the Ministry of Education has made significant efforts to curb the rate in different educational programmes. The figures point to a decline in school-leaving in all of Nicaragua's primary education.

1139. In secondary education there are ups and downs in school-leaving generally in the second, third and fourth years of secondary school, with an increase when comparing 1990 and 2000.

Regular and multi-grade primary education school-leaving rates, 1990 - 2001

Year	% Rate					
	First	Second	Third	Fourth	Fifth	Sixth
1990	23.47	7.53	9.76	11.91	10.85	0
1991	22.68	7.35	11.62	13.96	12.87	0
1992	17.87	6.44	10.24	11.4	10.38	0
1993	17.37	5.8	10.42	11.98	9.69	0
1994	18.87	6.45	12.08	14.12	11.74	0
1995	21.2	9.24	13.69	16.48	13.13	0
1996	20.92	7.04	10.8	13.99	10.7	0
1997	23.71	9.1	11.41	15.99	12.04	0
1998	19.86	9.8	8.95	12.92	9.26	0
1999	21.93	11.63	11.14	13.02	9.39	0
2000	19.85	10.23	9.62	11.91	8.53	0

Secondary education school-leaving rates, 1990 – 2001

Year	% Rate				
	First	Second	Third	Fourth	Fifth
1990	21.87	4.16	1.39	3.80	0
1991	28.66	15.78	16.21	21.62	0
1992	26.11	15.05	17.75	19.05	0
1993	20.72	11.34	14.31	11.94	0
1994	21.13	12.97	16.98	13.66	0
1995	21.44	13.57	17.21	17.14	0
1996	17.56	11.27	14.46	7.76	0
1997	19.60	12.04	12.36	7.78	0
1998	19.51	11.77	11.85	8.75	0
1999	20.56	13.41	13.93	11.36	0
2000	19.21	10.68	12.09	8.76	0

1997, 1998, 1999, 2000 include day-school, night-school and distance

1140. In the period 2000 to 2004 the rate of school-leaving at the preschool level fell from 12.46 to 9.5 percentage points (with a peak of 13.25% in 2001 and a marked decline in 2002). The primary-school rate rose from 5.28 to 6.55 percentage points and the secondary-school rate rose from 8.84 to 10.5 percentage points (with a peak of 12.2 in the year 2002). It should be noted that these indicators are processed with a year's lag, since it is necessary to finish an academic year to know the exact number of children who left school.

1141. With regard to the gaps concerning school-leaving and repetition of grades, these phenomena affect children of rural areas to a greater extent. That explains in part why the

figures for average years of study for people in urban areas are on average double those for people in rural areas.

1142. It may also be noted that, for the various programmes, there is a greater rate of school-leaving among boys than among girls, which is explained by the fact that there is stronger family pressure on boys regarding the need to join the labour force at an early age.

1143. The following table shows the percentage of public and private schools nationwide.

Year	Public	Private
1995	81.7	18.3
2000	79.5	20.5
2005	80	20

Source: Report of the Ministry of Education for the preparation of the Report on PIDESC 2006.

4. Problems in the realization of the right to education

1144. Some of the difficulties mentioned in covering the needs of State educational centres and in promoting the creation of others reside in: the lack of economic, human and material resources; the school uniform requirement, for the period of this Report; late enrolment of students resulting from repeating grades; leaving and re-entering school; low cultural level of the family; unemployment of parents; malnutrition and child labour; schools located in isolated areas; the fact that 51.6% of the country's schools are incomplete; low level of professional training.

1145. The budgetary allocation for educational expenditures is not sufficient to cover the national demand for education or additional expenditures on enrolment at public educational centres, not to mention the fact that it is the families who bear the cost of uniforms and school supplies.

1146. Levels of poverty very negatively affect access to different levels of the present educational system. The greater the poverty, the fewer the opportunities of access to educational programmes. In fact, the present educational system is like a funnel which selects students according to poverty.

1147. At present, the Government of reconciliation and national unity is pursuing initiatives : not to require the school uniform at public educational centres; for education to be free of charge; for expansion of schooling coverage; for diversification of educational opportunities; for improvement of the quality of education; and for a comprehensive programme of school nutrition and school commissaries. All of the foregoing are envisaged in Ministry of Education policies.

1148. On the other hand, the problems faced by those who wish to attend private educational centres pertain to the administrative model:

With regard to applying the admission examination and the grade required to pass, in some cases priority is given only to relatives of students already enrolled at the educational centre;

Having a knowledge of another language, which in some centres is required when education is bilingual;

Signing on to, and complying with, certain internal regulations or contracts;

Some institutions have academic requirements higher than those established by the national educational system;

Fees are charged for enrolment, monthly attendance and school materials.

5. Technical education²⁰³

1149. On 10 January 1991 the National Technological Institute was created as part of the national educational system. Known by the acronym INATEC, it was created by Executive Decree No. 3091 and constitutes an important factor in the Government's social development plans by virtue of its work in technical education and training. Created pursuant to organic law Decree No. 40-94, chapter II, Article 4 (b) and (c), it is viewed as a unique innovation in Central America, its main feature being the merging of the vocational preparation/training subsystem with the technical education subsystem.

1150. The objective of INATEC is to define national policies for technical education and vocational training and to administer, organize, plan, execute, monitor and evaluate the activities of the subsystem of vocational training as an integral part of the national educational system.

1151. INATEC provides services aimed at technical education, training in different modalities, support for women, small and medium-sized enterprises, offerings for youth at risk, technical-educational assistance to private and sectoral training centres, support for improvement of living conditions of the population and support for vocational rehabilitation.

1152. During the reporting period, it was found that the supply of technical education did not correspond to the real technical labour demand, nor did it respond to existing labour development capacities, which leads to declining motivation and therefore contributes to growing migration and school-leaving.

1153. Special programmes were launched in 1991 and were structured in three directions: services to women, small and medium-sized enterprises, and vocational rehabilitation. Later, in 1995, another specific direction was added: advancement of vocational training, which had been a component of the project of the German Technical Cooperation Agency (GTZ).

1154. At present, the main programmes within INATEC are the following:

Directorate General of Technical Training and Education

²⁰³ Report of the National Institute of Technology (INATEC) for the preparation of the Report on PIDESC, 2006.

- (i) Directorate of Technical, Agricultural and Forestry Training and Education
- (ii) Directorate of Technical Industrial Training and Education
- (iii) Directorate of Technical Training and Education in Management, Economics and Computer Science
- (iv) Directorate of Technical Educational Standards and Coordination, Educational Technology and Teacher Training
- (v) Directorate of Enterprise Training Services

1155. Directorate-General of Special Technical Training and Assistance Programmes

- (a) Directorate of Women's Services;
- (b) Programme on Small and Medium-sized Enterprises;
- (c) Vocational Rehabilitation Programme;
- (d) Programme on Self-construction of Housing and Vocational Advancement;
- (e) Programme on Demobilized, Displaced and Disarmed Persons;
- (f) Programme for Children in Special Situations.

1156. INATEC offers educational programmes in the agricultural, forestry, industrial, construction, commerce and services sectors. Its aim is to prepare individuals for life through a vocation, work or further post-secondary studies.

1157. INATEC courses of study have different basic educational prerequisites depending on the technical training each person is seeking.

Apprenticeship: sixth-grade primary education required;

Habilitación: sixth-grade primary education required;

Complementación: knowledge and skills are provided to improve the competencies of a worker who has initial training and/or experience in the trade;

Specialization: imparting of knowledge and skills required to perform a job that calls for a complex and specific technical qualification;

Mid-range technician: must have completed third year of secondary school;

Rural basic technician: fourth-grade to sixth-grade education required;

Bachillerato técnico: must have completed third year of secondary school

Plan de bachiller: an alternative course of study for young people out of secondary school, leading in one and a half years to a mid-range technical diploma that opens the door to the world of work or to university studies.

1158. The various INATEC centres located in different parts of the country²⁰⁴ which offer these technical courses are:

(a) Agricultural and forestry sector

Specialty: Agriculture, forestry, residential electricity, architectural drawing, social communication, management, accounting, English;

(b) Industrial and construction sector

Specialty: Automotive mechanics, industrial maintenance, industrial electronics, industrial electricity, industrial refrigeration, maintenance and repair of computer systems, civil construction, architectural drawing, civil installations;

(c) Commerce and services

Specialty: Accounting, secretarial studies, executive secretarial studies, bilingual executive secretarial studies, general management, tourism and hotel management, programming, Windows and Office, microcomputer operator, digital cash-register operation, maintenance and repair.

1159. A challenge INATEC faces is enhancing its technical profile. Its educational centres must have computer laboratories; moreover, they must have internet service. In some cases, students have that service for internal work use.

1160. In 1991-2001, INATEC put in place a set of organizational, administrative and technological measures which contributed to modernizing its institutional management.

1161. Applying information technology to all the institution's processes has contributed to making vocational training a more dynamic and up-to-date process.

1162. In addition to established technical training centres, INATEC has mobile training units, schools and private technical and training centres also falling within its purview.

1163. Among the investments in different INATEC sectors in 1991 were the following:

Agriculture and forestry: C\$ 34,595, 948.28;

Industry and construction: C\$ 32,226, 117.88;

Commerce and Services: C\$ 33,962, 025.64;

²⁰⁴ See Annex 1, Paragraph 13, Map of Geographical Location of Centres of the Subsystem of Vocational Training in Nicaragua.

In other words, total investment in 1991 for all sectors was C\$ 100,784,091.80.

1164. From its inception, INATEC has received support from countries, international organizations and NGOs. That cooperation takes shape in a variety of training programmes, professional technical assistance, equipment, infrastructure, scholarship programmes abroad, and non-reimbursable financial aid, which comes from Germany, Canada, Sweden, the Netherlands, Argentina, Korea, the Russian Federation, Austria, Belgium, Ireland, Norway, Spain, Switzerland, Italy, Japan and the United States, and from agencies such as GTZ/DED of Germany, STOAS-OIT of the Netherlands, SIDA of Sweden, AECI/ICI of Spain, CIDA of Canada, TERRANUOVA of Italy, North-South Institute/OED of Austria, and the European Union.

1165. This institute's aim is to contribute to the economic and social development of Nicaragua through technical education and training of human resources with educational qualifications below university level, to attend to all economic sectors and different vocational and employment levels and to foster greater productivity, competitiveness and quality of products and services.

1166. During INATEC's first 15 years (1991-2005), technical education has been provided to a total of 235,110 students in various specialties and at various levels of training.

1167. One of INATEC's shortcomings is that there are no special programmes for the deaf, or educational plans for adults with disabilities. However, when this kind of instruction is requested, it is carried out. In this regard, in the year 2000, among the technological advances directed towards persons with disabilities, a group of instructors was trained in sign language at the German-Nicaraguan Training Centre (CECNA), with the aim of incorporating deaf people into regular courses and developing a methodological design in computer studies for those people.

1168. Organizational procedures have begun to teach the course "Methodological Design" once machinery for implementation has been established between INATEC and the Nicaraguan National Association of the Deaf (ANSNIC).

1169. Among the most noteworthy achievements of the course on Methodological Design is enabling the participant to be trained in the configuration and use of the Windows 98 programme in order to handle various applications that are in use today in the realm of information and to work effectively as typists.

1170. It is important to note that the course had very positive results, since it had a retention rate of 100%, proving to be a very valid experience. With these results, INATEC became a pioneer in implementing a methodology of teaching and learning computer skills to the deaf.

