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LISTEN TO THEIR VOICES AND ACT

STOP THE RAPE AND SEXUAL ABUSE OF GIRLS IN NICARAGUA

FREEDOM FROM SEXUAL VIOLENCE IS A HUMAN RIGHT

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Cover photo: Alejandra, 12-year-old survivor of sexual violence, 2010.

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2 LISTEN TO THEIR VOICES AND ACT:

Stop the rape and sexual abuse of girls in Nicaragua

METHODOLOGY

This report looks at how the human rights of children, particularly girls, are violated not only by the direct actions of state officials, but also when the state fails in its duty to protect children from violence at the hands of members of their own families and communities.

The report is based on interviews carried out by Amnesty International in Nicaragua during 2008, 2009 and 2010. Among the more than 130 people interviewed were 35 girls and young women between the ages of 10 and 20 who had been raped, one seven-year-old boy survivor of rape, and 10 mothers of rape survivors. Amnesty International also conducted interviews with experts providing psychosocial care and legal advice, policewomen, members of the National Assembly, representatives of the Ministry of the Family, Adolescents and Children (MIFAMILIA), representatives of Local Systems of Integrated Health Care (SILAIS), health care providers at a casa materna,¹ as well as gynaecologists, psychologists, general practitioners and public health experts. Representatives of international NGOs working in Nicaragua to promote and protect children's rights were also interviewed.

Amnesty International delegates visited nine centres which provide women and girls who have experienced sexual violence with psychosocial and legal support, temporary shelter, health care and advice. These centres were located in the capital, Managua, and five other cities: León and Chinandega in the north-west; Granada and Masaya in the south-west; and Bluefields on the south-eastern Caribbean coast.

The names of girls, women, medical professionals, health workers, lawyers and other representatives interviewed by Amnesty International have been withheld in order to protect their privacy and ensure that their security is not compromised.

ACKNOWLEDGEMENTS

Amnesty International would like to express its deep gratitude to each of the survivors of rape and sexual abuse who shared personal experiences which were painful to recall, and also to those who provided support to survivors before and after they spoke to Amnesty International. The organization is indebted to all those who generously shared their knowledge and expertise.

NOTES ON TERMINOLOGY

Cephalo-pelvic disproportion

A condition where the pelvis is too narrow to allow the baby to pass. This condition often occurs in younger girls who have not yet reached physical maturity.

Pre-eclampsia

A pregnancy-specific disorder associated with very high blood pressure.

Rape and sexual abuse

Rape and sexual abuse are the terms used throughout this report to encompass a range of gender-based violence, including by members of the victim's family. The World Health Organization's Guidelines for the Medico-Legal Care for Victims of Sexual Violence define sexual violence as a "violent, aggressive and hostile act used as a means to degrade, dominate, humiliate, terrorize and control women." Amnesty International bases its work on violence against women on the definition set out in the UN Declaration on the Elimination of Violence against Women, Article 2 of which states that "violence against women shall be understood to encompass, but not be limited to... Physical, sexual and psychological violence occurring in the family" and "sexual abuse of female children in the household."

Sex with someone under the age of 14 constitutes statutory rape in Nicaragua.

Nicaragua's Criminal Code defines rape as "...[he who has] intercourse or the insertion into the victim or forces them to insert, a finger, object or instrument for sexual purposes, into the vagina, anus or mouth" According to the Criminal Code, the perpetrator carries out the crime using "using force, violence,

intimidation or which ever other method to deprive the victim of their choice, reason or consciousness.” Sexual abuse is defined in the Criminal Code as “...the carrying out of lewd acts or touching of another person, without another’s consent using force, violence, intimidation or other method that takes away the victim’s choice or limits the victim’s choice, reason or sense, without intercourse or other acts defined in the criminal act of rape.”² The use of children for pornography, pornographic photos or prostitution is also an offence under the Criminal Code.³

Therapeutic abortion

Therapeutic abortion is the term widely used in Nicaragua to describe abortion services for women and girls whose pregnancies are the result of rape or put their lives or health in danger.

