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Report of the Working Group on the Universal Periodic Review*

Nicaragua

Addendum

**Views on conclusions and/or recommendations, voluntary
commitments and replies presented by the State under
review**

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1. It is an honour to respond on behalf of the Government of Nicaragua to the recommendations made in the context of Nicaragua's second universal periodic review, contained in paragraphs 116 and 117 of document A/HRC/27/16.
2. Nicaragua does not accept recommendations 116.1 to 116.8 and 116.10 to 116.12 or recommendations 117.1 to 117.11, which propose the adoption of further international instruments.
3. The State of Nicaragua, in the exercise of its sovereignty, considers that this is not the time to enter into new international commitments involving an additional administrative and budgetary burden for the country. The Government of Nicaragua is convinced of the need to protect and promote human rights in all areas and, to that end, it has established a series of national priorities, which it is currently pursuing.
4. Although Nicaragua is not yet party to the international instruments listed in the recommendations, the Government wishes to reiterate that this does not mean that there is any gap or vulnerability in human rights protection. Nicaragua's extensive regulatory framework ensures full enjoyment of human rights for all Nicaraguans.
5. Recommendations 116.9, 116.15 and 116.16 are not accepted by Nicaragua. The State does not consider it necessary to use the definition of torture contained in the Convention Against Torture, since, in its view, it has established an even broader notion, which should be seen as good human rights practice promoted by the Government of Nicaragua, guaranteeing greater human rights protection for Nicaraguans.
6. Nicaragua prohibits torture and all forms of ill-treatment under a range of provisions, including the Constitution, codes and laws. Current legislation includes the elements contained in the Convention and other instruments relating to the perpetrators of torture, whether active military personnel, police officers, officials or any other person. We investigate complaints of torture and ill-treatment, prosecute and punish perpetrators and take preventive and monitoring measures.
7. In January 2012, we established the National Preventive Mechanism against Torture, under the authority of the Office of the Human Rights Advocate. In May 2014, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment visited Nicaragua in order to assess the implementation of standards and ensure proper safeguards.
8. The Government of Nicaragua accepts recommendations 116.13 and 116.26 concerning policies to reduce discrimination and to involve indigenous communities and indigenous peoples of African descent in any decision related to their territories.
9. The National Human Development Plan 2012–2016 contains the Caribbean Coast Development Strategy, which establishes key priorities for the social and economic well-being of the country's Caribbean population, such as the promotion of equitable and sustainable economic development intended to achieve harmony between human beings and nature. The Plan also seeks to develop an autonomous institutional framework conducive to the full human development of the region's population.
10. The formulation of the National Human Development Plan is a clear demonstration of the Government's commitment to a policy of inclusive participation and non-discrimination among Nicaraguans.
11. The Government of Nicaragua intends to further strengthen the rights of indigenous peoples by implementing the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), ratified in 2010.

12. Nicaragua accepts recommendation 116.14 concerning the rights of lesbian, gay, bisexual, transgender and intersex people, since this is recognition of the work being done by the Government of Reconciliation and National Unity.
13. Recognition of sexual orientation rights began in 2008 with the repeal of article 204 of the Criminal Code, which criminalized homosexuality. The Government subsequently created the Office of the Human Rights Advocate for Sexually Diverse People with a mandate to promote and protect the progressive realization of their rights through awareness campaigns and technical and vocational education scholarship programmes.
14. We have also run training workshops for members of the police academy on sexual rights and sexual diversity with a view to ensuring respect for the rights of sexually diverse people and ethical principles. A total of 2,974 members of the police academy received such training in 2013.
15. The Government accepts recommendations 116.17 to 116.19 because Nicaragua has an independent judicial system.
16. Since 2007, Nicaragua has strengthened its institutional and normative framework in order to guarantee the independence of the judicial system. Various provisions of the Constitution (art. 165), the Judicial Service Act (No. 501) and its regulations and the Judiciary Organization Act (No. 260) state that magistrates and judges are independent and owe allegiance only to the Constitution and the law.
17. In September 2011, the Code of Ethics was enacted to ensure that justice is applied impartially, emphasizing the precepts of independence, autonomy and legality.
18. The National Council on Judicial Administration and the Legal Profession is currently strengthening the selection and appointment system for magistrates, judges and public defenders through the institutionalization of a merit-based competitive examination in accordance with the Judicial Service Act and its regulations, with the support of the Institute of Advanced Judicial Studies.
19. Nicaragua accepts recommendations 116.20 and 116.21, since our country guarantees the freedoms of expression, peaceful protest, association and organization, the right to information and the freedom of the press, including the plurality of the media.
20. Recommendation 116.23 is not accepted because we already have an institutional structure that guarantees access to public information.
21. Under the Constitution, freedoms are recognized as fundamental rights that may be enjoyed without any restrictions other than those prescribed by the International Covenant on Civil and Political Rights
22. There is no persecution or censorship in Nicaragua, as demonstrated by the existence of more than 300 radio stations, 20 television channels and 20 written media, including daily and weekly newspapers and magazines with national coverage.
23. The conduct of public activities is regulated with the support of the National Police in order to guarantee public order and protect demonstrators and human rights defenders, for which the Police have taken specific measures.
24. Nicaragua has a balanced legal framework, which promotes impartiality, transparency, objectivity and responsibility in the media, protects citizens' rights, establishes safeguards and provides for retraction, pardon by the injured party and mediation as a means of settlement to address violations that might occur, if the parties so decide.
25. Under article 429 of the Criminal Code, it is a punishable offence to impede the right to freedom of expression and information. In addition, the 2007 Access to Public