1171. In 2005, the distribution of students enrolled in the various sectors of technical education by age was as follows:

Sector	14 years		15 years		16 years		17 years		18 years		19 years		20 years		Total		
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	T
Agriculture & Forestry	88	24	121	31	127	30	179	29	192	37	171	32	310	70	1,188	253	1,441
Industry & Construction	170	19	233	34	346	45	368	45	1,004	151	284	35	473	47	2,878	376	3,254
Commerce & Services	60	127	222	358	302	362	374	780	418	908	388	989	1,244	3,169	3,008	6,872	9,880
Total	318	170	576	423	775	707	921	854	1,614	1,096	843	965	2,027	3,286	7,074	7,501	14,575

Includes governmental and subsidized entities

Does not include distance learning

Source: INATEC Report for the preparation of the Report on PIDESC, 2006.

1172. The Commerce and Services sector achieved the highest rates of retention (83.67%) and of output (88.31%), with especially noteworthy results by the centres at Jinotega, Matagalpa and Manuel Olivares, according to the INATEC statistical bulletin for 2005.

1173. Turning to INATEC's latest advances, on 12 June 2006 a course in sign language was taught to the vocational rehabilitation, administrative and technical personnel of various areas, especially areas that have the greatest possibilities of demand for this social group in INATEC. The main objective of the course was to have an impact on the deaf community in order to provide them with relevant service during the training and preparation process at the national level.

1174. INATEC is the first governmental institution whose workers are receiving a course in sign language. The institution considers that the course should be given continuity since it is the only way of communicating with the deaf.

1175. INATEC scholarships are directed to the same workers and vulnerable groups, i.e. low-income people.

1176. At present, according to reports in the INATEC data base, only 30% of teachers have degrees in pedagogical sciences, although the pedagogical curriculum is being developed with the Programme of Pedagogical Education for Vocational Training Teachers, with a total of 320 hours. Teachers taking the course should adopt new methodological measures and the course should be in keeping with new teaching/learning methods in order to provide quality training.

1177. INATEC's economic resources come from the following sources: the appropriation from the General National Budget for the Technical Education Subsystem; a mandatory monthly levy of 2% on total gross or fixed payrolls of all employers in the country, i.e. resources from contributions made by all employing enterprises and institutions; as well as contributions from external cooperation and income from sales of services rendered and products made in the course of training.

1178. For the reasons described above, financing is one of INATEC's limitations as a lead institution for vocational training, since it needs a large and steady budget in order to conduct many training courses for vulnerable groups (persons with disabilities, the poor), which could cease to be courses only and could be turned into programmes for the benefit of the disadvantaged.

6. National Council of Universities (CNU)

1179. This institution is closely linked with the right to higher education (universities).

1180. Beginning in the 1980s a system was created for admission to higher education through what was then the National Council on Higher Education (CNES). Under the system, enrolment quotas were assigned to each university on the basis of the resources and infrastructure available at the time.

1181. During those years, higher education was completely free. Today, in the case of State universities, higher education is totally free, and the universities are open to all students who meet the requirements which member universities of CNU have as part of their regulations.

1182. All those who opt for higher education have the right to it, but that education is subject to meeting the requirements set by the university admissions system, such as entrance examination, grade-point averages in years IV and V of the secondary programme (*bachillerato*), additional conditions, interviews, psychometric tests, etc. required by particular courses of study independently of the normal admissions processes, etc.

1183. In general terms, costs of universities (CNU members) in relation to students are reflected only in token fees paid during enrolment periods, that is at the start of the first and second semester of each academic year. Those economic resources are earmarked essentially for technological equipment, infrastructure improvements, continuing training of teachers and administrative personnel, modernization of laboratories used in different areas of the sciences, various internal or external scholarships granted to students, as part of the social investment expressed in the proper and transparent use of the constitutionally mandated 6% budgetary appropriation.

1184. Among the purposes of higher education the following should be mentioned:

To consider the strengthening of the higher education subsystem with a view to enhancing its contribution to various sectors of the national economy through the inclusion of ongoing educational programmes and the offering of postgraduate programmes at different levels, such as refresher courses, specialization, master's and doctoral degrees, which are part of the range of services that our universities now provide.

To strengthen and institutionalize the National Council on Research, Science and Technology, in which public and private universities duly authorized by CNU jointly participate, together with the productive sector and the Government of the Republic.

To promote and support in-depth university reform, consistent with national guidelines, defining the role to be played in future by the State and private universities and the establishment of a National System of Review and Accreditation that ensures quality and relevance for the country's higher education.

1185. In this regard, the National Assembly recently approved the creation of a National Commission for Review and Accreditation of Higher Education, as a way of helping to raise the quality of education in that sector.

(i) Advances in higher education

1186. From the year 1990 to date, countless changes have taken place in the system of higher education, which have contributed to the development and modernization of its institutions.

1187. Reference should be made in that regard to some aspects that have permitted important transformations to occur in higher education, such as the following:

There has been a process of expansion of institutions of higher education, which has generally made it possible to cover much of the deficit in infrastructure among the CNU member institutions;

In the case of CNU member universities, these have been transformed, made more dynamic and modernized in keeping with new times and world globalization, which has made it possible to carry out academic and institutional processes such as the process of self-evaluation by the universities, which was financed by the IDB and evaluated academic and institutional aspects, research and postgraduate studies;

With help from the Government of Spain, a line of credit of 5 million dollars was extended for technological equipment for computer laboratories and scientific laboratories in biology, microbiology and medicine;

Development of the national system of research in higher education (SINIES);

Development of the National Postgraduate System (SINAP);

Strengthening of the commissions within CNU: the academic commission, the research and post-graduate commission, the legal commission, and the commission on evaluation and accreditation;

Approval of new universities;

Cooperation agreements with private universities, central Government, NGOs;

Credibility of a large part of civil society, NGOs and donors linked to the academic, scientific and technological areas;

Lack of a better strategy of communication on the tasks which the various universities carry out in different branches of science;

It is necessary to develop more links of cooperation with different fora requiring direct participation of the universities;

There is a lack of financing on certain aspects which limits somewhat the scope of the services which universities can render in general to all economic sectors;

In general terms, scientific research policies that have been set for public and private universities in public service in the country lack the funds needed to be implemented.

1188. It is important to mention that there are ten public universities according to CNU:

- (a) National Autonomous University of Nicaragua at León (UNAN-León);
- (b) National Autonomous University of Nicaragua (UNAN-MANAGUA);
- (c) Central American University (UCA);

- (d) Polytechnic University of Nicaragua (UPOLI);
- (e) National Engineering University (UNI);
- (f) National Agricultural University (UNA);
- (g) International School of Agriculture and Cattle Farming (EIAG);
- (h) Luis Espinoza Pineda Catholic Agricultural College (UCATSE);
- (i) Bluefields Indian and Caribbean University (BICU);
- (j) University of the Autonomous Regions of the Caribbean Coast of Nicaragua (URACCAN).

1189. According to Article 125 of the Constitution, “Universities and superior technical education centres which, according to law must be State-funded, shall receive an annual allocation of six percent of the General Budget of the Republic, which shall be distributed according to law”. This financing refers to State universities. “During the latter half of the Twentieth Century there emerged a wide range of opportunities for higher education, which expanded significantly beginning in the 1990s due to the growing number of private universities”.

- (a) Redemptoris Mater Catholic University (UNICA), 1991;
- (b) Popular University of Nicaragua (UPONIC), 1992;
- (c) Autonomous American University (UAM), 1992;
- (d) University of Commercial Sciences (UCC), 1997;
- (e) Iberoamerican University of Science and Technology (UNICIT), 1997;
- (f) Occidental University (UDO) – León, 1997;
- (g) Centre for Higher Military Studies (CSEM), 1997;
- (h) University of Entrepreneurial Sciences (UCEM), 1997;
- (i) International University of Latin American Integration (UNIVAL), 1997;
- (j) Nicaraguan Technological University (U.T.N.), 1997;
- (k) University of Chinandega (UACH), 1998;
- (l) Japan-Nicaragua Institute of Higher Studies in Oriental Medicine, 1998;
- (m) University of Managua (UdeM), 1998;
- (n) University of the Américas (ULAM), 1998;

- (o) Central University of Nicaragua (UCN), 1998;
- (p) Del Valle University (UNIVALLE), 1999;
- (q) Martin Luther King Evangelical University of Nicaragua (UENIC), 1999;
- (r) Hispanic-American University (UHISPAN), 1999;
- (s) University of Northern Nicaragua (UNN), 1999;
- (t) Walter Mendoza Martínez Police Academy, 2000;
- (u) Thomas More University (UTM), 2000;
- (v) Technical University of Commerce, 2001;
- (w) Autonomous Christian University of Nicaragua (UCAN), 2001;
- (x) Nicaraguan University of Science and Technology (UCYT), 2002;
- (y) Metropolitan University (UNIMET), 2002;
- (z) La Anunciata University, 2002;
- (aa) Paulo Freire University (UPF), 2002;
- (bb) John Paul II University, 2002;
- (cc) Jean Jacques Rousseau University (UNIJJAR), 2002;
- (dd) “Ministry of the Assemblies of God” Martin Luther University, 2002;
- (ee) Latin American Computer Science Institute (ILCOMP), 2002;
- (ff) University of Santo Tomas de Oriente y Medio Dia (USTOM), 2003;
- (gg) Adventist University of Nicaragua (UNADENIC), 2003;
- (hh) Management, Business and Customs University (UNACAD), 2003;
- (ii) American College, 2005;
- (jj) International University of Sustainable Development, UNIDES, 2005;
- (kk) University of Technology and Commerce, UNITEC, 2005;

7. Budget for education²⁰⁵

1190. The budget assigned to the Ministry of Education in 1999 represented 3.0% of GDP, 6.44% of the national budget, and 17.6% of the expenditure of the social sector. It should be pointed out that examination of the budget for 1998 (US\$62.6 million) and the budget programmed for 1999 (US\$67.46 million) reveals an increase of 7.8%.

The table below shows expenditure on education as a percentage of GDP.

Education expenditure as % of GDP								
Item	1998	1999	2000	2001	2002	2003	2004	2005
Total education expenditure	1,124.3	1,734.5	1,917.4	2,012.3	2,303.0	2,896.4	3,109.9	3,934.7
Education as % of GDP	3.0%	3.9%	3.8%	3.6%	4.0%	4.7%	4.3%	4.9%
MINED	730.3	1,265.9	1,378.5	1,379.4	1,485.2	1,774.7	2,047.4	2,497.8
As % of GDP	1.9%	2.9%	2.8%	2.5%	2.6%	2.8%	2.8%	3.1%
Universities	349.4	420.7	490.4	586.8	670.4	795.1	843.8	947.2
As % of GDP	0.9%	1.0%	1.0%	1.1%	1.2%	1.3%	1.2%	1.2%

Source: Report of the Ministry of Education for the preparation of the Report on PIDESC, 2006.

1191. Similarly, the distribution of the budget per educational program shows a national effort to gradually increase schooling in the school-age population in general, primarily in the group aged 7 to 12.

1192. The table below shows the distribution of the budget per educational program from 2002 to 2005.

Proportion of the Budget per Programme with respect to Total				
Programme	2002	2003	2004	2005
Preschool education	3.4%	4.9%	4.0%	2.9%
Primary education	80.3%	75.8%	75.6%	77.3%
Secondary education	12.0%	14.4%	14.1%	12.7%
Teacher training	1.3%	1.2%	1.2%	1.1%
Adult education	2.3%	2.9%	4.5%	5.2%
Special education	0.7%	0.8%	0.7%	0.7%
Total	100.0%	100.0%	100.0%	100.0%

Source: Report of the Ministry of Education for the preparation of the Report on PIDESC, 2006.

²⁰⁵ "National Education Plan". "Report of the Ministry of Education. Achievements 2002-2006", December 2006.