Abbreviations

CONAPINA – National Commission of Comprehensive Care and Protection for Children (Consejo nacional de atención y protección integral a la niñez y la adolescencia)

MIFAMILIA – Ministry of the Family, Adolescents and Children (Ministerio de la Familia, Adolescencia y Niñez)

SILAIS – Local System of Integrated Health Care (Sistemas Locales de Atención Integral en Salud)

SONIGOB – Nicaraguan Society of Gynaecologists and Obstetricians (La Sociedad Nicaragüense de Ginecología y Obstetricia)

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‘Tell someone. You don’t have to carry on like this. Speak to your mum. With lots of help, yes, it is possible to move forward with your life!’

Message from Alejandra, aged 12, to other girls who might also be suffering rape or sexual abuse

‘Your body is your own and no one has the right to touch it.’

Laura, youth rights promoter, aged 15, from Managua

‘A survivor of rape speaking about what has happened to her encourages other women and girls who haven’t had the strength to speak out yet to say, “Enough’s enough... I have rights, I deserve respect, I have a life and nobody except me can decide over how I’m going to live it...”’

Xiomara, a psychiatrist working with girls and women survivors of violence

‘Their words have power! This is the message girls must receive, they must feel, they must know, that their words have power.’

Director of a centre working with girls and women survivors of violence

CHAPTER 1: INTRODUCTION

‘Rape and sexual abuse of girls aged between 13 and 15 – these are the cases we most commonly receive here at our centre. Who is the most common perpetrator? The vast majority are family members, uncles, cousins, stepfathers, fathers, grandfathers.’

Director of a centre that provides support to victims of domestic and other violence, Granada, Nicaragua

Rape and sexual abuse are widespread in Nicaragua, and the majority of victims are young. Police analysis of rape reports over the 10-year period from 1998 to 2008 recorded 14,377 cases. More than two thirds of reports (9,695 cases) involved girls under the age of 17.⁴ The police report concluded: “The fact that the majority of victims are minors affects society, the culture and the economy on much more than just an individual level. The impact is such that it has become a national problem.”⁵

The findings of the police analysis are supported by other studies.⁶ For example, a report by the Nicaraguan Forensic Institute found that 77 per cent of rapes reported in December 2008 involved girls under the age of 17 (295 out of 379 cases). These figures are all the more alarming given that in Nicaragua, as in other countries, rape and sexual abuse are under-reported crimes, especially if they involve young girls and are carried out by members of the girl’s own family. The absence of studies and data which go beyond the narrow range of self-reporting prevents an informed overall assessment of the prevalence and characteristics of rape and sexual abuse and obstructs a thorough analysis of the justice system in order to identify any particular weak points. This is crucial for devising and implementing effective strategies to prevent sexual crimes and, if abuses occur, to ensure that survivors of sexual violence have access to effective remedies.

Catholics for Choice carried out a survey of rape reports published in the local media between 2005 and 2007.⁷ They found that newspapers had reported 1,247 cases of girls being raped, including rape by family members, during that period. In 198 cases, the crimes had resulted in pregnancies. The study also revealed that young girls and teenagers are at particular risk of pregnancy as a result of rape; the overwhelming majority of the girls who had become pregnant as a result of rape (172 of the 198) were between 10 and 14 years old.⁸

Girls in Nicaragua face daunting obstacles in reporting sexual violence and, as a result, the vast majority continue to suffer in silence. Many are threatened and intimidated by their abusers and cannot see how it is possible for them to report the crime and be safe. Most do not have access to information about sexual crimes or how to seek help. Negative social attitudes towards rape survivors and teenagers, and the fact that sex remains a taboo subject in Nicaragua, also inhibit girls from speaking out if they are sexually abused. Rape, particularly the rape of young girls, frequently only comes to light when a pregnancy occurs.

