

September 1, 2010

United Nations Committee on the Rights of the Child
Office of the United Nations High Commissioner for Human Rights
Palais des Nations

CH-1211 Geneva 10, Switzerland

Re: Supplementary Information on Nicaragua, scheduled for review by the U.N. Committee on the Rights of the Child during its 55th session (September 2010)

Distinguished Committee Members:

This letter is intended to supplement the 4th periodic report submitted by Nicaragua, which is scheduled to be reviewed by the Committee on the Rights of the Child (the Committee) during its 55th Session. The Center for Reproductive Rights (the Center), an independent non-governmental organization, hopes to further the work of the Committee by providing independent information concerning the rights protected in the Convention on the Rights of the Child¹ (the Convention). This letter will highlight Nicaragua's failure to comply with its obligations under such Convention to respect, protect and guarantee children's right to comprehensive reproductive healthcare and to life in the context of the country's 2006 total abortion ban policy. It will also touch on issues regarding Nicaragua's obligations regarding children's sexual violence and HIV/AIDS.

Nicaragua's healthcare situation is particularly dire, and is exacerbated by the country's extreme poverty and the inability of many to access health care facilities. Forty eight percent of the population —over 5 million people— lives in poverty, with 17 percent in extreme poverty.² Forty percent of the population lacks access to healthcare facilities, and the remaining 60 percent only has access to low-quality services.³ Nevertheless, the harsher impact on children's exercise of their right to life and health does not only stem from a defective health care system, but from the government's total ban to an essential lifesaving health care service, abortion. Fifty percent of Nicaragua's population (2.9 million people) is under the age of 19.⁴ This section of the population has the highest rate of child bearing in Latin America and the Caribbean, with about one quarter of all the births to teens between 15 and 19 years.⁵ Unsafe abortion is the primary cause of maternal death in Nicaragua, with an approximate maternal mortality rate of 16 percent.⁶

Article 24 of the Convention obligates states to “develop family planning and education services”, and to recognize the right “to the enjoyment of the highest standard of health and to facilities for the treatment of illness and rehabilitation of health”.⁷ In General Comment No. 4, the Committee recognizes the importance of reproductive health services,⁸ family planning services,⁹ “sexual and reproductive information”,¹⁰ access to health services for pregnant

women,¹¹ and the need “to reduce maternal morbidity and mortality in adolescent girls, particularly those caused by early pregnancy and unsafe abortion practices”.¹² Denial of proper medical care through a total abortion ban, violence against young girls and adolescents and deficient family planning services and information and healthcare regarding HIV/AIDS violates Nicaragua’s obligations under articles 3, 6, 19, 24 and 37 of the Convention as it will be addressed in the following sections.

I. Right to Comprehensive Reproductive Healthcare (Articles 3, 6, 24, and 37 of the Convention)

In 2006, Nicaragua’s National Assembly instituted the total criminalization of abortion by repealing Article 165 of the Penal Code, which permitted therapeutic abortions when the woman’s life or health was at risk, and for cases where the pregnancy was the result of rape when her mental health was at risk.¹³ When this law was discussed in Congress, numerous international bodies expressed concern about the effect that it would have on women; these bodies include the Pan-American Health Organization (PAHO),¹⁴ the UN Development Program (UNDP), the World Health Organization (WHO), the UN Children’s Fund (UNICEF),¹⁵ and the Inter-American Commission on Human Rights.¹⁶ Additionally, twenty-one Nicaraguan Medical Associations authored a public statement denouncing the criminalization of therapeutic abortion.¹⁷

Currently, women who are found guilty of procuring an abortion under any circumstances are subject to incarceration for up to three years.¹⁸ A medical professional who partakes in an abortion also faces a prison term of up to six years plus the revocation of his or her medical license.¹⁹ The total criminalization of abortion violates, amongst other treaties, the right to health and the right to life as protected by the Convention on the Rights of the Child.

This Committee, through its Concluding Observations, has repeatedly expressed concern about the negative impact that “punitive legislation regarding abortion can have on maternal mortality rates for adolescent girls”,²⁰ and has recommended that state parties reassess the criminalization of abortion.²¹ The Committee has also noted in its Concluding Observations that the criminalization of abortion does not serve the “best interests of child victims of rape and/or incest”,²² and has urged state parties who do not have an exception for victims of rape or incest to reconsider their policies.²³

The total criminalization of abortion violates international law by denying women and girls the right to life, the right to the highest attainable standard of health, the right to control their physical autonomy the right to make informed medical decisions and the right to be free from cruel inhumane and degrading treatment as protected by articles 3, 6, 24 and 37 of the Convention. This letter will first address the obligations that stem from those provisions regarding the right to life and to access comprehensive healthcare. Then it will address the three primary life threatening impacts that a total criminalization of abortion entails: i) increasing maternal mortality and morbidity by not permitting therapeutic abortions when pregnancy poses a risk to a girl’s health²⁴ and by leading them to have unsafe abortions; ii) causing extreme physical and psychological harm by compelling girls to carry out a pregnancy that is the result of rape or incest; and iii) deterring pregnant young women’s ability to access emergency obstetric

care as women with ectopic pregnancies or spontaneous abortions might be prosecuted if they are treated, as well as the physicians who treat them.

a. The Right to Life, the Right to Health and the Right to be Free from Discrimination Under the Convention

Legislation criminalizing abortion is directly related to increased levels of unsafe abortions, and increased rates of maternal mortality and morbidity.²⁵ The Committee has recognized the “much higher risk of maternal mortality to which pregnant girls are exposed, inter alia since girls often recur to clandestine forms of abortion”.²⁶ Unsafe abortion is the primary cause of maternal death in Nicaragua, accounting for approximately 16 percent of maternal deaths.²⁷ It is estimated that 30,000 women in Nicaragua will undergo unsafe abortions annually under the law criminalizing abortion,²⁸ exposing them to risks of infection or death. Those who face complications due to unsafe abortions will be deterred from seeking medical attention due to the fear of being found criminally liable for inducing an abortion.²⁹ Families are also unlikely to report an illegal abortion as the cause of death, resulting in the actual rate of maternal mortality due to unsafe abortion being underreported.³⁰