1193. The cost per student in 1999 for each educational programme is as follows: US\$11 for preschool, US\$68 for primary education, and US\$44 for secondary education. These data have experienced ups and downs until 2005; however, on comparing these two years it may be observed that the cost per student has increased considerably.

Per-student Cost by Programme in US\$					
Educational level	1999	2002	2003	2004	2005
Preschool	11	21.5	28.5	26.2	20.2
Primary	68	102.6	90.6	99.5	127.5
Secondary	44	39.3	43.0	42.3	48.1

Source: Report of the Ministry of Education for the preparation of the Report on PIDESC, 2006.

1194. In technical education, the annual cost per student is C\$ 12,760 for agro-forestry education, C\$ 6,406 for industrial-construction education, and C\$ 1,111 for commerce & services education. In higher education, US\$665 (equivalent to C\$ 8,445.50) is invested per university student, with a graduation rate of 37%. In technical education, the percentage graduating is 41%. In primary education 29% successfully complete the sixth grade, and 48% complete their fifth year.

8. Equality of access to different levels of education

1195. Equality of opportunity is guaranteed by the country's Political Constitution, although there are factors which place this right at risk, such as socio-economic, geographical, linguistic, environmental, cultural and topographic factors.

1196. During the reporting period, problems of infrastructure arose: lack of schools and classrooms, inadequate classroom conditions, lack of furniture, inadequate furniture. With regard to teaching materials: lack of libraries, lack of textbooks, study programmes and scientific support materials for teachers.

1197. With regard to basic services, there is a lack of water, light, electricity and more adequate roadways in rural areas; some urban and suburban centres also lack those services.

1198. As a measure to guarantee education on equal footing for all Nicaraguans, the Government of reconciliation and national unity through the Ministry of Education established ministerial agreements No. 017-2007 and No. 018-2007, which guarantee free education, prohibit voluntary charges to parents and provide for corresponding administrative sanctions against directors of public educational centres which fail to comply.

1199. The Government of reconciliation and national unity is carrying out a campaign to oversee application of the right to education defined in educational policies:

“**More Education**”: eradication of illiteracy; All Boys, Girls and Young People in School (more students aged 7 to 12 in primary education);

“Better Education...Better Curriculum, Better Teachers, Better Students, Better Schools”: Better Curriculum: systematic, comprehensive, coherent, updated and relevant. Better Teachers: Professionally trained in scientific and pedagogical areas and given continuing education, with more recognition, better pay, better attention, more respected, distinguished by their humanistic spirit and national identity. Better Students: Endowed with relevant values, knowledge and skills sufficient success for daily life. Better Schools: Schools that are sufficient in number and located in appropriate places, to facilitate access by children and youth; duly maintained and equipped so that teaching and learning can proceed with the best possible quality.

“Other Education...Moralization and Rescue of Public Schools”: Schools to rescue Nicaraguan public education from the hands of the market.

“Participatory and Decentralized Educational Management...Education as a task for everyone”: Participation by organized civil society in all processes of educational management, as a cross-cutting policy geared to local and national development; Education as a responsibility of the State but also as a task for everyone.

“Education as a Whole...Education with a Systemic and Comprehensive Approach”: From regular basic education to higher education.

1200. The effects expected of these measures are: to eradicate illiteracy; to make education, especially primary education, universal; to make free education a reality; to improve the quality of education; to expand coverage; to diversify educational opportunities and strengthen management capacity as a task for everyone.

(i) Percentage by sex at different levels of education

1201. With regard to gender differences, the educational system undoubtedly reflects conditions of equity, since women participate very similarly to men in formal educational systems. In this regard, the literacy indicator shows virtually no differences between men and women during the school-age years.

Percentage Enrolment by Gender, 1995-2006

Programme	1995		2000		2005	
	Female	Male	Female	Male	Female	Male
Preschool	50.7	49.3	50	50	49.4	50.6
Primary	50.1	49.9	49.4	50.6	48.4	51.6
Secondary	53.9	46.1	53.3	46.7	52.5	47.5
Adult	37.1	63.9	40.5	59.5	43.8	56.2

Source: Report of the Ministry of Education for the preparation of the Report on PIDESC, 2006.

1202. In primary education there are no major differences between boys and girls, although beginning in 2003 a slight deterioration generally to the detriment of girls was observed, especially in urban areas. It should be noted that rural net schooling rates, surprisingly, exceeded urban rates, which could be associated with less educational investment in marginal urban areas,

since the highest concentration of post-Mitch reconstruction projects has been focused principally on rural areas.

1203. In secondary education, urban-rural differences are accentuated largely due to the small number of schools imparting the secondary educational programme in rural areas.

(ii) Educational trends for vulnerable groups

(a) Persons with disabilities²⁰⁶

1204. In Nicaragua, the right to education for persons with disabilities is enshrined in the Political Constitution and in Law 202. Educational Policy No. 5 of the Ministry of Education provides for “Education as a Whole...Education with a Systemic and Comprehensive Approach”: articulating formal schooling with education for persons with different abilities. There is likewise an official Policy and Guidelines for Access by Students with Special Educational Needs.

1205. The Ministry of Education guarantees the right to free education for persons with disabilities through the Directorate for Special Education, which is entrusted with directing, organizing and planning the educational response for children and young people aged 0 to 18 with special educational needs, whether or not associated with a disability, both in special education schools and in regular schools at the preschool, primary and secondary levels.

1206. It is in charge of promoting educational access, continuity and success for children and young people presenting special educational needs, emphasizing those with any type of disability. It fosters development of education with an inclusive emphasis in the general basic education subsystem, so that this population may enjoy quality educational opportunities on equal footing with the rest of the student population.

1207. Schooling is free. There are 26 special education schools nationwide, including the Caribbean coast (Bluefields and Puerto Cabezas).

1208. To make the right to education for persons with disabilities effective, the Ministry of Education carries out actions aimed at eliminating obstacles to access, continuity and educational achievement by students with disabilities, by the following means:

- (a) Removing architectural barriers at regular schools;
- (b) Training of teaching personnel at special and regular schools to create competencies in order to provide an educational response appropriate to the special educational needs of the students;
- (c) Provision of transportation units to special education schools in order to guarantee access and continuity by the school population with disabilities in the educational system;

²⁰⁶ Report of the Ministry of Education (Directorate of Special Education) for the preparation of the Report on PIDESC, 2006.

(d) There is an Educational Resource Centre for Blind Students (CRECI) which produces curriculum access materials in Braille, on sound recordings and in relief;

(e) Links with associations of parents of disabled children, disabled persons' associations, the Ministry of Health, the Ministry for the Family, the Ministry of Labour, and NGOs cooperating in educational activities for persons with disabilities.

1209. It should be stressed that Nicaragua has a very satisfactory legal framework for persons with disabilities. The problem lies in the fact that there are various economic circumstances which make it difficult to comply with laws in effect. There are factors which make persons with disabilities more vulnerable, including the fact that families of persons with some type of disability face a more complex economic situation: they need a caregiver for daily life, so that one member of the family is unable to earn an income. It is quite common among single-parent families for the mother to do work at home, which generates less income than working outside the home.

1210. With respect to physical difficulties, schools are not readily accessible to this sector of the population because the schools lack the necessary infrastructure, which becomes an educational barrier. Other factors are the attitudes of parents, geographical remoteness (persons with disabilities sometimes live far from schooling centres), the family economy, and a lack of awareness in society in general about the right to education.

1211. With regard to statistics on disability, it should be noted that these data continue to be one of the country's weak points, despite efforts exerted by the sectors involved in the sphere of disability and by INEC.

1212. It is noteworthy that the data provided by the Nicaragua Survey of Persons with Disabilities (ENDIS 2003) indicate that Nicaragua has an illiteracy rate of 44% among persons with disabilities.

1213. Indices of schooling for persons with disabilities diminish as one progresses through levels of education: primary 38%, secondary 10%, university 2%. The somewhat higher 38% for primary schooling may be due in part to people repeating a year of school. The indicators clearly indicate that young people (under 30) with disabilities face difficulties in joining the educational system.

1214. Illiteracy in relation to place of residence reaches 33% in urban areas and 59% in rural areas, which is a product of the additional difficulties the rural setting creates for achieving literacy, especially for persons with disabilities. It is important to promote access at the preschool level, since there is a broad consensus among educators that this schooling improves the chances of boys and girls remaining in school in later years and contributes to academic success in the early grades of primary school. Among the disabled population the schooling situation is similar for men and women, with no significant differences appearing.

1215. Among measures favouring education for persons with disabilities, the Ministry of Education, through the Directorate for Special Education, has promoted inclusion of boys and girls with disabilities in the regular schools. the Ministry adopts an inclusive approach to

education, an approach without entrance requirements or selective or discriminatory mechanisms of any kind, an education which welcomes and is sensitive to diversity.

1216. This change in education does not imply the disappearance of special schools, which have undergone a change of role in that they provide direct support to regular schools with disabled children, at the same time maintaining their educational services to bring into their classrooms those boys and girls who, due to the severity of their disability, require specialized educational attention.

1217. Work according to this approach has been pursued jointly with various NGOs that carry out projects relating to strengthening of education, producing a very fruitful avenue of work for the educational system, since it leads to cross-fertilization between civil society and the Ministry of Education. Noteworthy among the NGOs that provide help in this process are: the Nicaraguan Association for Community Integration (ASNIC), the Association of Parents of Disabled Children, “Los Pipitos” Handicap International, Save the Children of Norway, the Organization of American States, the Ministry of Education and Science of Spain (MEC) and the Organization of Ibero-American States (OEI), among many others.

1218. Inclusiveness in education implies giving impetus to the Education for All agenda, developing ways of empowering schools to provide attention to all students, paying special attention to those who have traditionally been excluded from educational opportunities, students with disabilities being among them.

1219. This process of change is a challenge to the Ministry of Education and it must be stressed that the process is being pursued gradually and systematically, ensuring that regular schools provide an adequate, quality response to the student body with special educational needs. The right to education means not only being in school but learning. The right to education is a right to learn with quality.

1220. In 2006, the total number of children in the modality of educational inclusion, i.e. those being taught in regular schools, was 5,067 students at the preschool, primary and secondary levels, and in schools for special education we find 2,283 children.

(c) Modalities of special education

Educational inclusion

1221. Early education: Attention is provided in homes and communities to boys and girls aged 0 to 4 who have a disability or are at high risk.

1222. The teachers who work in this programme, known as Promoters, evaluate the competencies of boys and girls with disabilities and develop individualized programmes, instructing parents about implementing the plan at home, in order to foster the development of the children's competencies. They also promote links with services of other governmental and nongovernmental institutions in order to provide comprehensive attention to children, stressing community-based rehabilitation among those links.

1223. Integrated classrooms: These are classrooms operating in a regular-education school to provide attention to boys and girls with disabilities, part of a strategy moving towards inclusion

of those children in the regular school. These classrooms function under the administration of the regular school, making relevant accommodations to special educational needs.

1224. Integrated classrooms is a strategy that has been adopted to avoid segregation and discrimination of children with disabilities.

1225. This modality is being applied in different municipalities around the country at the preschool, primary and secondary levels, in line with the developing Inclusive Education movement. It is a strategy for schooling children with disabilities at centres nearer their homes (Policy and Guidelines for Access to Education by Children with Special Educational Needs, Policy I, Art. 1). An outstanding example of this modality is the fact that there are now four integrated classrooms with deaf students at the secondary level at the Instituto Bello Horizonte of Managua.

1226. Educational inclusion: Education provided in regular-education classrooms to boys and girls with special educational needs, whether or not associated with disabilities, in order to provide equal and equitable educational response with equal opportunities.