This report shows, through the testimony of those most intimately affected, how the Nicaraguan government is failing to provide girls with the protection they need and to which they have a right. Despite the prevalence of rape and sexual abuse against young girls, the Nicaraguan authorities have failed to take the action necessary to comply with their international and national obligations.

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This failure begins with the absence of programmes to tackle social attitudes that conceal or condone sexual violence against girls and women. The result is that these crimes remain under-reported and the stigma associated with abuse flourishes.

If children do speak out and report the crime, the failure of the authorities to address barriers to justice and reparation means that rape survivors frequently suffer a variety of subsequent violations of their rights. The lack of protection provided to girls during the investigation and trial puts them at risk of threats, intimidation and even further violence. In addition, the financial costs of accessing justice and rehabilitation are frequently beyond the reach of those living in poverty or with limited financial resources.

Many survivors do not have access to the comprehensive range of support services, including psychosocial and legal support that would enable them to manage and overcome the consequences of the sexual violence on their own terms. Children are particularly vulnerable to the human rights violations which result from a lack of post-rape rehabilitation services, including safe and legal abortion services, because they are dependent on those around them to assist them to get the help they need. Survivors of rape who are pregnant and wish to continue with the pregnancy do not receive the support necessary to put their lives back on track by continuing their education or returning to work, if they so wish. Those for whom the pregnancy poses a threat to life or health or who do not want to continue with the pregnancy can no longer get safe, legal abortion services. Since 2006, all abortion has been banned in Nicaragua, including for women and girls who have been raped or whose lives are at risk.

Rape of girls is endemic in Nicaragua. The scale of the problem demands a decisive, integrated and co-ordinated response from the authorities. Yet despite clear evidence of widespread abuse, the authorities have failed to establish an integrated national plan to prevent sexual violence, and to protect and support survivors. The last plan to combat violence against children in Nicaragua was developed in 2001 and was due to last until 2006. Since then, no new plan relating to the prevention of sexual abuse has been announced or implemented.

For far too long, the voices and suffering of survivors of rape and sexual abuse have been drowned out by those in power who would decide their fates without regard for their hopes and fears. The survivors of rape who spoke to Amnesty International were very clear about what they needed and what they expected from those in authority.

“I demand that the government respects our rights as women. We are girls and we have rights, and so long as they do not respect these rights, we will continue to fight to demand them.”

Clara, youth rights promoter, aged 18, Managua

CHAPTER 2: HIDDEN CRIMES

‘My father was the one who abused me. He started to rape me from when I was 9 until I was 14. I was terrified of him... Sometimes he would hit me so much I could not go to school the next day... He wanted me to just stay in the house... And he abused me [sexually] as many times as he wanted. I couldn’t say anything because I was so frightened of him.’

Connie, aged 17, Managua

Children who survive rape often experience rejection and blame at the hands of their families or communities. The lack of awareness and the social stigma to which survivors of sexual abuse are subjected condemns many girls to continued suffering, alone and in secret. And rape by members of the family in particular is shrouded in secrecy. Rape survivors are often ostracized to such an extent that it is a form of discrimination and effectively deprives them of their right to justice and rehabilitation.

The Nicaraguan government has an obligation to break the silence that surrounds rape and sexual abuse and to challenge the culture of blaming survivors.⁹ However, on a number of levels – from informing children and their parents about the risks and how to guard against them, to supporting and encouraging debate on how to stop sexual violence against girls – the government has shown itself unwilling to live up to this obligation. Indeed, some of the steps it has taken have served to reinforce the silence and stigma around sexual violence.

Many experts working with young girls and teenagers told Amnesty International that they were concerned about the unwillingness of the authorities, at the national level, to engage in discussion about sexual abuse and rape and about the lack of a forum for dialogue and policy development. In 2007, the current government disestablished the National Commission of Comprehensive Care and Protection for Children (CONAPINA), effectively closing down the only formal space in which government officials and NGOs could develop and co-ordinate responses relating to violence against and involving children.¹⁰ No other body has been set up to undertake this role.