The criminalization of abortion particularly impacts adolescents who become pregnant, as they are subject to heightened risks of pregnancy and childbirth complications and higher rates of maternal mortality.³¹ As mentioned, Nicaragua has the highest rate of adolescent childbearing in Latin America and the Caribbean.³² These adolescents are more likely to suffer from potentially life-threatening conditions during pregnancy that sometimes require therapeutic abortions as treatment.³³ The Pan American Health Organization conducted a statistical analysis on emergency maternal medical care utilizing data from the Nicaraguan Ministry of Health dating prior to the criminalization of abortion.³⁴ The analysis found that annually approximately 7,099 pregnant women were admitted to the hospital for pregnancy-related health complications which resulted in an abortion.³⁵ When doctors are fearful that their actions may be construed as criminal, they are both unable to provide the good quality medical treatment which their patients are entitled, and are unable to save the lives of girls whose pregnancies put their survival in jeopardy.

The right to life is guaranteed in the Convention,³⁶ and state parties must “ensure to the maximum extent possible the survival and development of the child”.³⁷ State Parties are obligated to “take all effective measures to eliminate all acts and activities which threaten the right to life of adolescents”.³⁸ This Committee has expressed that adolescents “who become pregnant should have access to health services that are sensitive to their rights and their particular needs. States parties should take measures to reduce maternal morbidity and mortality in adolescent girls, particularly caused by early pregnancy and unsafe abortion practices”.³⁹ In respecting the right to life, states must not withhold medical treatment which will save the life of an adolescent. Nicaragua, by denying medically required abortions has inevitably issued a death sentence to some of its children.

In accordance with the Convention and the General Comments issued by this Committee, State parties commit themselves to “recognize the right of the child to the enjoyment of the highest attainable standard of health”, “diminish...child mortality”, “ensure the provision of necessary

medical assistance and health care to all children”, and “ensure all proper prenatal and post-natal care for mothers”.⁴⁰ “Children have the right to... benefit from economic and social policies that will allow them to survive into adulthood and develop in the broadest sense of the word”.⁴¹ The state also has an obligation “to ensure that adolescent girls and boys have the opportunity to participate actively in planning and programming for their own health”.⁴² By deciding that no one shall have access to an abortion, the state is interfering with adolescent girls’ ability to make decisions regarding their own health. The state of Nicaragua is violating these provisions by actively denying a lifesaving procedure which it has the technology and capacity to provide.

The criminalization of abortion also affects the mental health of adolescents who become pregnant. Under the current law, even if it is determined that an adolescent has an anencephalic pregnancy (where the fetus does not develop a brain and therefore is not viable outside the womb),⁴³ she will still be forced to carry the pregnancy to term.⁴⁴ The emotional and psychological harm inflicted upon adolescents who are forced to carry an anencephalic fetus to term is absolutely devastating, and can lead to post-traumatic stress disorder and extreme depression⁴⁵ that has been determined as a violation to the right to be free from cruel and inhuman treatment, protected by article 37 of the Convention. In the case of *K.L. v. Peru*, the U.N. Human Rights Committee determined that compelling a young woman to continue with an anencephalic pregnancy violates the prohibition against torture and ill treatment.⁴⁶

The United Nations Special Rapporteur on the Right to Health recently noted that “the respect of physical integrity and the freedom to control one’s own body are fundamental rights of all human beings, including women. The ultimate decision on whether or not to give birth should be made by the woman concerned”.⁴⁷ In 2008, the Committee on Economic, Social and Cultural Rights (CESCR) urged Nicaragua to consider revising its abortion legislation to permit abortions in cases threatening the life of the woman, and in cases of rape or incest.⁴⁸ It also noted the high rate of maternal mortality and its correlation with clandestine abortions⁴⁹ and further encouraged Nicaragua to increase efforts to provide contraceptives.⁵⁰ The Committee against Torture joined the Human Rights Committee, the Committee on the Elimination of Discrimination against Women (CEDAW), and CESCR in urging Nicaragua to provide exceptions for abortion in cases of pregnancy resulting from rape or incest, and in cases when the life or health of the woman is in danger.⁵¹ CEDAW recommended that Nicaragua repeal laws punishing women who have abortions, and provide women with the necessary medical services to address complications resulting from unsafe abortions.⁵²

The total abortion ban in Nicaragua also violates the provision prohibiting discrimination⁵³ by denying medical care which only women and girls need.

b. Adolescent Unwanted Pregnancy and Maternal Mortality

The adolescent fertility rate in Nicaragua is higher than any other non-African country in the world.⁵⁴ About 50 percent of women in Nicaragua give birth before the age of 20,⁵⁵ resulting in nearly a quarter of the country’s births being to adolescent women.⁵⁶ Adolescents between the ages of 15 and 19 have twice the risk of dying due to pregnancy-related complications, as compared to women in their twenties,⁵⁷ while girls under the age of 15 have five times the risk of pregnancy related death worldwide.⁵⁸ Other consequences of adolescent childbearing include

increased rates of infant malnutrition and mortality and higher risks of complications during pregnancy.⁵⁹ The social implications for adolescent mothers include elevated risk of poverty, decreased social mobility and higher likelihood of divorce or separation.⁶⁰

This Committee has recommended states' a number of effective measures to decrease adolescent childbearing including, *inter alia*, improving the availability of family planning services, developing educational programs on reproductive health and increasing awareness of and access to contraceptives.⁶¹ Considering that 45 percent of teenage pregnancies in Nicaragua are reportedly unplanned,⁶² a great number of pregnancies are likely preventable through the implementation of these recommended measures.