1227. Educational inclusion is done using the official curriculum with accommodations of access to the curriculum (accommodations of infrastructure, materials, communication system) and accommodations with respect to the curriculum itself (adaptations of content, goals, means of evaluation, timing).

1228. To support delegations and schools carrying out inclusive education practices, there is a team of teachers known as “Educational Orientation Units”.

1229. The orientation team members have the function of supporting and following up the implementation of the inclusive culture, policies and practices followed by each school. They also lend support through strategies and mentoring of teachers to ensure that the educational response provided to students with disabilities is in keeping with their characteristics, needs and interests.

1230. Social and labour integration: This consists of facilitating the integration into the labour force of students with disabilities from special education schools at workshops in the community in order to continue developing their autonomy and facilitating their integration into society.

1231. This programme is monitored by teachers of the special education schools known as “Socio-Labour Promoters” for a period of two years from the student's completion of schooling. Their function is to provide contractors with knowledge and strategies to optimize the work situation of the disabled person.

Special education schools

1232. There are 26 special education schools nationwide. These schools take care of children and youth with severe disabilities: auditory, intellectual, visual and motor. For development of academic competencies these schools use the official curriculum, making relevant curricular accommodations in keeping with the educational needs of the students. The student/teacher ratio ranges from 4 to 16 students, depending on the disability and the degree of severity.

1233. With respect to deaf students, a distinct strength worth highlighting is the web of intergovernmental and civil-society links in support of the deaf.

1234. In 2003 the Nicaraguan National Association of the Deaf (ANSNIC) and the Ministry of Education pooled their efforts to offer secondary education to the deaf. In 2004 the first year of secondary education for the deaf was inaugurated at Instituto de Bello Horizonte. The school had first, second, third and fourth year classes for deaf students. The experiment with secondary education for the deaf was assessed as highly valuable; the deaf students made academic progress; socialization between deaf and hearing students was excellent; and the faculty rose to the challenge of teaching the deaf with enthusiasm and professionalism.

1235. The first graduating class of deaf secondary-school graduates in Nicaragua will graduate in 2008. It will be an important development in education for Nicaragua, as it is indicative of the strides taken by the Ministry of Education in giving effect to the right to education for persons with disabilities and improving the quality of education.

1236. Blind persons are schooled in their initial years in special education schools in order to give them a knowledge of Braille and teach them orientation and mobility (use of the cane). This population is more easily incorporated into regular education than the deaf population, and they even progress to university education.

1237. To institutionally support access to education by the blind population under conditions of equality and equity, the Centre for Educational Resources for the Blind (CRECI) was inaugurated on 15 February 2007, with technical and financial support from the Ministry of Education and Science (MEC) of Spain and the Latin America Foundation of the National Organization of the Blind of Spain (ONCE), which provides educational sound recordings and Braille and relief materials.

1238. The budget in this area has risen from 1% of the national budget in 2005 to 3% in 2007.

(d) Persons deprived of their liberty

1239. Persons deprived of their liberty receive education from literacy through secondary school. Those who cannot read first go through literacy training, then accelerated primary school, and go on to secondary studies. There are two centres which offer higher education, Estelí and Juigalpa. And there are technical courses of study at university level.

1240. For persons deprived of their liberty, undertaking study is optional, unlike work, which is mandatory.

1241. If a person deprived of his liberty does not want either to work or to study, he has the option of practicing some sport, since about 14 sport disciplines are practiced in the national penal system. There are incentives for persons deprived of their liberty to practice some trade or sport. This is done, for example in the labour area, through incentives. For those who receive no wages, the law (the penal code) provides help by defining the legal benefits, such as a suspended sentence or parole.

(iii) Measures to guarantee equal access to education

1242. The country’s Political Constitution guarantees access to education pursuant to Article 121, referred to above, as well as Article 105, which provides that “The services of education, health, and social security are irrenounceable duties of the State, which is obligated to provide them without exclusions, to improve and broaden them”.

1243. A way of ensuring equality in education for all social sectors is set out in Article 122 of the Constitution: “Adults shall enjoy opportunities to be educated and to develop skills through capacitation and training programmes. The State shall continue its educational programmes to eliminate illiteracy”.

(iv) Linguistic accommodations in education

1244. In the case of girls, boys and adolescents belonging to indigenous and ethnic communities in the country, pursuant to the Political Constitution these communities are to receive education in their own language.

“The indigenous peoples and ethnic communities of the Atlantic Coast have the right in their region to intercultural education in their native language, in accordance with the law” (Constitution, Art. 121).

1245. Similarly, the Children and Adolescents Code provides this same right under Article 52: “It is the right of girls, boys and adolescents belonging to the indigenous communities, ethnic groups, linguistic groups or groups of indigenous origin, to receive education also in their own language”.

9. Situation of teachers

1246. The teaching work force increased from 38,855 teachers in 2002 to 48,431 teachers in 2006; nearly 10,000 teachers were hired in 2002-2006. That increase has helped to lower the student/teacher ratio, which is considered positive, since a lower value means more attention to the student and consequently helps to improve students’ learning.

1247. Government, aware of the role of teachers as key players in basic and intermediate education, has made efforts to increase teachers’ average income in recent years. While it represented 78% of the basic basket in 2002, it rose to 103% in 2006.

Average salaries of Nicaraguan teachers, 2000-2005

Teacher Salary	Year					
	2000	2001	2002	2003	2004	2005
Preschool	C\$1, 026.06	C\$1, 209.9	C\$1, 531.82	C\$1, 569.22	C\$1, 884.3	C\$2, 577.00
Primary	C\$1, 048.48	C\$1, 232.32	C\$1, 579.45	C\$1, 616.85	C\$1,931.93	C\$2,529.37
Secondary	C\$1, 245.30	C\$1, 438.14	C\$1, 742.34	C\$1, 779.74	C\$2, 094.82	C\$2, 739.89
Average Teacher Salaries	C\$1, 109.61	C\$1, 293.45	C\$1, 617.87	C\$1, 655.27	C\$1, 970.35	C\$2, 615.42

Teacher Salary	Year					
	2000	2001	2002	2003	2004	2005
Teacher Salary/ Basic Basket*	59.9%	65.3%	77.9%	75.2%	79.9%	97.5%

Note: * Average annual cost in Managua of basic basket of 53 items, Central Bank of Nicaragua.

Source: Human Resources Directorate, Ministry of Education.

1248. Responding to the challenge of professionalizing primary and secondary teaching, the Ministry through the Directorate-General of Training and Continuing Education has to its credit the following achievements during 2002-2006:

- (a) Attending to 7,771 non-graduated teachers in 2006, and opening of a programme leading to a Certificate of Pedagogical Aptitude (CAP), in which 4,345 teachers with basic and secondary-school diplomas were enrolled (2006) while another 3,426 were enrolled in professionalization courses;
- (b) More than 5 million teachers have graduated from the country's teachers' colleges;
- (c) Diploma for instructors of Spanish and mathematics in secondary schools. In 2005, 50 teachers from different educational centres around the country earned diplomas under an agreement with UNAN León;
- (d) Diploma in teacher training: 42 selected teachers from teachers' colleges were given specialized training under the course "Training of Trainers in Spanish and Mathematics."

1249. With a view to establishing a body of teachers who use modern pedagogical and didactic techniques, and to enhance the level of knowledge and ability of teachers of various subjects, the following actions have been taken:

- (a) Training was provided to 2,133 middle school teachers in State centres and subsidized centres in 2003-2004. A basis was thus laid to implement the new competency-based curriculum;
- (b) Training in reading and writing competencies. In the last two years, the Ricardo Avilés Teachers College has trained 570 first grade-teachers, 113 second-grade teachers, and 248 third-grade teachers, which represents 89% achievement of the goal of training 1,050 first-to-third grade teachers. In addition 109 school principals and 52 teaching advisors were trained;
- (c) During different periods from August 2004 to November 2005, MECD resumed the experience of the CETT project and trained 3,505 first-grade teachers at the national level;
- (d) Specialization in Hispanic Literature for 127 teachers of Spanish;
- (e) Implementation of the Leadership and Organizational Change Workshop with participation by 17 teachers. This workshop was taught by personnel from the Universidad

Alberto Magnus as part of the transformation of the teachers colleges into Higher Institutes of Education;

(f) Workshop on the theme “Nicaragua entering the international markets.” In coordination with the Ministry of Development, Industry and Trade (MIFIC), during April-June 2006, 20 departmental workshops took place with participation by 1,400 people, including Social Science teachers, delegates and departmental and municipal pedagogical advisors from the Ministry of Education. With these workshops, the teachers were given methodological technical information and tools to teach the subject from first to fifth year of secondary school. The impact of the training will reach 4,900 students all around the country;

(g) Training on the Civil Service and Administrative Careers Law for 250 people, including departmental delegates and persons responsible for resources from different municipalities around the country;

(h) Educational management. Two e-learning courses in educational management were held in 2004. Directors of primary and secondary educational centres, municipal educational advisors, and some departmental delegates participated. Training was provided to 1,423 managers and technicians.

10. Achievements in education

1250. In the year 2004, following an assessment that identified the major problems of the subsector, the Ministry of Education defined and initiated three educational policies:

(a) Policy No.1: Educational Change: Relevance and Quality. The aim of the policy is to raise the quality of education in the country, adapting learning to life and work;

(b) Policy No. 2: Expanding supply and stimulating demand: Access, Adaptability and Equality. The policy’s purpose is to make it easier to enter the system and stay in it, providing an adequate educational response to the diversity of different groups of students, especially those in a vulnerable situation;

(c) Policy No. 3: Improving governability: participation, results, accountancy and efficiency. The general aim of the policy is ensure development of the educational system through change in the management of education by the Ministry of Education.

1251. There have been many achievements during the period (2002-2006), the following being some of the most noteworthy:

(a) Schooling coverage increased from 1,554,635 students in 2002 to 1,709,300 students in 2006. The programmes that showed the largest growth were preschool and secondary education. The latter rose from 23% of total enrolment in 2002 to 25% in 2006;

(b) With regard to informal education, it was focused on marginal urban areas and rural areas, seeking to broaden coverage, improve quality of education for children, and ensure active participation by parents and the community. It operates in borrowed venues (churches, community centres, private homes, children’s cafeterias, etc), with volunteer educators elected

by the community. This modality has financing from national and international institutions working for the benefit of children;

(c) In adult education there are formal and informal modalities, in keeping with the specific needs and characteristics of young people and adults. This education focuses on the rural and marginal-urban level nationally;

(d) An important aspect of education is the Environmental Education Programme, whose aim is to contribute to shaping skills, attitudes, habits and values among students that make it possible to achieve ecological harmony with nature, fostering sustainable development in the home, school and community.

C. International assistance²⁰⁷

1252. Where illiteracy is concerned, it should be noted that in recent years coverage of literacy campaigns has been increased with the support of the Spanish Cooperation at the PAEBANIC Training Centre. Coverage now extends to 50,000 students divided into 2,500 study circles.

1253. It is important to highlight the support provided by SIMEN–UNESCO/Netherlands, APRENDE/World Bank, BASE–AID / AED and UNICEF projects in overhauling the primary education curriculum, in teacher training and in stimulating community participation. The Base II Project includes among its main components support for bilingual intercultural education in the autonomous Atlantic regions. It has begun developing model schools and strengthening teacher training schools in those regions from a technical and pedagogical perspective. Similarly, the Luxembourg Project has provided major support in the construction of four teacher training schools in Bluefields, Puerto Cabezas, Chinandega and Estelí; expansion and repairs of the teacher training schools in Managua, Juigalpa and Jinotepe; equipment and provision of bibliographies, teaching aids and computers. Further, this project provided technical advice in methodology and administration to the personnel working at those centres and granted scholarships to trainee teachers from rural areas.

