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Nicaragua: Domestic violence, including legislation and availability of state protection and support services (2007- July 2010)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

An article on the website of the Office of the United Nations (UN) High Commissioner for Refugees (UNHCR) states that "[d]omestic violence is a big problem in Nicaragua, where some non-governmental organizations (NGO[s]) estimate that up to 60 percent of women have been physically abused by a partner at least once" (UN 23 Sep. 2009). *La Prensa*, a daily newspaper published in Nicaragua, indicates that 48 percent of women report having been verbally abused by their husbands or boyfriends (24 Oct. 2009).

Inter Press Service (IPS) reports that according to data from the Women's Police Station (Comisaría de Mujeres y Niñez), "domestic violence in the country has escalated in recent years, especially between 2007 and June of [2009]" (16 Nov. 2009). One third of women in Nicaragua living with a man, whether married or not, have been subjected to interfamilial violence or sexual abuse during their lifetime (IPS 16 Nov. 2009; CENIDH May 2010, 164). *El Nuevo Diario*, a daily newspaper published in Managua, reports that, according to statistics from the Women's Police Station, interfamilial violence increased by 12 percent from 2008 to 2009 (29 May 2010). According to *La Prensa*, more than 1,500 domestic violence files were submitted to the Ministry of the Public (Ministerio Público) in 2009 (28 Apr. 2010).

IPS and *La Prensa* report on a 2009 study conducted by the UN Development Programme (UNDP) for Central America, which states that violence is most prevalent in the home, where women are frequently abused by their husband, their ex-partner, or their partner (IPS 16 Nov. 2009; *La Prensa* 24 Oct. 2009). According to IPS, "at least 25 of the 45 women killed in Nicaragua in the first half of 2009 were victims of domestic violence" (16 Nov. 2009). The United States (US) *Country Reports on Human Rights Practices for 2009* reports that the Nicaraguan National Police dealt with 27,746 domestic violence and aggression cases during 2009, with 40 percent being between domestic partners (US 11 Mar. 2010, Sec. 6).

Furthermore, a source from La Corriente, a regional women's organization in Managua, stated in an IPS article that the Nicaraguan Institute of Legal Medicine (Instituto de Medicina Legal, IML) has reported that out of 11,172 examinations of women who suffered domestic violence, 44.5 percent were sexually abused, 41 percent were psychologically abused, with the remainder subject to physical violence (IPS 16 Nov. 2009). *El Nuevo Diario* reports that 40

percent of cases in the IML are the result of domestic violence (26 May 2010). According to *Country Reports 2009*, in the first six months of 2009, the IML reported examining 2,886 cases of domestic violence, with 2,767 being between domestic partners (US 11 Mar 2010, Sec. 6). A Freedom House report mentions that "[i]n recent years, the Institute of Forensic Medicine has recorded more than 10,000 cases of domestic violence annually, half of them spousal abuse" (7 Apr. 2010).

Legislation

Country Reports 2009 indicates that domestic violence is a criminal offense, with a maximum sentence of six years; victims can obtain restraining orders if they believe they are in danger (US 11 Mar. 2010, Sec. 6). Freedom House reports that despite legislation on domestic violence, "prosecutions for domestic and sexual abuse remain rare" (7 Apr. 2010).

Agencia EFE reports that in the *United Nations Universal Periodic Review for Nicaragua*, the 47 members expressed concern and made recommendations regarding the widespread issue of domestic violence in the country, and the necessity for specific legislation to address this issue (Agencia EFE 10 Feb. 2010). A Joint Submission by the Nicaraguan Centre for Human Rights (Centro Nicaragüense de Derechos Humanos, CENIDH), the World Organization Against Torture (organisation mondiale contre la torture, OMCT), and the International Federation of Human Rights (fédération internationale des ligues des droits de l'homme, FIDH) states that violence against women is not legislatively considered a crime, but rather a case of domestic violence (UN 26 Nov. 2009, Para. 11). In addition, a Judge of the Managua Appeals Tribunal (Tribunal de Apelaciones de Managua) indicates in an *El Nuevo Diario* article that legislation concerning domestic and interfamilial violence "should be more specific to give the true dimension of the problems" (*El Nuevo Diario* 30 June 2010).

In 6 July 2010 telephone interview with the Research Directorate, a Nicaraguan sociologist specializing in topics of adolescence and youth at risk stated that the current government of Nicaragua has made [translation] "the grave mistake" of putting on hold the National Plan against Interfamilial and Sexual Violence (Plan Nacional contra la Violencia Intrafamiliar y Sexual).