BLAMING SURVIVORS

“I have seen many cases. Just yesterday, a little girl, she was playing on her Nintendo when a cousin asked her for some water and then trapped her in a room. He took her clothes off, she tried to get away. He covered her mouth; her father turned up and asked her, ‘Did he penetrate you?’ She said no. The father grabbed her and hit her. The girl is seven years old... Abuse is common, but the silence that surrounds it is also very common. The fact that no one talks about it causes so much damage... Children do not have the capacity to speak up if someone is abusing them, or to say someone is touching me or raping me.”

Social worker at a women’s centre in Managua, April 2010

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Pressure is often put on girls not to file a complaint and to keep quiet about the abuse. Parents, guardians and carers are not given the information or support they need to protect children from violence or to respond effectively if children tell them that they are being abused. Where abusers are influential members of the community, such as a teacher or a priest, their positions of power can make it particularly difficult for girls and their families to file a complaint. At the age of 10 Linda was sexually abused by a priest. As she told Amnesty International: "People said things to me, and as he [the abuser] was an Evangelical priest, no one believed me. Instead, they said 'Why are you saying these things?' This reaction hurts me even now." The man responsible for abusing 10-year-old Linda was successfully prosecuted and sentenced to 30 years' imprisonment. For many survivors, however, the outcome of the trial is very different.

Estefany was raped when she was 17 by an influential member of the family and became pregnant. Several people including the local priest, put pressure on her not to file a complaint and to give her baby up for adoption. Despite intense pressure, Estefany filed a complaint against her attacker. The court hearings were traumatic for her, and the judge did not stop the accused shouting insults at her across the courtroom. The case did not result in a conviction, leaving Estefany even more distraught and ostracized. She told Amnesty International: "We are divided in my family, us women and the brother and the dad... I had to leave the house because my brother beat me, he almost split my head open... because I stand up for myself and don't just do and say what they want me to... They blame me for everything that happened... People even offered me money to give up my baby, offered money for me to put him up for adoption. The worst thing that the local priest and my family said to me was that it would be better if I sorted myself out, that it would be better that way because they didn't want a scandal, that it was upsetting my family and that nobody believed me. My whole extended family turned against us."

Connie was repeatedly raped by her father and became pregnant at 14. When the pregnancy and rape came to the attention of the authorities, the police visited the house. Shortly after the police left, Connie's father tried to commit suicide by taking poison, begging her forgiveness as he fell unconscious. He died in hospital a short while later. Connie told Amnesty International: "All I could do was cry, that was all that kept me going, crying. Everyone around me criticized me, calling me bad names because I had slept with my father, saying that I was shameless and that I had done it to steal him away from my mum. Even my teachers criticized me... My brothers told me I had left them without a father. Even now they still say this. They chased me from the house and don't speak to me anymore."

Negative attitudes towards girls are common, but particularly towards teenagers, and there is a general assumption that at least some of the blame lies with the rape victim rather than the abuser. Experts, mothers of survivors and survivors themselves spoke of these widespread prejudices. One mother explained: "I myself was a victim of abuse as a teenager, but I never spoke about it to anyone, not until much later. People say that teenagers are the ones to blame because of the way they dress, with short skirts and revealing tops, but they should not think that way. I think it is the person who commits the abuse who is sick."

Nearly all the girls interviewed by Amnesty International described how their families or communities had blamed rather than supported them and how this had caused them serious harm, undermined their recovery and, on occasion, hindered their access to justice.

LACK OF INFORMATION AND EDUCATIONAL PROGRAMMES

"When I was a little girl I had a cousin who would kiss me. Later, I realized that this was abuse, as he was much older than I was and I was so very young. In school they never warned us about this, or told us to take care, not to let anyone touch you."