1254. The TERRANUOVA and FOREIBCA Projects have provided special support through technical advisement, training, teaching aids and curriculum materials to the Bilingual Intercultural Programme on the Atlantic Coast.

1255. During the last three years, the APRENDE/World Bank Project carried out repairs on 3,200 classrooms, expansion of 350, and replacement of 3,150; five million textbooks were given to all the students of public primary schools, as well as teaching guides for teachers from first to sixth grade.

1256. Training has been provided to 32,000 parents who participate in the education of their children, and 4,560 volunteer educators are being helped by economic incentives.

1257. The ASEN-European Union Project has provided significant support through construction of training centres, housing for teachers in rural areas, maintenance, restoration and construction of rural primary schools, training of primary and secondary teachers (postgraduate

²⁰⁷ National Education Plan, Ministry of Education.

courses), provision of basic school materials and sports equipment; training, materials and equipment for special education schools.

1258. Higher education institutions fulfil an important role in the training of teachers at different levels, including special programmes such as “Support for the Nicaraguan Educational Sector” funded by the European Union, comprising participation by UNAN-Managua, UNAN-León and UCA.

1259. Japan, Korea, the Catalan provincial government (Generalitat de Catalunya), the United States Army and the OAS have provided special support for construction, remodelling and expansion of school centres, giving priority to areas affected by hurricane Mitch.

1260. The Educational Reform Project, begun in 2001, is funded by IDB. Noteworthy components are the National Education Plan, modernization of information systems, secondary school reform, and educational and preschool data processing laboratories.

1261. The World Food Programme has funded the integrated programme of school nutrition (PINE) through provision of cereals and nutritional crackers. In 2000 it covered 125,000 boys and girls in preschool community centres and 250,000 boys and girls in the institutional sector (preschool and initial grades of primary school). The possibility of continuing the programme is currently under discussion.

1262. Among the forms of international cooperation received by INATEC, the following stand out:

(a) The Government of The Netherlands through the STOAS foundation has lent support to the process of curriculum development by the Programme of Agriculture Education and the project to systematize dissemination of experiences; the ILO project strengthened the Technical Education System with equipment with technical equipment and advice and methodological further training of teachers;

(b) The Government of Germany through GTZ implemented the project on vocational advancement and professional training, with special emphasis on the programmes for self-construction of housing and dual training;

(c) The countries of the European Union are carrying out a programme of improvement of physical infrastructure of the centres, strengthening of the Teacher Training Programme and supporting the processes of curriculum development of the institution.

1263. A significant development for the benefit of education is the signature of the Bolivarian Alternative for the Americas (ALBA), through which there will be joint implementation of policies geared to the establishment of inclusive, democratic and participatory education based on the principle of education as a human continuum.

1264. In keeping with the principle of reciprocity between peoples, Venezuela and Nicaragua have set out scenarios for cooperation in literacy campaigns, provision of teaching materials and exchange of knowledge and teaching practices between the two countries' educational systems.

1265. In higher education, the parties agreed on implementing training courses in areas which have priority in both countries, and on implementing bi-national research projects to study problems of common interest to them or special interest to the region.

1266. The Nicaraguan National Council of Universities, in keeping with its budgetary resources, will evaluate the granting of undergraduate scholarships to Venezuelan students in Nicaragua. The Nicaraguan party undertakes to explore and define areas in which Nicaragua enjoys strengths and to indicate the number of scholarships that can be offered to Venezuela.

XI. ARTICLE 15 – The right to culture and to scientific and technological advances

A. Legal Framework

1267. The Constitution of the Republic of Nicaragua ensures the right to culture in Article 58: “Nicaraguans have the right to education and culture.”

1268. Similarly, it guarantees the right to culture of the communities of the Atlantic Coast: “The communities of the Atlantic Coast have the right to the free expression and preservation of their languages, art and culture. The development of their culture and their values enrich the national culture. The State shall create special programmes to enhance the exercise of these rights” (Constitution, art. 90).

1269. It is the duty of the State to “promote the recovery, development and strengthening of national culture, sustained by the creative participation of the people” and to “protect the archaeological, historical, linguistic, cultural and artistic patrimony of the nation” (Constitution, Arts. 126 and 128 respectively).

1270. In Chapter VI concerning the rights of the communities of the Atlantic Coast, Article 90 provides “The communities of the Atlantic Coast have the right to the free expression and preservation of their languages, art and culture. The development of their culture and their values enrich the national culture. The State shall create special programmes to enhance the exercise of these rights”.

1271. With regard to the country's cultural diversity, in the Atlantic Zone of Nicaragua the following are among the advances achieved:

(a) On 22 June 1993, Law 162, the “Law on the Official Use of the Languages of the Communities of the Atlantic Coast of Nicaragua”, was adopted; it was published in the Official Journal, No. 132, of 15 July 1996. By this law, Nicaragua establishes that the official language of the country is Spanish but in the autonomous regions of the Atlantic, Miskito, Creole, Sumu, Garifuna and Rama shall be languages in official use. Accordingly, the Nicaraguan State undertakes by this law to preserve, restore and advance the cultures of these indigenous peoples and ethnic communities through special programmes;

(b) It is also important to cite Article 127 of the Constitution, which provides that artistic and cultural creation is unrestricted; the text also provides that the State shall endeavour to facilitate means to create and disseminate their works and protect their intellectual property rights;

(c) To that end, the Law on Copyright and Related Rights has been adopted; it is published in the Official Journal, No. 166 and 167 of 31 August and 1 September 1999;

(d) This Law extends copyright protection to all original intellectual creations produced in the fields of letters, arts and science, recognizing a set of rights vested in the holder that ensure respect for the author (such as moral rights) and other rights that prevent the use or exploitation of the work by other persons without the author's permission (property rights), in keeping with the Political Constitution of the Republic, the Universal Declaration of Human Rights and the principal international copyright treaties;

(e) The First Summit of Garifuna Peoples of Central America and the Caribbean²⁰⁸, in its Garifuna Summit Declaration, encouraged participating Governments to recognize the importance of establishing a National Garifuna Day. Accordingly, on 15 June 2006, Executive Decree No. 37-2006 concerning the "Declaration of National Garifuna Day"²⁰⁹, was adopted, declaring the 19th of November of each year "National Garifuna Day" in order to foster among Nicaraguans the expression and preservation of the language, art, culture and values of the Garifuna People of Nicaragua;

f) A noteworthy initiative is the implementation of the Plan of Action to Safeguard Garifuna Language, Music and Dance²¹⁰, which is being supported by the Government of reconciliation and national unity.

B. Conventions

1272. On 17 December 1970 Nicaragua adopted the Convention concerning the Protection of the World Cultural and Natural Heritage²¹¹, which in Article 4 provides that States parties recognize the obligation to identify, protect, conserve, restore and transmit to future generations the cultural and natural heritage situated on their territory.

1273. Another convention ratified by Nicaragua is the Convention for the Safeguarding of the Intangible Cultural Heritage (ratified on 14 February 2006). This convention has the following principal aims: (a) safeguarding the intangible cultural heritage; (b) respect for the intangible cultural heritage of countries, groups and individuals; (c) enhancing awareness locally, nationally and internationally of the importance of the intangible heritage and its mutual recognition, and (d) international cooperation and assistance.

1274. One of the latest advances with regard to culture is the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which entered into force on 18 March 2007²¹², three months after the entry into force of the thirtieth instrument of

²⁰⁸ Held from 11 to 13 November 2005 at Corn Island, South Atlantic Autonomous Region of Nicaragua.

²⁰⁹ Published in the Official Journal, No. 122, of 23 June 2006.

²¹⁰ Previously mentioned in section 2 of this Report.

²¹¹ Adoption of Decree No. 448 of 31 May 1980. Published in Official Journal, No. 142, of 24 June 1980.

²¹² Although not yet ratified by Nicaragua.

ratification. The Convention's purpose is to forge stronger links between culture and sustainable development and to further inter-cultural dialogue. Moreover, it reiterates the respect due to human rights and fundamental freedoms, the equal dignity of different cultures, equitable access to cultural expressions, and openness to the cultures of the world.

C. Culture

1. Competent institution

1275. The Nicaraguan Institute of Culture (INC), as the lead institution for cultural policies, is the governmental organ entrusted with ensuring development and promotion of culture nationally, and working in coordination with municipal governments, whose role is to be active agents in the development and promotion of culture. INC should also maintain inter-agency cooperation with State institutions and civil society to promote programmes and activities that foster the development of the national culture; another important role is to act as a facilitator so that the majority of society may enjoy the right to culture.

2. Availability of funds for promoting cultural development

1276. Since the 1990s, INC has met with economic difficulties, aggravated year after year, because the annual appropriation does not cover the institution's total costs and does not contemplate exclusive allocations for artistic promotion and creation, or for maintenance and restoration of museums and historical sites, upon which the budgetary shortfall has had a strong impact.

1277. Law No. 215, the "Law on the Promotion of National Artistic Expressions and Protection of Nicaraguan Artists"²¹³ adopted in 1996, provides that the budget of INC is to include an item devoted exclusively to artistic creation (Art. 1). However, in practice, that annual credit has not been forthcoming and the Institute turns to private enterprise, non-profit associations, universities, embassies and other organizations in order to raise funds to finance artistic promotion activities.

1278. Activities being pursued include the National Rubén Darío Prize, enjoying support from the Ortiz Gurdian Foundation, which grants an annual prize of one thousand dollars. Another activity is the creation of new exhibit halls at the National Museum of Nicaragua and remodelling of the existing ones, for which funding has been provided by the mobile telephone enterprise Movistar. Restoration of pictorial works by Colombian and Chilean artists in the Cortazar Collection has been funded by the corresponding embassies.

1279. The aforementioned Law 215 also provides for the creation of the Fund for the Promotion of National Art, which is to be financed by the State and administered by INC. The Fund was initiated in 2000 through a specific item of half a million córdobas and was administered by INC and the Councils for Music, Dance, Theatre, Plastic Arts and Publications, providing aid for production of artistic works in the main fields (music, theatre, dance, plastic arts and book publication) enabling activities for the advancement of the arts to take place.

²¹³ Published in Official Journal, No. 134, of 17 July 1996.

1280. In the 2001 budget it was not possible to provide funding. The appropriation did not include an item for artistic promotion, production and creation, limiting the support of the State's lead cultural agency for various artistic associations and independent artists.

1281. In line with creating incentives for the advancement of the arts, Law No. 215 contemplated tax exemptions for imports of instruments, audio and lighting equipment, costumes and make-up, materials for plastic and graphic arts, sculptures, circus accessories, books, audiovisuals and compact disks for musical recordings. However, on 6 May 2003 the Law on Fiscal Equity²¹⁴ was published, abrogating these benefits and limiting possibilities for developing artistic production in the country.

1282. Another important contribution to the cultural sector is budgetary allocations through the Public Investment Projects, which are administered through projects formulated for substantive areas and the Directorate of Planning and Development of INC. Due to INC's budgetary limitations and the importance of these activities, it becomes necessary to contemplate such special funding. Among the priority areas is Artistic and Cultural Promotion, which includes the four schools of art (Dance, Music, Plastic Arts and Theatre), Rehabilitation of Cultural Centres (the Fortress of the Immaculate Conception, the Castle of Río San Juan, the Convent of San Francisco de Granada, Hacienda San Jacinto Historical Site, Huellas de Acahualinca Museum Site, National Library of Nicaragua, with priority given to the Document Conservation Laboratory, the exhibit halls of the National Museum of Nicaragua, and the Ruins of León Viejo Historical Site, declared part of the Heritage of Mankind). Conservation and Dissemination of Culture comprises the theatrical work El Güegüense, recently declared part of the Heritage of Mankind, and the nomination of the Cathedral of León as a Heritage of Mankind site.