Information Act (No. 621) provides for the establishment of the Office for the Coordination of Access to Public Information. Persons who are denied access to information may appeal the decision before the Administrative Litigation Division of the Supreme Court.

26. Nicaragua does not accept recommendation 116.22 concerning the decriminalization of defamation because defamation is not an offence under Nicaraguan legislation. The same applies to recommendation 117.18.

27. We inform the international community that our legislation establishes the offences of slander and libel, punishing anyone who falsely accuses another of an offence or who injures the dignity of another person; however, there is no offence if the allegation is proven to be true (Criminal Code, arts. 202 and 203).

28. Nicaragua accepts recommendation 116.25 regarding the need to ensure that we have all means to implement an inclusive education policy. The right to education is without doubt one of our main priorities, and the Government is determined to fully realize this right. It must be borne in mind, however, that ensuring that we have all means calls for the availability of considerable financial resources that cannot be met from the national budget. We must therefore take into account that ensuring this right is a long-term process.

29. Nicaragua is a developing country and among those with the fewest resources in Latin America. It does, however, have a stable economy thanks to the efforts of the Government of Reconciliation and National Unity. We are unable to make a commitment to meet this or any other need fully or to achieve complete transformations immediately. Nonetheless, the Government is strongly committed to progressively realizing the rights of differently abled persons.

30. On taking office in 2007, the Government of Reconciliation and National Unity set about restoring the right to education, by abolishing school autonomy and re-establishing free public education without exclusion or discrimination, in accordance with the Constitution and article 38 of Act No. 763 on the rights of persons with disabilities, adopted in April 2011.

31. In order to give effect to this right, the Ministry of Education caters for persons with disabilities through two types of education – formal and non-formal. Formal education is provided through special education schools at the preschool, primary and vocational levels, of which there are 26 throughout the country for persons with severe disabilities, and through mainstream schools at the preschool, primary and secondary levels. Non-formal education is provided by means of early education programmes for children from 0 to 3 years of age and social and labour inclusion programmes.

32. Since 2010, teaching and technical staff have been provided with systematic training covering a number of areas, including the Braille reading and writing system, multiple disabilities, deaf-blindness, the use of the abacus, orientation and mobility, the Nicaraguan sign language and curricular adjustments.

33. The Government is endeavouring to prevent and detect some disabilities and developmental disorders in children from the time of birth to preschool age. To this end, it is distributing a booklet entitled “Cartilla Amor para los más Chiquitos”, which recommends activities to stimulate the evolving capacities of a child.

34. We do not accept recommendation 117.12, since credible allegations of human rights violations by security forces are investigated by the courts.

35. The National Police have worked to build capacity, establishing structures for the promotion and observance of human rights, the prevention of abuses and the mainstreaming of human rights in training programmes. It has strengthened community work, updated its

regulations with new rules of ethics (Decree No. 51-2012) and established principles of doctrine and conduct.

36. Nicaragua does not accept recommendation 117.13 because effective measures and legislation to protect the rights of persons deprived of their liberty are already in place as part of the State's legislative and political framework.

37. Nicaragua's prison system is humanitarian in nature and designed to facilitate reintegration into society through re-education. It ensures an appropriate environment to achieve these aims, promoting productive employment, family unity and activities to ensure the enjoyment of social and cultural rights.