State Protection

An academic journal article reports the establishment of a National Gender Commission (la Comisión Nacional de Género) by the Supreme Court (Corte Suprema de Justicia) in order to make access to the justice system easier for women; the Commission has worked on "reforming evidentiary procedures in domestic violence cases and training judicial and law enforcement personnel" (Della-Guistina May 2009, 43).

However, according to the Nicaraguan Sociologist, efforts to reduce interfamilial violence are limited due to poverty, lack of funding for institutions, and corruption within the judicial system (Sociologist 6 July 2010). In addition, the UN reports that the concerns of the Committee Against Torture (CAT) include "lack of impartiality and independence in the judicial system, in particular about alleged irregularities in the appointment of judges, corruption, and delays in the administration of justice" (UN 30 Nov. 2009, Para. 33).

El 19 Digital, an internet news source in Nicaragua, reports that the Women's Police Station has a total of 36 specialized police stations for women and children in all of Nicaragua, with 14 being recently established, and that there is a plan for creating 20 more in the year 2010 (*El 19 Digital* 5 Mar. 2010). *Country Reports 2009* further indicates that the Women's Police Stations "lacked sufficient government-provided equipment and funding to discharge their responsibilities adequately" (US 11 Mar 2009, Sec. 6).

The responsibilities of the Women's Police Stations include: helping women, both socially and legally, referring them to assistance offered by civil society, conflict mediation, criminal investigation, and assisting with the prosecution of criminal complaints (*ibid.*). The UN article reports that according to NGOs, reporting domestic violence is not a "guarantee of protection" as there is a higher than 70 percent rate of acquittals in such cases (UN 23 Sep. 2009). In a 2009 IPS article, a representative of the Network of Women Against Violence (Red de Mujeres Contra la Violencia, RMCV) stated that in central American countries, women may encounter "hostility" while attempting to file a complaint and that there is a lack of mechanisms and policies to prevent violence against women, as well as inadequate access to justice (IPS 16 Nov. 2009).

According to *Country Reports 2009*, NGOs have stated that victims have poor "access to justice," noting that only 10 percent of cases go to court (US 11 Mar. 2010, Sec. 6). The main form of resolution is mediation, described by NGOs as an "ineffective" tool that has "led to patterns of abuse and impunity" (*ibid.*). CENIDH, in agreement with RMCV, states that mediation is actually a [translation] "negative mechanism" in the Women's Police Stations when legally ordered, as it does not protect women's rights and can lead to further victimization of women (CENIDH May 2010, 167).

In an article by *El Nuevo Diario*, a member of the RMCV stated that the [translation] "high level of impunity" and the leniency of the Penal Code (Código Procesal Penal) toward aggressors in domestic violence cases, as demonstrated by reliance on mediation and less prison time (15-20 years) for domestic femicide versus 30 years for killing an unknown woman, put women at a higher risk (*El Nuevo Diario* 26 Sep. 2009).

Support Services

Country Reports 2009 indicates that in 2009, Nicaragua had a total of nine women's shelters, all operated by non-government agents (US 11 Mar. 2010, Sec. 6). Freedom House collaborates that most centres for female victims are run by civil society actors, with very little governmental help, except for the initial contact with the victim (7 Apr. 2010). In a 2009 report, the National Forum for Overcoming Violence against Women and Access to Justice (Foro Nacional Abordaje de la Violencia contra las Mujeres y Acceso a la Justicia) states that the Nicaraguan Ministry of Family, Childhood, and Adolescence (Ministerio de la Familia, Adolescencia y Niñez, MIFAMILIA) has started a program using a hotline that victims of interfamilial and sexual abuse can call in order to obtain information on their options (Foro Nacional 2009, 27).

Anesvad, an NGO that advocates for the protection of the right to health, which has a branch in Nicaragua, reports that there is a total of ten shelters/refuge houses for female victims of violence and abuse in the country, with services including victim protection, judicial aid, and medical/psychological help (6 Mar. 2010).

Additionally, the Nicaraguan Sociologist stated that NGOs provide quality services, but their ability to intervene is reduced due to limited cooperation with the government (5 July 2010).

Moreover, according to the Director General of the IML, weaknesses in support services include lack of interinstitutional coordination, the inability to provide convicting evidence within the justice system, and the inability to identify medical and psychological needs (*El Nuevo Diario* 26 May 2010).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Internet Sources including: Amnesty International (AI), Central-American Observatory of Violence (Observatorio Centroamericano sobre Violencia, OVACI), Central American Parliament (Parlamento Centroamericano PARLACEN), Interamerican Platform for Human Rights (Plataforma Interamericana de Derechos Humanos, Democracia y Desarrollo, PIDHDD), Nicaraguan Ministry of Family, Childhood and Adolescence (Ministerio de la Familia, Adolescencia y Niñez, MIFAMILIA), Nicaraguan National Police (Policía Nacional).

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