1283. Starting in 2005, through the Pablo Antonio Cuadra Centre for the Teaching of Art ("CENEAPAC"), INC received from the Programme of Public Investment the sum of 110,000 córdobas for each art school (dance, theatre, music, painting) for holding festivals, painting exhibitions and theatre festivals, thus helping to promote culture and offering incentives for artistic creativity. More than ten thousand people attended the festivals and exhibitions nationwide.

1284. The year 2006 saw an increase in the allocation of funds for cultural promotion and the art schools (dance, theatre, music, painting) each received the sum of C\$ 180,0000, which were used to hold national festivals of dance, theatre and music and an annual exposition of paintings, thus promoting artistic creativity, once again this year attracting participation by artists at the national level and more than 120,000 spectators.

1285. Due to the shortage of funds available, over the last decade the General Archive of the Nation has faced problems in fulfilling the process of cultural development for promotion of publications that contain historical research and are made available to society in order to foster its sense history.

1286. INC presents its budgets for the last ten years, in which it has been including public investment projects such as restoration of buildings that had been declared national heritage

²¹⁴Published in *Official Journal No. 82*.

sites, such as Rubén Darío's birthplace, the Hacienda de San Jacinto, the Castle of Río San Juan, the Convent of San Francisco, the Managua Cultural Centre, and maintenance of the National Palace of Culture.

1997	15,429.600
1998	16,305.813
1999	16,617.791
2000	17,944.000
2001	17,436.688
2002	18,271.718
2003	17,955.480
2004	23,790.029
2005	27,878.784
2006	31,908.777
2007	37,098.546

3. Institutional infrastructure of culture in Nicaragua

1287. The cultural development achieved in the country in the 1980s has seriously waned. The Ministry of Culture has been transformed into the Nicaraguan Institute of Culture through Decree No. 427 of 3 April 1989, the Law Creating the Nicaraguan Institute of Culture. The institute has been turned into an entity of a decentralized nature with organizational links to the Ministry of Education, Culture and Sports, with functional, technical and administrative autonomy and capacity in its area of competence.

1288. Due to the change of government in 1990 (1990-1996 term) no major artistic policies were developed and artists, craftsmen and producers did not receive State support. In the decade of the 1980s there were Houses of Culture serving as centres for cultural promotion and initiative. These were handed over to the Association of Promoters of Culture, a non-profit association which was formed by cultural professionals as a civic alternative for the promotion of art by the people and which has thus far succeeded in maintaining some of those cultural centres open with financing provided through agreements signed with NGOs. There are at present examples of those houses of culture in the major departmental capitals of the country.

1289. The change of government, which implied a change in governmental policy, significantly affected the cultural domain, since many institutions created to advance culture disappeared when the buildings in which they were housed were confiscated and returned to their original owners. This led to a reduction and, in most cases, disappearance of the cultural institutions, e.g. the disappearance of the Nicaraguan Institute of the Cinema (INCINE) at the National Cinema Theatre (*Cinemateca Nacional*), totally changing the nature and scope of activity for which it was created. It is now a small projection hall and film production has completely disappeared, reduced to small-scale production of audiovisuals as a private effort with no governmental support of any kind.

1290. The consequences of this legal change which occurred in the late 1990s cannot be considered entirely negative for the cultural sector, since initiatives were launched aimed at legal creation of cultural institutions as part of the institutional bolstering process. Among these were the "Dioclesiano Chávez" National Nicaraguan Museum, created by Decree No. 49-97 of August

1997; Decree 427 establishing the National Palace of Culture; Decree Law 1142, the “Law on the Protection of the National Cultural Heritage”, Published in the Official Journal, No. 282 of 2 December 1982 and taking effect as from 1996. The Directorate of Cultural Heritage now seeks to apply this law as a matter of priority in order to protect the national cultural heritage.

1291. Decree No. 72-97, “Creating the Pablo Antonio Cuadra Nicaraguan Centre for the Teaching of the Arts”, (CENEAPAC), published in the Official Journal, No. 241 of 18 December 1997. The Centre, located at the Managua Cultural Centre, houses the national schools of dance, plastic arts, theatre and music.

1292. Decree No. 28-2000, “Creation of the Rubén Darío National Library”, published in the Official Journal, No. 78 of 26 April 2000. The library's former building was returned to the municipality of Managua and it has been located in the National Palace of Culture since 1997.

1293. Decree 19-2000, “Creation of the Rubén Darío National Theatre”, published in the Official Journal, No. 44 of 2 March 2000 is the legal provision under which the Rubén Darío National Theatre operates.

1294. Decree No. 112-99 “Creating the National Palace of Culture”, published in the Official Journal, No. 198 of 18 October 1999. Housing the offices of INC, the National Museum of Nicaragua, the Rubén Darío National Library, the National Periodical Library and the General National Archive, this is the most important building for the nation's culture, as it houses the offices of the INC and its instrumentalities.

1295. Decree No. 71-2001, “Creating the General National Archive” published in the Official Journal, No. 184 of 29 August 1997. The former building was returned to the municipality of Managua and it has been located since 1997 in the National Palace of Culture.

1296. It can be said that during the last 15 years the INC has strengthened the museums within its purview: the National Museum; the Convent of San Francisco de Granada; the Rubén Darío Birthplace Museum; the Museum of the Fortress of the Immaculate Conception; the San Jacinto Hacienda Museum; support for the Rubén Darío Archive Museum in the city of León; the Huellas de Acahualinca Museum and the “Hacienda Santa Ursula” Museum in the city of Rivas; the creation of the Santo Domingo Museum in Managua. Activities were also conducted in support of several private enterprise initiatives, such as the creation of private museums in Ometepe Island (Archaeological Museum of Moyogalpa), the Ortiz Guardián Foundation Museum in León and the Betania Museum in Chinandega.

1297. It is worth noting that in 2006 the General National Archive improved its infrastructure, adapting its spaces within the National Palace of Culture, remodelling the user and general public service areas to make the environment for user inquiries and personal historical research more pleasant, investing \$16,200 of Public Investment Plan (PIP) funds over the last two years. The General Archive is also in the process of expanding and creating intermediate archives to fulfil its functions.

1298. In the Managua Cultural Centre, a space known as the CENEAPAC Multiple Use Hall has been set up, serving as an alternative space for presentations by new amateur artists and as the main projection hall for the National Cinema Theatre.

1299. In most departments in the country there are no theatres or halls in which to hold State-sponsored public shows, which has prompted us to turn to various Catholic churches which have good acoustics in which to promote national music. This is done for the most part during public holidays, with concerts by the National Orchestra and National Chorus.

1300. In the last five years, with support from Sweden, we have equipped the Document Conservation Laboratory of the Rubén Darío National Library. Swedish cooperation has also supported the creation of 142 municipal public libraries. Finally, INC and CONAPINA signed an agreement by which computer equipment has been provided to 40 libraries to constitute a Network of Information Centres on Children and Adolescents in order to disseminate rights and legislation relating to these issues.

4. Promoting national identity

1301. Both the National Museum and the other museums under the purview of INC have promoted the national arts with temporary exhibits. Shows have been held by several groups of young artists in the National Palace of Culture.

1302. The National Museum also opened a hall devoted to local handicrafts in order to disseminate popular traditions and crafts. Another important event is the inclusion of the comedy “El Güegüense” in Nicaragua's repertory. El Güegüense has been recognized by UNESCO as part of the intangible heritage of Mankind.

1303. The General National Archive has been holding meetings of archivists at the national level with participation by students and scholars from the history departments of various universities, with 427 archivists attending the annual meeting held to promote national identity.

1304. At the regional and national level, work has been proceeding since 2001 on the Central American House of Culture (Casa de la Cultura Centroamericana) Project. This is a project of the Central American Educational and Cultural Coordination Mechanism (*Coordinadora para la Educación y la Cultura para Centroamérica*) (CECC) whereby, in coordination with Costa Rica, presentations of national folklore are shown to Nicaraguan residents in Costa Rica, so that those emigrant groups do not lose touch with their cultural roots.

1305. This project has been holding Central American crafts fairs in Nicaragua, to promote the cultural identity of Central American communities living in our country. Five Central American crafts fairs have been held in Nicaragua with participation by Central American countries and five have been held outside Nicaragua in which Nicaragua has been represented by prominent national craftsmen.

1306. Similarly, through the CECC project Uniting Cultures (*Uniendo Culturas*), we have worked with emigrants in Guatemala, as well as with those in Costa Rica, to nurture their cultural roots. These activities are partly self-funded and partly conducted with economic support from private enterprise.

5. Promotion of cultural awareness

1307. At present, INC has not pursued any project or programme to promote the cultures of national ethnic groups (Miskitos, Mayangas, Ramas or Afro-Caribbean groups). However, since

2001 work has been taking place on improving ceramics processes for different indigenous groups in the country. Workshops on improvement of ceramics and other crafts are directed to craftsmen of Mosonte, San Fernando, La Paz Centro, San Juan de Oriente, San Ramón in Matagalpa, Ocotal, Loma Panda in Ocotal, and Ducualí in Estela. These training workshops are conducted with support from different municipalities. Following the same modality, training workshops have been held since 2001 for folklore groups from different parts of the country and indigenous groups, in order to further and maintain their cultural identity.

1308. In 2004-2005, INC provided technical assistance for the development of the project on the inventory of the intangible heritage of the country, including the inventory of the languages of the indigenous communities of the Atlantic Coast and the cultural expressions, dances and theatre of the whole country. The project was conducted by the Nicaraguan National Commission for UNESCO with funding from UNESCO.

1309. In 2004-2005, INC provided technical assistance for the development of the project on the inventory of the intangible heritage of the country, including the inventory of the languages of the indigenous communities of the Atlantic Coast and the cultural expressions, dances and theatre of the whole country. The project was conducted by the Nicaraguan National Commission for UNESCO with funding from UNESCO.

1310. Based on this inventory, INC conducted an assessment on Garifona culture with funds from UNESCO. This assessment focused in particular on their languages, dance, cultural expressions, etc. in order to define implementation of projects to rescue and nurture Garifona culture.

1311. The National Prison System (SPN)²¹⁵, promotes culture among inmates. There are cultural groups covering different artistic branches, such as modern dance and folklore, marimba courses (a teacher comes to give classes), a musical chorus (a teacher comes to give classes), phono-mimicry --in short, a range of arts. In addition, there are musical ensembles (in all the prisons). In Matagalpa there is a mariachi band which is steadily improving because it practices constantly is always organizing activities.

1312. There are also “cultural Olympics”, cultural competitions in poetry, textile decoration, painting and drawing including all the prisons. There are competitions within each prison, followed by run-off competitions with other prison systems.

1313. These competitions can take place with the outside. For example, the department where a prison is located may invite the prison to participate in department-wide competition, so that an inmate who is good at mathematics may participate in that competition even if it is not a competition between prison systems. In other words, the inmate, in addition to the mathematics competitions taking place among all the prison systems in the country, can participate in the competitions taking place at the departmental level.

²¹⁵ Interview with Warden José Mora, Director of the Division of Information, Planning and Statistics of the Prison System.

6. The media in the promotion of participation in cultural life

1314. The media generally provide space for the cultural activities pursued by INC and also continuously publish cultural themes in their inside pages and supplements. In the period 1995-1999, INC had a newspaper supplement called “*Huellas Culturales*” as an alternative means of cultural dissemination. The supplement published cultural themes promoting participation in the cultural life of society. Starting in 1999 its budget was cut off and it went out of circulation. Another publication on scientific research was the Archaeological Review of the National Museum, which published various archaeological and anthropological studies but ceased publication in 1996 due to lack of funds.