As the Committee noted in its Concluding Observations to Colombia, "the incidence of adolescent pregnancies...limits the personal development of the individual, has a detrimental effect on young women's ability to sustain themselves financially and creates a poverty trap with overall negative effects for society".⁶³ The Committee also noted the correlation between high rates of teenage pregnancies and high rates of illegal and unsafe abortions and maternal mortality.⁶⁴

Nicaragua's current maternal mortality rate is 170 deaths per 100,000 live births,⁶⁵ which is much higher than the regional average of 99 deaths per 100,000 live births.⁶⁶ Eighty percent of these maternal deaths are from preventable causes, such as eclampsia and gestational hypertension.⁶⁷ Since the criminalization of abortion, there has been a 100 percent increase in maternal deaths "indirectly related to pregnancy", which is defined as resulting from a preexisting condition or a condition that developed during the pregnancy which was aggravated by the pregnancy.⁶⁸ Sixteen percent of maternal deaths in Nicaragua are attributed to unsafe abortion,⁶⁹ but there are indications that the actual percentage may be higher. In 2007, 14 percent of maternal deaths in Nicaragua were attributed to causes unrelated to pregnancy, such as homicide and suicide.⁷⁰ An in-depth analysis of these maternal deaths reveals that 63 percent were suicides, and 88 percent of those suicides were caused by ingestion of insecticide and/or pesticides, both of which are commonly used in attempts to induce abortion.⁷¹ This raises speculation that these maternal deaths might actually be the result of an unsafe attempt to induce abortion.⁷²

The Pan-American Health Organization estimates that without a change to permit therapeutic abortion, there will continue to be an increase in maternal mortality both by natural causes and as an effect of women procuring unsafe abortions.⁷³ The CEDAW Committee has expressed concern for the high maternal mortality rate, especially those deaths which were the result of unsafe abortions.⁷⁴ The CEDAW Committee also questioned the decision to criminalize therapeutic abortion, which has the effect of leading girls to "seek unsafe, illegal abortions, with consequent risks to their life and health, and to impose severe sanctions on women who have undergone illegal abortions".⁷⁵

c. Physical and Psychological Impact of the Absolute Ban on Abortion on Rape Victims

According to Article 39 of the Convention on the Rights of the Child State parties are committed to “take all appropriate measures to promote the physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation or abuse... Such recovery and reintegration shall take place in an environment which fosters the health, self respect and dignity of the child”.⁷⁶ This Committee has previously expressed concern about laws forbidding victims of rape and incest to access legal abortion, recommending that state parties reform such policies.⁷⁷ According to the World Health Organization, “victims of sexual assault require comprehensive, gender sensitive health services in order to cope with the physical and mental health consequences of their experience and to aid their recovery from an extremely distressing and traumatic event”.⁷⁸ The WHO recommends that victims of sexual abuse are offered access to safe abortions.⁷⁹

Sexual violence and abuse is a major issue in Nicaragua that disproportionately affects women under the age of 18.⁸⁰ An analysis conducted between 2005 and 2007 indicates that of girls under the age of 18 who become pregnant as a result of rape or incest, an extremely high percentage are between the ages of 10 and 14.⁸¹ By not permitting victims of rape or incest to access safe and legal abortions, the state is prolonging and intensifying the suffering that they endure. The sexual violence itself causes lasting physical and psychological damage; compelling adolescents who have been abused to carry to term a pregnancy compounds this harm and causes a recurring violation of their human rights.

The denial of medically required abortions also violates article 37 of the Convention which prohibits “torture or other cruel, inhuman or degrading treatment”.⁸² The Committee against Torture’s Concluding Observations on Nicaragua⁸³ expressed deep concern for the long lasting psychological problems that victims of rape and incest are exposed to when they are forced to carry a pregnancy to term that was the result of a violation against them.⁸⁴

d. Denial of Access to Legally Entitled Medical Treatment

The criminalization of abortion does not only punish women who undergo such procedures and medical professionals who perform abortions; the law also penalizes anyone who “by whatever method or procedure wounds the unborn or causes an illness which has grave consequences for normal development, or causes a grave permanent physical or psychological wound” with imprisonment of two to five years and the revocation of the doctor’s medical license for up to eight years.⁸⁵

The chilling effect this law has on medical professionals prevents them from providing pregnant women with services that they are legally entitled to, including treating ectopic pregnancies or spontaneous abortions or receiving quality post-abortion care.⁸⁶ Although the Nicaraguan Ministry of Health (MINSa) issued mandatory guidelines on medical services for emergency obstetric care, there is abundant evidence that these guidelines are ignored by many medical professionals out of fear of being prosecuted for assisting in an abortion.⁸⁷ MINSa does not actively monitor implementation of the mandatory guidelines, nor has it properly pursued investigations and sanctions for medical personnel whose violations of the guidelines result in the unnecessary delay or denial of access to a woman’s legally entitled medical treatment.⁸⁸

In a report prepared by Amnesty International, interviews with numerous doctors provided mixed results about whether or not an ectopic pregnancy can be legally interrupted.⁸⁹ Even though under the MINSA guidelines an ectopic pregnancy is considered life threatening and the fetus is not viable, doctors expressed disagreement about whether or not they are legally permitted to end an ectopic pregnancy.⁹⁰ In order to best preserve the health of the girl, an ectopic pregnancy requires immediate intervention to prevent hemorrhaging and shock.⁹¹ This confusion about the accessibility to a life-saving medical intervention as a result of the criminalization of abortion inhibits the right to the enjoyment of the highest attainable standard of health by preventing access to immediate medical treatment.

The abortion ban has also instilled into pregnant girls a fear of seeking medical treatment for pregnancy related complications due to the fear that they may be accused of attempting to induce an abortion.⁹² This prevents some girls in serious need of medical care from seeing a medical professional and receiving proper treatment.⁹³ In some instances, the abortion ban also prevents pregnant girls who have a non-pregnancy related illnesses, such as cancer, from receiving life saving treatment because the law provides for doctors to be incarcerated if they cause harm to the fetus.⁹⁴ The inability to receive medical treatment as a result of being pregnant inhibits the right to the highest attainable standard of health.