Judy, worker at a youth centre, Managua, Nicaragua

Children need information to help protect themselves from violence and abuse and to protect their autonomy, health and wellbeing. This should include education and information on sexual and reproductive health and rights that are appropriate to their age and gender. An understanding of what their rights are is an important first step in recognizing violations of those rights, speaking out against them and seeking redress. Girls are very rarely given information about what kind of conduct constitutes a crime and who to turn to for help.

There is no programme to ensure that children in Nicaragua, and particularly girls, know about their rights to physical and psychological autonomy and integrity, and to freedom from violence and other forms of abuse. Many of those interviewed by Amnesty International expressed particular concern about the failure of the Nicaraguan government to introduce nationwide educational programmes to help children understand their rights.

Only one of the 35 survivors interviewed by Amnesty International had received information on what constituted abuse and what to do if something was happening to her. In June 2009, Julie, aged 13, finally told her mother that her father had raped her. Julie decided to do this after a teacher at school gave the class a lesson on what sexual abuse was and what to do if anyone was abusing them. Julie's mother, Alondra, explained: "What brought me here [to the centre] was that my daughter told me that her dad had abused her. She told me that when she was in school the teacher had said that sometimes stepfathers, uncles, cousins, and even neighbours abuse children. And so she came back from school nervous and crying. I asked her 'What's going on? What's happened?' She didn't want to tell me. I gave her a glass of water and after she drank it she said... 'Listen, when you were in the hospital dad touched me.' I said, 'He touched you? He only touched you?' Julie replied, 'No, he did that thing to me... that thing... He touched me everywhere when you were in the hospital...' In fact Julie only spoke about it to me because the teacher had talked about it. The teacher said if you are touched by your stepfather, uncle, cousin etc... The teacher didn't mention dads, though. Julie still feels very upset that the teacher didn't mention dads."

Some survivors told Amnesty International that they were reluctant to tell their parents about the sexual violence and abuse they experienced because they feared they would be punished, including being subjected to physical punishment, for raising a taboo subject.¹¹ A certain degree of physical violence and psychological abuse of children is seen as normal, both by abusers and their victims. In this environment, it is more difficult for children to recognize sexual abuse as something they should not have to tolerate. Survivors repeatedly said that they wanted more information to be provided to children on what abuse was, and what to do if they were abused. The director of a centre providing psychosocial and legal support to survivors of rape in Granada told Amnesty International: "Attitudes and lack of sensitization to the issue are the problem. In Nicaraguan society sexual abuse and violence in the home towards women and girls are seen as an entirely private issue."

At present, the onus is on children to seek help, rather than on the authorities to provide programmes designed to reach out to those in need of support. Public discussion and awareness raising are important in helping take the issue of sexual abuse and rape out of the private domain, where it can be silenced and hidden. Although awareness raising lessons are carried out in a few schools, more needs to be done. A nationwide education programme for children on their rights, on what constitutes a crime and on what steps they can take if they experience violence is desperately needed. The gender specific aspects of sexual abuse should be addressed for both boys and girls, explaining, for example, that boys also experience sexual abuse. Information should be specifically directed at girls to empower them as rights holders – not only as children, but as girls.

SILENCING DEFENDERS OF THE RIGHTS OF WOMEN AND CHILDREN

Human rights defenders working on women's and children's rights have faced an increasingly difficult and sometimes hostile environment in recent years. In 2007, an NGO, backed by the Catholic Church, lodged a complaint against nine prominent women human rights defenders.¹² The complaint alleged that the nine were guilty of a series of crimes, including the concealment of rape. The allegations were linked to the women's alleged involvement in the case of a nine-year-old girl who was raped in 2003 and became pregnant as a result. The girl had obtained an abortion – which was legal at the time as the law criminalizing abortion in all cases had not yet been introduced. The complaint also contended that the women were guilty of the public defence of a crime, incitement to commit a crime and conspiracy to commit a crime, for having expressed their opinions and organized demonstrations in favour of access to abortion services for women and girls whose pregnancies put their lives or health in danger, or were the result of rape (therapeutic abortions).