38. In October 2013, the prison population stood at 9,601. All inmates receive health care and education services. A total of 2,634 detainees are enrolled on various education programmes; 3,407 have received technical training; 161 teenagers were trained as human rights promoters between 2010 and 2013 and 18 newly literate inmates completed their studies in August 2014 – all with the support of human rights NGOs. We work with international bodies, such as the Subcommittee on Prevention, which, as we have said, recently visited Nicaragua.

39. This system led to a 21 per cent decline in prison violence between 2006 and 2013. In 2013 the reoffending rate was 11 per cent, the lowest in Central America, thus ensuring greater personal safety for persons deprived of their liberty.

40. Our greatest challenge is overcrowding. Despite the country's poverty, the Government has allocated all available financial resources to building and expanding prison facilities and improving conditions and infrastructure.

41. This month we have opened an integrated prison for women, with a capacity of 250 inmates in open, semi-open and productive regimes. The prison's facilities and services include textile, craft and beauty product workshops, a bakery, primary and secondary education programmes, technical and IT training, a clinic, a canteen, a kitchen, poultry and pig farms and a vegetable garden. A men's prison has also opened, with a capacity of 320 inmates, a maximum security wing, open, semi-open and productive regimes, a farm and a carpentry workshop. Accommodation has been built for a further 420 detainees and a contract has been awarded for the construction of the Bluefields prison in the Atlántico Sur autonomous region.

42. Although we do not accept recommendations 117.14 to 117.7, we would nonetheless like to elaborate on some aspects of the amendments to Act No. 779 and action to combat violence against women, which is a matter of great concern for the Government of Reconciliation and National Unity.

43. Since 2007, Nicaragua has promoted the restoration of women's rights, as part of the National Human Development Plan and a policy to combat violence, on the basis of a model of shared responsibility.

44. Nicaragua is one of the most advanced countries in terms of women's participation and empowerment. According to the 2013 World Economic Forum Global Gender Gap Report, it ranked tenth in the world for gender equality. In America as a whole, the average proportion of women parliamentarians is 22.6 per cent, while in Nicaragua it is 40.2 per cent and 50 per cent of ministers are women.

45. The Government has updated legislation, with the establishment of Act No. 648 on equal rights and opportunities (2008) and the adoption in 2012 of Act No. 779 on violence against women and amendments to the Criminal Code (Act No. 641).

46. Act No. 779 seeks to ensure women's rights, provide measures to prevent and eliminate acts of violence, punish the perpetrators thereof, provide victims with

psychological and social support and promote change in social and cultural patterns of behaviour.

47. Act No. 779 was amended to allow for mediation solely in less serious offences, on the basis of the principles of timeliness and immediacy, with a view to supporting the administration of justice and achieving greater social impact in the settlement of disputes.

48. Mediation is subject to certain requirements and conditions of a substantive nature, in particular the victim's free will, as ascertained by a judge. Mediation may be ordered only once during proceedings and the defendant must have no criminal record in relation to the offences concerned. Once the mediation process has been concluded, the authorities must ensure the victim's protection until such time as a change in conduct has been observed and there is no further risk.

49. We have increased from 99 to 160 the number of special police stations for women, thus providing coverage throughout the country. A judicial observatory on violence against women is due to be established.

50. At the XXth International Mediterranean Forensic Medicine Congress, held in February 2014, experts acknowledged the pioneering role played by Nicaragua in the provision of integral forensic and clinical care for victims of gender violence.

51. We reiterate that Nicaragua does not accept recommendations 116.24 and 117.19 to 117.31 on amending the legislation on abortion, because to do so would be contrary to the popular and sovereign will of Nicaraguans, who have expressed their support for the criminalization of abortion through a democratic process.

52. The Nicaraguan people consider the right of the unborn child to life and believe that abortion is not a method of birth control and affects women's health. Legislation requires that care must be provided to any woman undergoing an abortion, in particular when the life of the mother is in danger, in accordance with procedural protocols.

53. The national strategy on sexual and reproductive health establishes strategic objectives such as improving maternal and perinatal health, by fostering responsible parenting. Prevention programmes are promoted through continuing education on family planning and reproductive risk, including the provision of contraceptives at the community level.

54. In conclusion, Mr. President, I should again like to thank on behalf of the Nicaraguan Government and people all those States that have made recommendations to our country in a constructive spirit, thereby demonstrating their interest in protecting the human rights of the Nicaraguan people and ensuring that the Government of Reconciliation and National Unity continues the progress it has made in restoring human rights since it took office in 2007.