II. Physical and Sexual Violence Against Young Girls and Adolescents

According to Article 19 of the Convention, state parties must take “all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence...including sexual abuse”,⁹⁵ and have in place “social programs to provide necessary support for the child and those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment”.⁹⁶ States are also required to “provide appropriate health and counseling services to adolescents who have been sexually exploited”.⁹⁷

In the Concluding Observations of Nicaragua’s past three periodic reports, this Committee has recognized the need for further action to address physical and sexual violence.⁹⁸ This Committee expressed concern about the persistence of interfamilial abuse and violence⁹⁹ and the “insufficiency of rehabilitation measures” for victims,¹⁰⁰ while calling upon Nicaragua to “strengthen its efforts in order to address ill-treatment of children within the family and reinforce mechanisms monitoring the extent of the forms of violence, injury or abuse... or exploitation”.¹⁰¹

The problem of physical and sexual violence is widespread throughout the country, and disproportionately affects children. Numerous studies evidence the rampant rate of sexual violence against children in Nicaragua, with some studies indicating that over 30 percent of girls in Nicaragua are sexually abused before the age of twelve.¹⁰² Approximately 78 percent of reported rapes involve female victims under the age of 17,¹⁰³ while 82 percent of all sex crimes are with minors under the age of 17.¹⁰⁴ In 2008, 68 percent of reported rapes were committed against children under the age of 14.¹⁰⁵ Physical violence against girls is also a major issue, with studies finding that over 20 percent of women are physically abused before the age of 15,¹⁰⁶ and that 45 percent of all children ages 10 to 17 are victims of psychological abuse.¹⁰⁷

The Nicaraguan government has proven to be ineffective at prosecuting those alleged to be perpetrators of sexual violence against children and adolescents, even when 80 percent of sexual abuse cases against children and adolescents are perpetrated by people known to the victims, such as family members or neighbors.¹⁰⁸ In 2009, there were only 599 people arrested for the sexual abuse of children and adolescents;¹⁰⁹ more than half of these cases were dismissed, and only 28 percent of those who were charged were found guilty.¹¹⁰ For children living in rural areas, there is also a lack of physical access to police stations and courts, preventing many victims from being able to report crimes or follow up on the prosecution of crimes that are reported.¹¹¹

According to the Coordinated Federation of Nicaraguan NGOs Working with Children and Adolescents (*Federación Coordinadora Nicaragüense de ONGs que Trabajan con la Niñez y la Adolescencia*), the plight of children can be attributed to a lack of political will and low resource allocation.¹¹² There are systematic deficiencies within the current framework for preventing violence and assisting victims of abuse, such as a lack of educational programs, the scarcity of resources for the judicial system, and the need to address the sex stereotypes which may contribute to the disproportionate victimization of females.¹¹³

The WHO advises that children must be able to access psychological services in order to cope with and overcome the impacts of physical and sexual abuse.¹¹⁴ The Nicaraguan system does not include programs designed to address the psychological effects of these highly traumatic experiences,¹¹⁵ nor is there a sufficient amount of resources allocated to assisting victims of abuse in order to respond to the high demand for these types of services.¹¹⁶

One of the largest barriers to understanding and preventing physical and sexual abuse in Nicaragua is the lack of disaggregated statistics.¹¹⁷ In 2007, the CEDAW Committee recommended that Nicaragua create a system for collecting and analyzing statistical data in order to understand the breadth, possible causes and social implications of physical and sexual violence.¹¹⁸ Implementing this recommendation will assist Nicaragua in effectively combating physical and sexual violence against children.

In 2007, the CEDAW Committee also expressed concern about the prevalence of violence against girls, the lack of awareness surrounding this problem, and the lack of legal enforcement against the perpetrators, particularly emphasizing the effect on rural communities that often lack access to the legal system.¹¹⁹ Also, it recommended that Nicaragua create concrete prevention initiatives, implement and enforce laws, and effectively prosecute perpetrators.¹²⁰ Such recommendations have not been implemented.

III. HIV/AIDS

In light of article 3, 17 and 24 of the Convention of the Rights of the Child State parties are obligated to “provide adolescents with access to sexual and reproductive information, including on family planning and contraceptives, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of sexually transmitted diseases (STDs)”.¹²¹ Sexual and reproductive health education, as noted above, is crucial for the compliance of such obligations. This Committee has previously noted that lack of access to contraceptives can lead

to increased maternal mortality rates and high rates of teenage pregnancy,¹²² both of which are obstacles Nicaragua currently faces.¹²³

While it is commendable that Nicaragua has the lowest HIV rate in Central America, lack of education about HIV is cause for concern that the epidemic could expand. Approximately 10 percent of cases of HIV in Nicaragua are in children under the age of 19.¹²⁴ This percentage swells to 16 percent for young adults ages 20-24, and 29 percent for adults ages 25-29.¹²⁵ A 2004 study conducted by the Ministry of State found that only 23 percent of respondents knew of one or more methods of HIV/AIDS transmission.¹²⁶ Children are to “be placed at the centre of the response to the [HIV/AIDS] pandemic, and strategies should be adapted to children’s rights and needs”.¹²⁷ The Nicaraguan government must increase its efforts to institute a formal education about HIV, as well as other STIs, in order to inform the youth about its prevention and transmission.

This Committee has expressed that State parties should also “address all forms of discrimination that contribute to increasing the impact of the epidemic. Strategies should promote education and training programmes explicitly designed to change attitudes of discrimination associated with HIV/AIDS”.¹²⁸ In its Concluding Observations on Nicaragua’s 3rd periodic report, the Committee recommended Nicaragua take action to reduce discrimination against HIV positive students.¹²⁹ Yet, there are current reports of educational institutions in Nicaragua discriminating against children with HIV.¹³⁰ According to a survey conducted by the Nicaraguan HIV/AIDS Association (*Asociación Nicaragüense VIH y SIDA*), a Nicaraguan non-governmental organization, 57 percent of men and 53 percent of women believe that children living with HIV should not be educated in the same school as children that do not live with HIV.¹³¹ This demonstrates that there is a need for education about the transmission of HIV, and a need for HIV sensitization among students. Also, there is a lack of teacher training in providing care and support to HIV positive students.¹³² In order to assist HIV positive children in feeling comfortable and integrated within the educational system, teachers must be educated and sensitized on issues faced by HIV positive children.

Sexually exploited children are especially vulnerable to HIV/AIDS,¹³³ yet they have been neglected by Nicaragua’s HIV awareness campaign.¹³⁴ Nicaragua should include this at-risk population into its HIV prevention program.