In April 2010, the nine women received formal notification that the investigation against them had finally been closed. The investigation had lasted two and a half years. Under Nicaraguan law, the Public Prosecutor's Office has a maximum of three months to formally declare whether an investigation should

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be kept open or closed for lack of evidence. No such declaration was ever made, and no charges were ever brought against the nine defenders as a result of the investigation. The lengthy investigation not only caused prolonged stress and anxiety to the women and their families; it also disrupted their work promoting and protecting women's and girls' human rights.

CHAPTER 3: BARRIERS TO JUSTICE

‘The police told me to stop crying, that there was no reason for me to cry, that what I was saying was not true. I felt very bad when the police said I was lying, because I would never lie about things like this.’

Alejandra, aged 12

Rape survivors have a right to justice and reparation and the government has a responsibility for ensuring these human rights. While many of the obligations of the state have been recognized in Nicaraguan law and in official protocols for state officials dealing with survivors of sexual violence, lack of political will on the part of the government has resulted in flawed, partial and under-resourced implementation of these provisions. The result is that young girls and teenagers often face serious obstacles in reporting crimes of sexual violence.

Many girls continue to suffer sexual violence in silence. The reasons for this are complex, but lack of information about their rights or what constitutes a crime; negative attitudes towards girls and women in general; and lack of confidence in the system to deliver justice are all key factors in deterring survivors and their families from reporting sexual violence to the police. Those who do report rape or sexual abuse are sometimes faced with responses from the police, prosecutors and courts that are inappropriate or dismissive. In part, this is the result of government failures to ensure that the relevant codes of ethics for the police, prosecutors and judges are enforced and that officers are trained appropriately and given adequate resources. Even when a case reaches the courts, survivors continue to encounter obstacles to justice, including repeated last-minute cancellations of court hearings.

The new Nicaraguan Criminal Code came into force in July 2008. Chapter II of the Code contains articles that criminalize offences including rape, aggravated rape, sexual abuse, incest, and sexual harassment and set out the penalties for each crime.¹³ Sex with someone under the age of 14 constitutes statutory rape in Nicaragua. However, the protection guaranteed in law is not being provided in practice.

On 8 February 2010, the mother of a rape survivor was sentenced to 12 years in prison for being complicit in the crime. The mother had gone to the police to report that her daughter had been repeatedly raped by her partner (the girl’s stepfather). The police charged the mother with complicity in the abuse because she had not reported the crime when her daughter first told her. The mother was charged, even though she explained to the police that her daughter had pleaded with her at the time not to report the crime, and she had finally gone to the police to report the abuse against her daughter’s wishes. The mother spent four months in detention before her sentence was quashed. In the meantime, no efforts were made to detain the stepfather accused of rape and sexual abuse. He remained at large, a potential danger to the girl, while the mother was in prison.¹⁴

A generalized lack of confidence in the legal system and a lack of understanding about what constitutes a crime, particularly in relation to sexual abuse, deter many rape survivors and their families from lodging official complaints. Without support, the survivor may be unable to cope with the financial and emotional costs of seeking justice. A psychiatrist working in Nicaragua told Amnesty International: “One of the reasons survivors give for missing appointments or sessions, is that they don’t even have enough money for the journey. Sometimes there isn’t support from the rest of the family. This is so important. The majority of mothers and children who decide to report crimes to the police don’t have the support of the rest of the family. In turn, this often becomes a reason why many of them get discouraged or abandon the process.”

