

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/NIC/CO/1)

NICARAGUA

(...)

C. Principal subjects concerns and recommendations

(...)

Definition and criminalization of torture

10. The Committee notes that the new Criminal Code, which entered into force on 9 July 2008, contains both a characterization and an explicit definition of torture in chapter II (Crimes against humanity), article 486. The Committee is, however, concerned that the definition of torture in the Criminal Code is not fully in line with article 1 of the Convention because it does not specifically refer to offences committed by, at the instigation of, or with the consent or acquiescence of a public official or other person acting in an official capacity. The Committee is also concerned by the fact that the Military Criminal Code does not include the offence of torture but instead refers to “abuse of authority” and “causing injury”, which could entail the application of standards that are more favourable to the accused (arts. 1 and 4).

The State party should adopt a definition of torture fully in line with article 1 of the Convention and ensure that this definition covers all the elements of torture. The State party should also amend the Military Criminal Code to include the offence of torture and bring it into line with the provisions of articles 1 and 4 of the Convention.

Obligation to investigate and the right to complain

11. The Committee notes with concern the complete absence of cases and sentences relating to the offences of torture and ill-treatment, which could be viewed as being akin to impunity. The Committee further expresses its concern at the fact that, despite the increase in the number of complaints by citizens, the outcome of 68 per cent of investigations of human rights violations by public officials has been negative and only 4 per cent of them have been referred to the Public Prosecutor’s Office for the initiation of criminal proceedings, according to the additional information provided by the State party. The Committee considers that the almost total absence of criminal sanctions may constitute an obstacle to the implementation of the Convention (arts. 12 and 13).

The State party should adopt all necessary measures to ensure the immediate and impartial investigation of any complaints of torture or

other cruel, inhuman or degrading treatment or punishment and to implement the necessary investigations and sanctions in order to prevent and combat impunity in the face of serious violations of the Convention. The Committee requests the State party to provide detailed statistical data, disaggregated by offence, ethnic origin and sex, in its next periodic report on complaints of acts of torture or ill-treatment allegedly committed by law enforcement officers and on the relevant investigations, the judgements reached and the criminal sentences or disciplinary sanctions imposed in each case. It also requests information on any redress, including rehabilitation or compensation, accorded to the victims.

(...)

Administration of justice

14. The Committee notes with concern that the information it has received reveals flaws in the State party's justice administration system. Some allegations suggest that public bodies within the judicial system lack impartiality and independence, essential qualities for ensuring the effective application of the principle of legality. In particular, there have been allegations of irregularities in the appointment of judges, use of the judicial system for partisan ends and instances of corruption among judges and police officers. Furthermore, the Committee is concerned at delays in the administration of justice, which in some cases have led to preventive detention extending beyond three months and delays in the timely review of the status of detainees (arts. 2 and 13).

The State party should take the necessary steps to remedy shortcomings in the administration of justice, in particular by allocating adequate resources and continuing its efforts to combat corruption. It should also take measures to guarantee the full independence of the judiciary in accordance with the relevant international standards and to remedy the shortage of judges. The State party should also establish that the practice of detention must conform to fair trial standards, ensure that time limits established for preventive detention are respected and act in a manner that allows justice to be administered within a reasonable period of time.

Violence against women

15. Although the Committee takes note of the various measures introduced by the State party to combat and eliminate violence against women, it remains concerned by the prevalence of all forms of violence against women and girls in Nicaragua and by the rise in the number of murders of women over the past few years as part of the wider problem of gender violence, particularly domestic and sexual violence. The Committee notes with concern that victims have insufficient access to justice, that information on the court sentences and punishments imposed for violence against women is lacking and that a means to assess the effectiveness of measures adopted to eradicate all forms of violence against women and girls is unavailable (art. 16).

The Committee urges the State party to devote priority attention to the adoption of comprehensive measures to combat and eliminate violence against women. The Committee calls upon the State party to ensure the full implementation of legislation on violence against women, to bring the

perpetrators to justice and to impose due punishment. The Committee urges the State party to ensure that all victims of violence have access to immediate redress, protection, support and legal assistance.

The Committee further recommends that ongoing training activities should be organized for police officers, especially those serving in the Special Police Units for Women, on the questions of gender violence and violence against children. In accordance with the latest concluding comments of the Committee on the Elimination of Discrimination against Women (CEDAW/C/NIC/CO/6) of February 2007, the Committee urges the State party to adopt and put into practice an integrated and multifaceted national strategy to eliminate violence against women and girls. This strategy should include legal, educational, financial and social components. The Committee also requests the State party to include detailed information in its next periodic report on the measures adopted and their results and, in particular, to provide data on the number and type of reported cases of violence against women, the sentences passed and the penalties imposed on perpetrators, and the assistance provided and compensation granted to victims.

(...)

Protection of children against torture and cruel, inhuman or degrading treatment

17. Although the Committee takes a favourable view of the National Plan of Action for the Prevention of Domestic and Sexual Violence, it is concerned by the fact that domestic violence, including sexual violence, and ill-treatment of children are an enduring and persistent phenomenon in the State party (art. 16).

The Committee urges the State party to intensify its efforts to deal with ill-treatment of children in the family and to strengthen mechanisms for combating all forms of violence, particularly in the family, at school and in social service, educational or correctional institutions or other centres.

(...)

30. The Committee requests the State party to provide information, within one year, on the measures taken in pursuance of the Committee's recommendations as set forth in paragraphs 10, 11, 14, 15 and 17 above.

(...)