There is also a lack of statistics on the percentage of pregnant teenagers who are receiving antiretrovirals and the unmet demand for antiretrovirals. By increasing information in these areas, the HIV epidemic in Nicaragua can be better understood and more effectively addressed.

Sixty-six percent of single, sexually active adolescents in Nicaragua report having an unmet need for contraceptives.¹³⁵ 71 percent of unmarried Nicaraguans age 15-19 report not using a method of modern contraception.¹³⁶ Studies have found that up to 78 percent of Nicaraguan adolescents are unaware of any sexually transmitted infections other than HIV.¹³⁷ In order to decrease the high rate of adolescent pregnancy,¹³⁸ as well as prevent the spread of sexually transmitted infections, it is necessary that Nicaragua institute a comprehensive sexual education program and increase access to contraceptives, particularly for adolescents living in rural areas.

In 2007, the CEDAW Committee recommended that Nicaragua increase access, availability and knowledge of family planning services in order to assist women in avoiding unwanted pregnancies.¹³⁹ It also recognized the lack of family planning services, sex education programs, and information dispersal on sexual and reproductive health.¹⁴⁰ In particular, the Committee advised Nicaragua to “give priority attention to the situation of adolescents and that it provide age-appropriate sex education, targeted at boys and girls, with special attention to the prevention of early pregnancies and sexually transmitted diseases”.¹⁴¹ Such recommendations have not been implemented.

In the light of the information provided above, we hope that this Committee will consider addressing the following questions to the government of Nicaragua:

1. The correlation between more restrictive abortion laws and increased maternal mortality is well established, and can be seen in Nicaragua’s statistics since the criminalization of abortion. What measures is Nicaragua taking in order to reverse this increase? Do any of these measures particularly target adolescents, who are already at an elevated risk of maternal deaths and disability? How is Nicaragua addressing the dangerous health concerns that result from unsafe abortions?
2. What programs does Nicaragua have in place to ensure pregnant children and adolescents in need of emergency obstetric care are able to receive medical attention without an undue delay? How is the Ministry of Health addressing fear among medical professionals that they may be criminally liable for providing medical treatment in situations such as ectopic pregnancies and spontaneous abortions? How is the Ministry of Health addressing fear among pregnant adolescents that if they go to the doctor they may be accused of trying to induce an abortion?
3. In light of numerous international treaty bodies expressing deep concern about the negative impact of the criminalization of abortion, how does Nicaragua plan to fulfill its international obligations while denying children and adolescence life-saving medical treatment?
4. Does Nicaragua plan to increase access to contraceptives for adolescents? What are the barriers for adolescents to access contraceptives and other sexual and reproductive health information and services?
5. How is Nicaragua combating the rampant rate of physical and sexual abuse against children? What programs does Nicaragua have in place to encourage children and adults to report abuse? How does Nicaragua plan to improve its prosecution of alleged abusers? What programs does Nicaragua have in order to increase access to justice for victims of abuse living in rural areas?
6. Is sexual education included in the current curricula of schools? Does it comply with the provisions of the Convention and is it addressing the issue of adolescent pregnancy and its risks? How are the educational programs tackling the issue of discrimination on the grounds of HIV status?

Sincerely,

Lilian Sepúlveda
Deputy Director of the International Program
Regional Manager
Latin America and the Caribbean
Center for Reproductive Rights

Mónica Arango Olaya
Legal Advisor
Latin America and the Caribbean
Center for Reproductive Rights

¹ Convention on the Rights of the Child (CRC), *adopted* Nov. 20, 1989, G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/44/49 (1989) (*entered into force* Sept. 2, 1990).

² United Nations Children's Fund (UNICEF), *At a Glance: Nicaragua*, available at <http://www.unicef.org/infobycountry/nicaragua.html> (last updated Aug. 25, 2009; last visited Aug. 30, 2010) [hereinafter *At a Glance: Nicaragua*]. Poverty is defined as living on less than 2 USD per day, while extreme poverty is defined as living on less than 1.25 USD per day.

³ *Id.*

⁴ CENTRO NICARAGÜENSE DE DERECHOS HUMANOS [NICARAGUAN CENTER FOR HUMAN RIGHTS], INFORME ANUAL 2008 [ANNUAL REPORT 2008] 147 (2009), available at http://www.cenidh.org/files/informe_cenidh_2008.pdf [hereinafter NCHR, ANNUAL REPORT].

⁵ AMNESTY INTERNATIONAL (AMNESTY INTL.), THE TOTAL ABORTION BAN IN NICARAGUA: WOMEN'S LIVES AND HEALTH ENDANGERED, MEDICAL PROFESSIONALS CRIMINALIZED 16 (2009), available at <http://www.amnesty.org/en/library/asset/AMR43/001/2009/en/ea2f24b4-648c-4389-91e0-fc584839a527/amr430012009en.pdf> [hereinafter AMNESTY INTL., THE TOTAL ABORTION BAN].

⁶ Jocelyn E. Getgen, *Reproductive Injustice: An Analysis of Nicaragua's Complete Abortion Ban*, 41 CORNELL INT'L L.J. 143, 158 (2008), available at <http://organizations.lawschool.cornell.edu/ilj/issues/41.1/CINT08.pdf>.

⁷ CRC, *supra* note 1, art. 24.

⁸ Committee on the Rights of the Child, *General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child*, para. 28, U.N. Doc. CRC/GC/2003/4 (2003), available at <http://www1.umn.edu/humanrts/crc/crc-generalcomment4.html> [hereinafter Committee on the Rights of the Child, *General Comment No. 4*].

⁹ *Id.* para. 10.

¹⁰ *Id.* para. 28.

¹¹ *Id.* para. 31.

¹² *Id.*

¹³ Getgen, *supra* note 6, at 151. (Article 165 of the Penal Code defined a therapeutic abortion as the interruption of the pregnancy when the mother's health or life was at risk or when the mother's mental health was at risk as a consequence of rape.)