7. Conservation and preservation of the cultural heritage of mankind

1315. Vigorous initiatives have been pursued over the last 15 years with a view to ensuring recognition of the universal values of Nicaraguan culture. The historic ruins of León Viejo were put forward as a candidate for recognition as part of the World Heritage (Physical Cultural Heritage, declared in 2000) and the Güegüense or Macho Ratón theatrical work was declared part of the Intangible Heritage in 2005. At present, the Cathedral of León is being advanced as a candidate for the World Heritage (inclusion in the indicative list in 2005), as well as a mixed site comprising the city of Granada and its natural environment (inclusion in progress).

1316. Since 2002, the Government of Nicaragua has appropriated an item of 500,000 córdobas annually from the national treasury for promotion, dissemination, publication, conservation and protection of the Ruins of Viejo León historic site as the Heritage of Mankind, in particular for the implementation of the master plan for the site.

8. Legislation to protect freedom of artistic creation and expression

1317. In accordance with Law 215, foreign artists and groups who stage commercial performances within the national territory are required to pay 10% of the value of their contract to the Association of Artists (*Asociación Homóloga del Artista*). INC generally receives all sums withheld from foreign artists, especially singers and singer-songwriters, and distributes these sums equitably among the six artists' associations that are currently enrolled with the INC. Similarly, guest artists have an obligation to share the stage with national artists; if they do not wish to share the stage, they must pay 1% of the value of their contract to the enrolled associations.

1318. Under the above provisions, INC faces a disadvantage in that the Directorate General of Taxation (DGI) does not levy the 1% tax on foreign circuses who perform shows in the country and do not share the stage with national artists. The only payment made by foreign circuses is 10% of their profits to the association of circus artists of Nicaragua, so that this sector is not benefiting from the 1% provided by law.

1319. Non-profit performances, which often feature foreign artists, do not pay any kind of tax, since their earnings are earmarked for non-profit projects.

9. Professional instruction in the sphere of culture and art

1320. The Pablo Antonio Cuadra Centre for the Teaching of Art (CENEAPAC) was created by Decree No. 72-97, the “Decree Creating the Pablo Antonio Cuadra Centre for the Teaching of Art (CENEAPAC)”, published in the Official Journal, No. 241 of 18 December 1997. This State-managed professional training institution comprises the National School of Dance, which trains and graduates professional dancers in modern dance and classical ballet. Instructors in folk dance with comprehensive academic and artistic training strengthen the work at the national level. The comprehensive training is based on two years of basic study and three to six additional years of specialization (classical ballet, 8 years; modern dance, 5 years; national folk dance instructors, 3 years). Dance classes are also offered free of charge on Saturdays.

1321. The National School of Theatre promotes cultural identity by its academic programme and through workshops and seminars in drama. It prepares its students to gain knowledge in the field of the theatre by completing the school's course of study in three years of training and obtaining the diploma of Actor-Instructor.

1322. The National School of Music is entrusted with training instrumentalists and musical educators for the different groups and orchestras of the country, as well as for music courses in centres of general education.

(a) Three courses of study are offered:

Instrumentalist, long course	10 years
Instrumentalist, short course	7 years
Musical education	4 years

(b) Free music courses are also offered on Saturdays.

The National School of Plastic Arts provides development of skills in the visual arts, including drawing, painting and sculpture.

Artistic painter	5 years of training
Sculptor	7 years of training
Artistic educator	4 years of training

(c) Free Saturday courses are offered for children, young people and adults.

1323. The CENEAPAC Council, composed of the Directors of the Schools of Music, Dance, Plastic Arts and Theatre, is the body which authorizes schools and private academies. They register with and apply for authorization from CENEAPAC, and the Council reviews their academic programme of training and, following approval, authorizes them and grants recognition to the basic or intermediate-level degree the academies and schools grant to their students.

1324. Similarly, according to the Decree creating CENEAPAC, this is the State institution in charge of artistic teaching and has as its goal promoting the overall systematic development of art in Nicaragua through the execution of plans of study that ensure comprehensive education of

future artistic professionals, from the technical, artistic, ethical and cultural standpoint, with the aim of contributing effectively to the material and spiritual growth of the Nation.

1325. In 2006, to mark the declaration of El Güegüense or Macho Ratón as part of the Intangible Heritage of Mankind, a diploma course on the work was organized jointly with American University (UAM) and was taught to over fifty student cultural promoters and INC staff members.

10. Other measures adopted for the conservation, development and dissemination of culture

1326. Festivals of music, plastic arts, theatre and dance have been organized yearly since 2004. These festivals are financed with national treasury funds and are held at the national level.

1327. During the last five years, CENEAPAC or INC schools of the arts have held yearly festivals of dance, drama, and philharmonic bands. In 2006, a Luís Abrahán Delgadillo Week took place with participation by musicians from around the country who formed a large National Orchestra which played in León, Managua, Estelí and Masaya.

1328. Since the year 2000, the Marimba Festival has taken place during the month of August, with participation by marimba players from the cities of Managua, Masaya and Granada. These activities do not have a budget assigned by the State but are carried out with support from private enterprise.

1329. In 2006, a CD and a DVD were recorded with music by national authors like Alejandro Vega Matus, interpreted by the National Orchestra and the National Chorus.

1330. There have been some initiatives with private enterprise such as the recording of videos with images from the national film archive. Since 2000, the Mantica-Waid Recording Company has recorded two videos entitled Managua in my Heart ("*Managua en mi Corazón*") and one with the different dances of the country executed by the best folklore groups entitled Dances for Nicaragua ("*Danzas por Nicaragua*"). These two videos are on sale at various supermarkets and establishments in the country.

1331. In 2004, INC prepared for publication the book Cultural Atlas of Nicaragua ("*Atlas Cultural de Nicaragua*"), a guide containing the addresses and telephone numbers of all national artists, musical groups, theatre and dance companies, craftsmen, etc. In 2006, using its own funds, INC prepared a second edition of the Atlas and cultural directory of Nicaragua.

1332. In 2005, with support from NGOs, an exhibition was held of paintings by child artists from the countryside in the municipality of Múa, in the department of Chontales.

1333. Crafts fairs are being organized at the national and Central American level with support from private enterprise.

1334. The annual "Rubén Darío National Prize" contest has been organized for different genres since 1997, and the prizes have been granted with support from private enterprise.

D. Scientific progress

1. Measures to ensure application of scientific advances

1335. Through the Central American Regional Public Libraries project funded by Swedish cooperation, measures have been taken to preserve the nation's documentary heritage, greatly facilitating the systematic training of library personnel in techniques of preventive conservation and restoration of paper documentary material belonging to the nation's documentary heritage.

1336. The INC, through the Rubén Darío National Library, is also a participant in the Nicaraguan Committee for an Information Society for All (CONIPROSIT), which promotes the dissemination, use and management of new information and communications technologies (ICT).

2. Measures to promote the dissemination of information on scientific advances

1337. In the last five years, with support from Sweden, we have equipped the Document Conservation Laboratory of the Rubén Darío National Library. Swedish cooperation has also supported the creation of 142 municipal public libraries. Finally, INC and CONAPINA signed an agreement by which computer equipment has been provided to 40 libraries to constitute a Network of Information Centres on Children and Adolescents in order to disseminate rights and legislation relating to these issues.

3. Measures to prevent the use of scientific advances for other purposes

1338. Since 1997, INC has created an inter-agency task force including the Office of the State Prosecutor (*Procuraduría General de la República*), the National Police and Customs in order to establish measures to deal with illicit trafficking in cultural property. The task force has been training national police officers, customs agents, prosecutors and judges of different localities to detect how often such offences are committed. The training is provided by the Directorate of the National Heritage (*Dirección de Patrimonio Nacional*), the Legal Office of INC and the National Museum, and deals with the contents of the Law on the Protection of the National Heritage, Decree No. 1142, published in the Official Journal, No. 282, of 2 December 1982.

1339. It may be noted that since 1997 the authorities have been bringing before the courts various individuals who engage in illicit trafficking in cultural property, as there has been an increase in such offences during the years 2000 to 2004. At present, we are working in close cooperation with the Economic Crimes Unit of the National Police, as an official has been designated to deal specifically with offences against the national heritage. There has been very good coordination with Customs officers, who have detected and recovered a sizeable number of heritage archaeological artefacts which foreign tourists were attempting to export.

E. Legislative measures benefiting the protection of moral and material interests in any scientific work

1. Copyright

1340. The Law on Copyright and Related Rights, published on 31 August 1999, deals with the regulation of rights in literary works, works of craftsmanship, artistic or scientific works and

related rights of artists, interpreters, performers or producers of phonograms and broadcasting organizations. The application of the Law is entrusted to the MIFIC, specifically the Register of Industrial and Intellectual Property, National Office of Copyright and Related Rights. The INC works closely with that office with respect to the encouragement, promotion and dissemination of the Law, organizing training sessions and meetings with individual artists and artists' guilds concerning the rights, powers, procedures and fora available to enforce these rights. A table of copyright fees is also issued and made public.

1341. As part of the implementation of the Law, a non-profit management association named "Nica Autor" has been formed (in keeping with law No. 147, the general law on non-profit legal persons) which, on its own behalf or on behalf of others, engages in the management of rights in works. The association is made up primarily of musical authors and therefore manages rights in musical works. There is cooperation between Nica Autor and INC with a view to training, advisement and exchange of information on the holding of commercial musical performances with respect to judicial claims for payment of copyright fees.

1342. Among the difficulties encountered in the enjoyment of these rights, we should note the phenomenon of "piracy" which has been on the rise in recent years, with activity aimed mainly at marketing copies of music CDs and films. This illegal trade is becoming a source of employment for the most impoverished sectors, retail vendors, and a source of enrichment for those who engage in the large-scale production of the copies.

1343. Among the measures taken to curb the black market, the Copyright Office, Nica Autor and the National Police have carried out campaigns to seize copies and equipment. However, these are isolated efforts which do not check the phenomenon and have an economic impact on the authors and producers of phonograms.

1344. Another hindrance in the enjoyment of these rights are the reluctance of users, i.e. the media (television and radio), to pay the copyright fees set and published in the schedule in the Official Journal, a lack of experience among judicial personnel in identifying and punishing copyright violations, and a lack of knowledge among authors of how to claim their rights under the law. This difficulty has been decreasing thanks to various forms of training and advisement conducted jointly by MIFIC, Nica Autor and INC, involving both authors and the authorities (police and judiciary), as well as publicity campaigns against piracy in cinema theatres and on television.

F. Measures for the conservation, development and dissemination of science and culture

1345. Some measures adopted with regard to the conservation, development and dissemination of the historical heritage have been mentioned above. To these we should add the implementation, coordination and supervision of measures to conserve the principal national cultural property, ensuring participation by the local population.

1346. In that regard, we refer to the development during the last fifteen years of various projects of restoration, archaeological research and training seminars, which have promoted involvement by local social actors as a means to achieve two fundamental objectives:

- (a) Conservation of cultural heritage.
- (b) Increased awareness and assimilation of the cultural heritage by the local population.

1347. In addition to the foregoing, initiatives have been pursued during the last two years by the Cultural Heritage Directorate aimed at dissemination of the historical heritage through informal education, especially by audiovisual and print methods (posters, booklets, etc.).

1348. Yearly music, plastic arts, theatre and dance festivals have been held nationwide since 2004, with funds from the national treasury. Crafts fairs have been held at the national and Central American level with support from private enterprise.