¹⁴ See Pan-American Health Organization (PAHO), DEROGACIÓN DEL ABORTO TERAPÉUTICO EN NICARAGUA: IMPACTO EN SALUD [DEROGATION OF THERAPEUTIC ABORTION IN NICARAGUA: IMPACT ON HEALTH] (March 2010), available at <http://www.movimientoautonomodemujeres.org/downloads/38.pdf> [hereinafter PAHO, *Derogation of Therapeutic Abortion*]; see also, AMNESTY INTL., THE TOTAL ABORTION BAN, *supra* note 5, at 8; Briefing Paper from Amnesty International to the Committee against Torture, Nicaragua-El Impacto de la Prohibición Total del Aborto: Información para el Comité de la ONU contra la Tortura [Nicaragua – The Impact of the Total Ban on Abortion: Information for the Committee against Torture], available at <http://www.amnesty.org/es/library/asset/AMR43/005/2009/es/9766379e-51a5-4984-bc3c-6ef3967b46ed/amr430052009en.html> (last visited Aug. 30, 2010).

¹⁵ AMNESTY INTL., THE TOTAL ABORTION BAN, *supra* note 5, at 12 (A joint letter was submitted to the National Assembly by members of the UN Development Program, the World Health Organization, UNICEF, and ambassadors of Norway, the Netherlands, Finland, Denmark, Iceland and the European Commission).

¹⁶ *Id.* (The Inter-American Commission on Human Rights Rapporteur on the Rights of Women submitted a letter to the Nicaraguan Minister of Foreign Affairs stating that “by revoking [the right to] therapeutic abortion, the Nicaraguan State will put the protection of women’s human rights at risk. The Rapporteurship urges the Nicaraguan government to consider these human rights principles in its decision.”).

¹⁷ *Id.* at 12.

¹⁸ Getgen, *supra* note 6, at 155.

¹⁹ Sarah Helena Lord, *The Nicaraguan Abortion Ban: Killing in Defense of Life*, 87 N.C. L. REV. 537, 540 (2009).

²⁰ See Committee on the Rights of the Child, *Concluding Observations: Chad*, para. 30, U.N. Doc. CRC/C/15/Add.107(1999); *Honduras*, para. 60, U.N. Doc. CRC/C/HND/CO/3 (2007).

²¹ Committee on the Rights of the Child, *Concluding Observations: Uruguay*, para. 52, U.N. Doc. CRC/C/URY/CO/2 (2007).

²² Committee on the Rights of the Child, *Concluding Observations: Palau*, para. 46, U.N. Doc. CRC/C/15/Add.149 (2001).

²³ See Committee on the Rights of the Child, *Concluding Observations: Chile*, para. 56, U.N. Doc. CRC/C/CHL/CO/3 (2007).

²⁴ The Committee has noted the elevated health risks faced by pregnant teenagers. See Committee on the Rights of the Child, *Concluding Observations: Mozambique*, para. 63, U.N. Doc. CRC/C/MOZ/CO/2 (2009); see also, Section I.b of this document (discussing maternal mortality rates of adolescents in Nicaragua).

²⁵ Getgen, *supra* note 6, at 158.

²⁶ Committee on the Rights of the Child, *Concluding Observations: Honduras* (2007), *supra* note 20, para. 60(b).

²⁷ Getgen, *supra* note 6, at 158.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ Katherine C. Lion et al., *Adolescent Childbearing in Nicaragua: A Quantitative Assessment of Associated Factors*, 35 INT’L PERSPECTIVES ON SEXUAL AND REPRODUCTIVE HEALTH, 91 (June 2009), available at www.guttmacher.org/pubs/journals/3509109.pdf (last visited Aug. 30, 2010).

³² AMNESTY INT’L., THE TOTAL ABORTION BAN, *supra* note 5, at 16.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ CRC, *supra* note 1, art. 6(1).

³⁷ *Id.* art. 6(2).

³⁸ Committee on the Rights of the Child, *General Comment No. 4*, *supra* note 8, para. 24.

³⁹ *Id.* para. 31.

⁴⁰ CRC, *supra* note 1, art. 24.

⁴¹ Committee on the Rights of the Child, *General Comment No. 3: HIV/AIDS and the rights of the child*, para. 11, U.N. Doc. CRC/GC/2003/3 (2003) [hereinafter Committee on the Rights of the Child, *General Comment No. 3*].

⁴² Committee on the Rights of the Child, *General Comment No. 4*, *supra* note 8, para. 39(d).

⁴³ ROBERTO ROMERO ET AL., PRENATAL DIAGNOSIS OF CONGENITAL ANOMALIES 43 (1987); ABRAHAM TOWBIN, BRAIN DAMAGE IN NEWBORNS AND ITS NEUROLOGICAL SEQUELS 154 (1998). (Anencephaly is a fetal anomaly characterized by the absence of cerebral hemispheres and cranial vault, meaning that both the forebrain and the top of the skull are missing.)

⁴⁴ AMNESTY INT’L., THE TOTAL ABORTION BAN, *supra* note 5, at 18.

⁴⁵ Human Rights Committee, *K.L. v. Peru*, Communication No. 1153/2003, para. 2.5, U.N. Doc. CCPR/C/85/D/1153/2003 (2005).

⁴⁶ *Id.* para. 6.3.

⁴⁷ Human Rights Council, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the highest attainable standard of physical and mental health, Anand Grover, Addendum: Mission to Poland*, para. 37, U.N. Doc. A/HRC/14/20/Add.3 (May 20, 2010), available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.20.Add3.pdf> (last visited Aug. 30, 2010).

⁴⁸ Committee on Economic, Social and Cultural Rights, *Concluding Observations: Nicaragua*, para. 26, U.N. Doc. E/C.12/NIC/CO/4 (2008).

⁴⁹ *Id.* para. 27.

⁵⁰ *Id.*

⁵¹ Committee against Torture, *Concluding Observations: Nicaragua*, para. 16, U.N. Doc. CAT/C/NIC/CO/1 (2009).

⁵² Committee on the Elimination of Discrimination against Women (CEDAW Committee), *Concluding Comments: Nicaragua*, para. 18, U.N. Doc. CEDAW/C/NIC/CO/6 (2007).

⁵³ CRC, *supra* note 1, art. 2.

⁵⁴ Lion et al., *supra* note 31, at 91.

⁵⁵ *Id.*

⁵⁶ Alan Guttmacher Institute (AGI), *Early Childbearing in Nicaragua: A Continuing Challenge* 3 In Brief (September 2006), available at http://www.guttmacher.org/pubs/2006/09/21/rib_Nicaragua2006-09en.pdf (last visited Aug. 30, 2010) [hereinafter AGI, *Early Childbearing in Nicaragua*].

⁵⁷ UNITED NATIONS POPULATION FUND (UNFPA), STATE OF THE WORLD POPULATION 2004, available at <http://www.unfpa.org/swp/2004/english/ch9/page5.htm;%20accessed%203/4/08> (last visited Aug. 30, 2010).

⁵⁸ *Id.*

⁵⁹ Lion et al., *supra* note 31.

⁶⁰ AGI, *Early Childbearing in Nicaragua*, *supra* note 56, at 3.

⁶¹ Committee on the Rights of the Child, *Concluding Observations: Mozambique* (2009), *supra* note 24, para. 64.

⁶² AGI, ENSURING A HEALTHIER TOMORROW IN CENTRAL AMERICA: PROTECTING THE SEXUAL AND REPRODUCTIVE HEALTH OF TODAY'S YOUTH 25, available at http://www.guttmacher.org/pubs/2008/06/16/PNG_CentralAmerica_en.pdf (last visited Aug. 30, 2010) [hereinafter AGI, ENSURING A HEALTHIER TOMORROW].

⁶³ Committee on the Rights of the Child, *Concluding Observations: Colombia*, para. 70, U.N. Doc. CRC/CCOL/CO/3 (2006).

⁶⁴ Committee on the Rights of the Child, *Concluding Observations: Mozambique* (2009), *supra* note 24, para. 63.

⁶⁵ WORLD HEALTH ORGANIZATION (WHO), WORLD HEALTH STATISTICS 2010, (2010), available at http://www.who.int/whosis/whostat/EN_WHS10_Full.pdf (last visited June 23, 2010).

⁶⁶ *Id.*

⁶⁷ KAREN PADILLA, IPAS—CENTRAL AMERICA, LA MUERTE MATERNA EN NICARAGUA: LA VIDA DE CADA MUJER CUENTA 8 (2008), available at http://www.ipas.org/Publications/asset_upload_file39_3677.pdf (last visited Aug. 30, 2010).

⁶⁸ IPAS, THE FACES BEHIND THE FIGURES: THE TRAGIC EFFECTS OF THE CRIMINALIZATION OF THERAPEUTIC ABORTION IN NICARAGUA 12 (2007), available at http://www.ipas.org/Publications/asset_upload_file637_3431.pdf (last visited Aug. 30, 2010).

⁶⁹ Getgen, *supra* note 13, at 158

⁷⁰ PADILLA, *supra* note 67, at 10.

⁷¹ *Id.*

⁷² *Id.*

⁷³ PAHO, DEROGATION OF THERAPEUTIC ABORTION, *supra* note 14, at 16.

⁷⁴ CEDAW Committee, *Concluding Comments: Nicaragua* (2007), *supra* note 52, para. 17.

⁷⁵ *Id.*

⁷⁶ CRC, *supra* note 1, art. 39.

⁷⁷ See Committee on the Rights of the Child, *Concluding Observations: Uruguay* (2007), *supra* note 21, para. 52; see also, Committee on the Rights of the Child, *Concluding Observations: Palau* (2001), *supra* note 22, para. 46.

⁷⁸ AMNESTY INTL., THE TOTAL ABORTION BAN, *supra* note 16, at 23.

⁷⁹ *Id.*

⁸⁰ See Section II of this document on physical and sexual violence.

⁸¹ AMNESTY INTL., THE TOTAL ABORTION BAN, *supra* note 16, at 22.

⁸² CRC, *supra* note 1, art. 37.

⁸³ Committee against Torture, *Concluding Observations: Nicaragua* (2009), *supra* note 51.

⁸⁴ *Id.* para. 16.

⁸⁵ AMNESTY INTL., THE TOTAL ABORTION BAN, *supra* note 16, at 27.

⁸⁶ See *id.* at 27-28 (describing denial and delay in treatment for obstetric complications under the criminalization of abortion in Nicaragua).

⁸⁷ HUMAN RIGHTS WATCH (HRW), OVER THEIR DEAD BODIES: DENIAL OF ACCESS TO EMERGENCY OBSTETRIC CARE AND THERAPEUTIC ABORTION IN NICARAGUA 10 (Oct. 1, 2007), available at

<http://www.hrw.org/en/reports/2007/10/01/over-their-dead-bodies> (last visited Aug. 30, 2010) [hereinafter HRW, OVER THEIR DEAD BODIES].

⁸⁸ *Id.*

⁸⁹ AMNESTY INTL., THE TOTAL ABORTION BAN, *supra* note 16, at 17.

⁹⁰ *Id.*

⁹¹ HRW, OVER THEIR DEAD BODIES, *supra* note 87, at 11.

⁹² *Id.* at 13.

⁹³ *Id.*

⁹⁴ See Press Release, Amnesty Intl., Nicaragua Abortion Law Puts Pregnant Cancer Victim at Risk (Feb. 23, 2010), available at <http://www.amnesty.org/en/news-and-updates/nicaragua-abortion-law-puts-pregnant-cancer-victim-risk-2010-02-23> (last visited June 21, 2010).

⁹⁵ CRC, *supra* note 1, art. 19(1).

⁹⁶ *Id.* art. 19(2).

⁹⁷ Committee on the Rights of the Child, *General Comment No. 4*, *supra* note 8, para. 37.

⁹⁸ See Committee on the Rights of the Child, *Concluding Observations: Nicaragua*, para. 22, U.N. Doc. CRC/C/15/Add.36 (1995); *Nicaragua*, para. 33, U.N. Doc. CRC/C/15/Add.108 (1999); *Nicaragua*, para. 40-41, U.N. Doc. CRC/C/15/Add.265 (2005).

⁹⁹ Committee on the Rights of the Child, *Concluding Observations: Nicaragua* (1995), *supra* note 98, para. 22.