1349. The annual “Rubén Darío National Prize” contest has been organized for different genres since 1997, and the prizes have been granted with support from private enterprise.

G. Protection of the national heritage

1350. Among the measures adopted to safeguard the historical heritage, the Government of the Republic of Nicaragua has adopted important international legal instruments, noteworthy among which is the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (approved in 2005), accession (in 2001) to the second protocol of the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, and approval of the Central American conventions pertaining to protection of cultural heritage, for the holding of exhibits of archaeological, historical and artistic objects and for the restoration and return of archaeological, historical and artistic objects (approved in 1999).

1351. Bilateral agreements have also been approved, such as the agreement between the Republic of Nicaragua and the Government of the United States of America concerning the imposition of restrictions on the import of archaeological property from the Republic of Nicaragua (approved in August 1999 and ratified for an additional five years in 2005).

1352. From an administrative standpoint, technical protection offices have been created for the historic centres of the cities of Granada and León as cities belonging to the national heritage. Similarly, work is proceeding in coordination with training workshops to teach protection techniques, the students being mainly young people from the local community. These entities, created with support from Spain, are under the administration of the respective mayors' offices.

1353. INC has likewise been providing support and legal assistance for the office of the Mayor of Villa Sandino and the city of Rivas with a view to organizing the Network of Protectors of the National Heritage, whose legal status is currently pending before the National Assembly. The purpose of this organization will be to further activities for the promotion and protection of the national heritage, especially the archaeological heritage, which is very vulnerable in our country, since the INC does not have a corps of watchmen for archaeological and national heritage sites.

H. Freedom of scientific research and creative activity

1. Measures to promote the enjoyment of this freedom

1354. As part of the legal system to protect artistic expressions and national artists, the Law on the Promotion of National Artistic Expressions and Protection of Nicaraguan Artists was promulgated in 1996 and published in the Official Journal, No. 134 of 17 July 1996. This law contains several measures of protection for national artists, including an obligation for national broadcasters to devote 10% to 20% of their daily programming to music by national artists in order to promote national music.

1355. It provides that hotels must decorate 50% of their premises with works and crafts by national artists, and that foreign artists staging public performances must pay a fee²¹⁶ to associations of national artists. Another benefit under the law is free circulation of national pictorial works, free of taxes. National artists are also granted income tax exemption for works or exhibits within the country.

1356. Another law that promotes creative activity is the aforementioned Law on Copyright and Related Rights, adopted in the year 2000. This law governs property and moral rights, and rights of reproduction, use and circulation that authors have over their artistic works.

1357. With regard to scientific research, no law has been enacted at the present time providing incentives for such research. However, pursuant to the Law on the Protection of the National Cultural Heritage, INC has conducted archaeological research projects in conjunction with municipal governments when those governments carry out construction projects that affect archaeological sites.

1358. With regard to measures adopted to ensure free exchange of scientific, technical and cultural information, opinion and experience among scientists, writers, workers, creators and artists, INC through the National Museum has focused its efforts on disseminating the indigenous cultural heritage and the plastic arts.

2. Measures adopted to support cultural associations devoted to scientific research and creative activities

1359. Through the Rubén Darío National Library of the INC, a partnership has been formed with the Nicaraguan Association of Librarians and Related Professionals (ANIBIPA) to provide impetus in our country for the Campaign for the World's Libraries.

1360. Coordinating mechanisms have been established with the Ministry of Education so that INC, through the National Library, can participate in the National Book Council (*Consejo Nacional del Libro*), the organ through which the National Reading Plan (*Plan Nacional de Lectura*) is being promoted.

²¹⁶ Of 10% of the value of their contract and they must share the stage with national artists; otherwise they must pay another 1% of the value of their contract to the Enrolled Associations.

1361. A partnership has been formed with the National Autonomous University of Nicaragua (UNAN-Managua) to develop the diploma in information management and coordinate efforts to support the creation at that institution of a degree in information management, in order to professionalize the training of librarians.

1362. There is virtually continuous support for dissemination of publications by Nicaraguan authors through the Nicaraguan Writers Centre (*Centro Nicaragüense de Escritores*), its bibliographical products being distributed free of charge to the information units comprising the National Network of Public Libraries.

1363. Unfortunately, we do not have data and records concerning writers who participate in scientific research or creative activities at conferences, symposia, seminars and other international scientific and cultural events.

1364. Through the application of Law No. 215, the “Law on the Promotion of National Artistic Expressions and Protection of Nicaraguan Artists” we are providing support to various associations, including: the Association of Nicaraguan Composers and Authors (ACAN); the Association of Nicaraguan Singer-Songwriters (ASCAN); the National Professional Musicians Union of Nicaragua; the Granada Association of Musicians, Composers and Musical Arrangers (AGRAMCAS); the Managua Departmental Musicians and Artists Union; the Chinandega Departmental Musicians and Mariachis Union; and the Union of Circus and Associated Performers of Nicaragua (SACSN).

1365. This support comprises legal advice on copyright matters, payment and tax exemption. From 2001 to 2006, taxes received from foreign artists staging commercial performances in the country have been equitably distributed among the enrolled organizations, for a total of C\$ 2,081,125.95. An association which did not receive these sums is the Union of Circus Performers, which was receiving support for the formation and operation of its association, achieving legal person status in late 2006.

1366. Another aspect of work with the associations pertains to training on the legal framework for cultural promotion, including the benefits afforded under Law 215 and the Law on Tax and Commercial Fairness.

I. International contacts and cooperation in the scientific and cultural spheres

Use of powers pursuant to accession by States to different international legal instruments

1367. From the signature of the agreement on the Central American Educational and Cultural Coordination Mechanism (Coordinadora para la Educación y la Cultura para Centroamérica) (CECC), a number of regional projects have arisen, such as the Network of Central American Museums, the creation of Central American Houses of Culture (Casas de Cultura Centroamericana) and the creation of Systems of Culture on CD to promote the culture of the member countries of the Central American Educational and Cultural Coordination Mechanism. Regional workshops are also held to address the issue of illicit trafficking in cultural property and to implement enforcement measures at the Central American level in order to combat this scourge. Similarly, pursuant to the provisions of the UNESCO Convention concerning the

Protection of World Cultural and Natural Heritage, preparations are under way to seek the declaration of the Cathedral of León as part of the World Heritage.

1368. With regard to participation by scientists, writers and artists in scientific research and creative activity, it has not been possible in recent years to participate actively in seminars at the regional and international level for dissemination of research, particularly in archaeology, due to lack of funds.

J. Conservation of natural heritage

1369. The Ministry for Environment and Natural Resources (MARENA) is the agency entrusted with conservation, protection and sustainable use of natural resources and the environment. To achieve its objectives, MARENA formulates, proposes, directs and monitors compliance with national environmental policies such as standards of environmental quality and sustainable use of natural resources.

1370. Jointly with the National System for Disaster Prevention, Mitigation and Response (SINAPRED), work proceeds for the prevention and control of disasters, emergencies and environmental contingencies. Coordination is performed by the National System of Environmental Information (SINIA), which systematizes and disseminates all environmental information produced in the country, with the valuable support of all State institutions.

1371. In light of worldwide concern about growing deterioration of the environment, MARENA oversees compliance with the country's international conventional undertakings and commitments in the environmental domain. The international conventions signed pertain to the protection of the ozone layer, biodiversity, inland and marine wetlands, and the regulation of many chemical substances that affect environmental quality.

1372. Nicaragua possesses geographical areas which still preserve valuable natural resources in flora and fauna, areas that generate water resources vital to human consumption, and areas containing natural and historical sites of value which need to be preserved. These areas are Protected Areas, which constitute the National System of Protected Areas (SINAP).

1373. There are at present 76 protected areas of different management categories that seek to ensure the conservation, protection and sustainable management of their natural resources. The protected areas contain central zones in which intensive use resources is prohibited and buffer zones where controlled use of resources is permitted and activities such as livestock breeding and controlled agriculture may take place.

1374. Administration of protected areas is conducted through territorial delegations of MARENA in the departments and through participation by municipalities and NGOs, following the co-management model.

1375. The basic tool used to ensure optimal management of our protected areas is the Management Plan. These legal instruments are prepared jointly with local actors in the areas and contain all the necessary actions that we must carry out in order to conserve and protect natural resources through comprehensive management.

1376. Nowadays, protected areas are a valuable tourism destination promoted jointly with the Tourism Institute and contribute as a whole to the improvement of the local and national economy. Many tourism routes promoted by tour operators encompass protected areas of the North-Central and Pacific parts of the country.

1377. The legal framework covering protected areas is both broad and specialized, seeking to conserve valuable resources within those areas. Environmental legislation is composed of a series of management instruments such as general laws, specific laws, executive decrees, ministerial decrees, binding national technical standards, and municipal ordinances that regulate one or more aspects of the environment or ensure sustainable use of natural resources.

1378. Specialized personnel attend to protected areas and park rangers work daily in the protection of many protected areas. Training for this personnel encompasses: issues pertaining to environmental interpretation, specialization as guides for tour trails, broad experience in environmental legislation, and monitoring of activities which could negatively affect the balance of protected areas.

1379. Nicaragua has been a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) since 4 November 1977 when the convention entered into force in the country. Also known as the Washington D.C. Convention, this is a powerful instrument for effectively and continuously regulating international trade in wild species and ensuring their conservation and sustainable use.

1380. CITES is an international agreement among governments which ensures that no species of wild fauna and flora is sustainably [*sic*] exploited for international trade. It also lays down an international legal framework and mechanisms to prevent international trade in endangered species and for effective international regulation of other species. This is indicative of Nicaragua's interest in protecting the country's flora and fauna.

1381. In November 1999 a Central American workshop was held on co-management of protected areas, with the aim of contributing to exchange of experiences for the development of the concept of co-management and its application in the region in order to achieve improved management of protected areas.

1. Decree No. 14-99, Regulations on Nicaraguan Protected Areas

1382. The purpose of the Regulations on Nicaraguan Protected Areas is to provide regulatory application of the section on protected areas of Law 217, the General Law on Environment and Natural Resources.

1383. With regard to violations, any act or omission contravening the provisions of the regulations is considered a violation punishable administratively in accordance with the provisions contained in the regulations, without prejudice to criminal offence or infractions that may be contemplated in the penal code and other laws. MARENA is the competent authority to take cognizance of, decide upon, and apply appropriate administrative penalties when provisions of the regulations are violated.

1384. Offences under the regulations are characterized as minor, serious or very serious, as per the definitions set out in Articles 102 to 105 of Decree No. 9-96, the regulations pursuant to the General Law on Environment and Natural Resources, published in the Official Journal, No. 163, of 29 August 1996.

1385. The National Police and the Nicaraguan Army have the obligation to assist MARENA officials in carrying out the rules established under these regulations.

1386. Any person who has knowledge of acts against protected areas can request MARENA to seek investigation of the facts and to proceed according to the regulations. If the locality where the acts occurred does not have a MARENA representative, the matter may be reported to the National Police, which will forward it to the appropriate authority.

1387. The categories of protected areas according to Decree No. 14-99, Regulations on Nicaraguan Protected Areas (adopted in January 1999) are as follows:

- (a) Nature Preserve
- (b) National Park
- (c) Biological Reserve
- (d) National Monument
- (e) Historic Monument
- (f) Wildlife Refuge
- (g) Biosphere Reserve
- (h) Genetic Resources Reserve
- (i) Protected Land and Marine Area

K. International assistance

1388. With regard to international assistance, the Swedish International Development Agency has provided outstanding support for the creation and equipment of public municipal libraries in Nicaragua, with support provided to over 143 libraries thus far.