¹⁰⁰ Committee on the Rights of the Child, *Concluding Observations: Nicaragua* (1999), *supra* note 98, para. 33.

¹⁰¹ Committee on the Rights of the Child, *Concluding Observations: Nicaragua* (2005), *supra* note 98, paras. 40-41.

¹⁰² EUROPEAN COMMISSION, NICARAGUA COUNTRY STRATEGY PAPER 2007-2013, at 47, available at

http://ec.europa.eu/external_relations/nicaragua/csp/07_13_en.pdf (last visited Aug. 30, 2010).

¹⁰³ AMNESTY INTL., THE TOTAL ABORTION BAN, *supra* note 16, at 22 (reporting on a study by the Nicaraguan Forensic Institute from December 2008 indicating that 77 percent of rape cases involved victims under the age of 17).

¹⁰⁴ United States Department of State, 2009 Human Rights Report: Nicaragua, available at

<http://www.state.gov/g/drl/rls/hrrpt/2009/wha/136120.htm> (last visited Aug. 30, 2010).

¹⁰⁵ NCHR, ANNUAL REPORT, *supra* note 4, at 153. (There were 1,224 reported cases of rapes of minors, 837 of which were children under the age of 14.)

¹⁰⁶ FEDERACIÓN COORDINADORA NICARAGÜENSE DE ONGS QUE TRABAJAN CON LA NIÑEZ Y LA ADOLESCENCIA [NICARAGUAN COORDINATING FEDERATION OF NGOS THAT WORK WITH YOUTH AND ADOLESCENTS], INFORME DE AVANCES SOBRE LA APLICACIÓN DE LAS RECOMENDACIONES DEL ESTUDIO MUNDIAL DE LA ONU, SOBRE LA VIOLENCIA CONTRA LOS NIÑOS, NIÑAS Y ADOLESCENTES [REPORT ON THE ADVANCES MADE REGARDING THE APPLICATION OF THE RECOMMENDATIONS OF THE U.N WORLD STUDY ON THE VIOLENCE AGAINST BOYS, GIRLS, AND ADOLESCENTS] 15, available at http://dev.codeni.org.ni/observatorio/publicaciones/informe_avance_recomendaciones_onu.pdf (last visited Aug. 30, 2010).

¹⁰⁷ *Id.* at 16.

¹⁰⁸ *Id.* at 18.

¹⁰⁹ *Id.* at 19.

¹¹⁰ *Id.*

¹¹¹ *Id.* at 20.

¹¹² *Id.* at 20-21.

¹¹³ *Id.*

¹¹⁴ See WHO, GUIDELINES FOR MEDICO-LEGAL CARE FOR VICTIMS OF SEXUAL VIOLENCE 92 (2003), available at <http://whqlibdoc.who.int/publications/2004/924154628X.pdf> (last visited Aug. 30, 2010) [hereinafter WHO Guidelines].

¹¹⁵ FEDERACIÓN COORDINADORA NICARAGÜENSE DE ONG QUE TRABAJAN CON LA NIÑEZ Y LA ADOLESCENCIA, *supra* note 106, at 31.

¹¹⁶ *Id.* at 31.

¹¹⁷ *Id.* at 15.

¹¹⁸ CEDAW Committee, *Concluding Comments: Nicaragua* (2007), *supra* note 52, para. 20.

¹¹⁹ *Id.* para. 19.

¹²⁰ *Id.* para. 20.

¹²¹ Committee on the Rights of the Child, *General Comment No. 4*, *supra* note 8, para. 21.

¹²² See Committee on the Rights of the Child, *Concluding Observations: Philippines*, para. 61, U.N. Doc. CRC/C/PHL/CO/3-4 (2009).

¹²³ See Section I.a on maternal mortality of this document.

¹²⁴ Asociación Nicaragüense VIH y SIDA (ANVS),

http://www.asonvihsida.org.ni/asonvihsida/index.php?option=com_content&task=view&id=37&Itemid=38 (follow “Situación epidemiológica del VIH y SIDA en Nicaragua [Epidemiologic Situation of HIV and AIDS in Nicaragua]” hyperlink).

¹²⁵ *Id.*

¹²⁶ MIGUEL OROZCO & MICHELLE G. PEDRAZA FARINA, HIV/AIDS POLICY IN NICARAGUA: A CIVIL SOCIETY PERSPECTIVE 30 (Open Society Institute, Public Health Program, 2007), available at http://www.soros.org/initiatives/health/focus/phw/articles_publications/publications/nicaragua_20080115/nicaragua_20080115.pdf (last visited Aug. 23, 2010).

¹²⁷ Committee on the Rights of the Child, *General Comment No. 3*, *supra* note 41, para. 10.

¹²⁸ *Id.* para. 9.

¹²⁹ Committee on the Rights of the Child, *Concluding Observations: Nicaragua* (2005), *supra* note 98, para. 51(e).

¹³⁰ OROZCO & PEDRAZA FARINA, *supra* note 126.

¹³¹ ANVS, *Percepción sobre el Sida en Nicaragua: Encuesta de Opinión Pública en Nicaragua, 2003 y 2006* [*Perception about AIDS in Nicaragua: Public Opinion Survey in Nicaragua, 2003 and 2006*], available at <http://www.asonvihsida.org.ni/asonvihsida/Documentos/RESULTADOS%20NICARAGUA.pdf>.

¹³² OROZCO & PEDRAZA FARINA, *supra* note 126.

¹³³ Committee on the Rights of the Child, *General Comment No. 3*, *supra* note 41, para. 30.

¹³⁴ OROZCO & PEDRAZA FARINA, *supra* note 126.

¹³⁵ AGI, ENSURING A HEALTHIER TOMORROW, *supra* note 62, at 35.

¹³⁶ AGI, *Early Childbearing in Nicaragua*, *supra* note 56, at 12, 29.

¹³⁷ AGI, ENSURING A HEALTHIER TOMORROW, *supra* note 62, at 41.

¹³⁸ See Section I.a of this document.

¹³⁹ CEDAW Committee, *Concluding Comments: Nicaragua* (2007), *supra* note 52, para. 18.

¹⁴⁰ *Id.* para. 17.

¹⁴¹ *Id.* para. 18.