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Since CONAPINA was dismantled, the government has developed a programme in some districts using local volunteers and representatives trained by MIFAMILIA, known as promoters, who are active in the community. Promoters can identify children at risk and liaise with the local Police Stations for Women and Children so that they can intervene where necessary. Promoters also carry out outreach into the community to identify children at risk. While this volunteer programme is welcome and may build expertise in the community, it is an insufficient response to address the problem of sexual violence effectively. Amnesty International remains concerned at the absence of a national plan supported by real resources which could complement this volunteer project. The government must increase the number of trained professional social workers who can provide expertise, consistent follow-up and liaise between the family and different government departments. These are essential in order to ensure children at risk have access to protection, and are able to navigate the justice system and get the rehabilitation services they need.

POLICE RESPONSES TO REPORTS OF RAPE

“When something like this happens, you just don’t know where to get strength from to keep going. Your only wish is for things to go forward, for justice, for the children... All you want is for the situation to end, but that there is justice for what happened.”

Juana, mother of two girls who were raped by their stepfather

The number of Police Stations for Women and Children nationwide has increased from 23 to 37 over recent years.¹⁵ While this is a welcome development, the government has failed to ensure that police stations have the necessary resources to carry out their work effectively and in ways that respect the dignity and ensure the protection of rape survivors, in particular young children and teenagers.

Most police stations do not have a separate room where survivors can give their testimony in privacy. Several girls interviewed by Amnesty International said they had felt humiliated reporting their experiences in an open room in front of other people. Several policewomen also commented on how difficult it was for them to interview girls when other victims of crime were being interviewed at the same time.¹⁶

Several survivors and their relatives told Amnesty International that, on the basis of their experiences, they believe police officers require more training on how to interview survivors of abuse. Some police do go out of their way to treat survivors with respect; however, many survivors reported that they were re-victimised by police officers when reporting the crime. They described how the behaviour of many officers reflected the negative social attitudes towards survivors found in society at large.

Juana, whose daughters were raped repeatedly by her husband, told Amnesty International how inaccurate advice from the police almost allowed her husband to get away with the crime. According to official procedures, the police are obliged to take survivors’ testimony. However, the police officer who took Juana’s complaint told her to take her daughters to the Institute for Forensic Medicine first, in order to get proof that a crime had occurred. The fact that this was contrary to procedure only came to light once Juana and her daughters were referred to an NGO which provides psychosocial and legal support for victims of rape and sexual abuse. Juana described what happened:

“My teenage daughter, the one who is 15 years old, one day got me out of bed and told me something was happening. The night before there had been an argument with her stepfather. The atmosphere was rather hostile and tense. It was in the morning after that I got up and she told me that something was happening at home, and it was serious. I asked her what it was, and she told me that my partner had been sexually abusing her and her sister.

“I lost control and I was shocked at what was happening, because as a mother you do not think something like that can happen to your daughter. I tried to calm down, while thinking what to do next. We woke up my other daughter, who is 13 years old, and I asked her what had been happening. She told me that it was true, she had been sexually abused. Once I heard the girls’ testimonies, the first thing I did was to report it to the police, to the Police Station...”

“As I did not know how the system worked, I went to the Police Station for Women and Children, where they investigate sexual abuse cases... A policewoman interviewed us first and she was so insensitive to

us. I believe that people should be well trained, because when a child is going through a difficult situation, they need to be listened to, they should be reassured...

“First the police referred me to the Institute of Forensic Medicine to verify that the girls had been sexually abused. That is what the police officer, who took my report, told me had to be done... while we were there, we had psychological meetings with someone who also works on gender issues, and she referred us to an NGO... That is how I found out how the system worked. [I learned that] the girls should not have gone to the Institute of Forensic Medicine in the first place, but that the police should have taken my report straight away. I had to go together with the lawyer so that this could be addressed, so that they could take my report that the girls had been raped. I just wanted to know how to do things.”

Juana’s lawyer explained: “That small detail is very relevant for a trial, because during a trial the charges fall when they see that the physical and psychological report [from the Institute of Forensic Medicine] bears one date and the report [filed with the police] bears another. The judge can even reject the charges on the basis of that detail... It is crucial for us that the police officers working in the police stations have an awareness of procedures.”

Experts working with child victims explained how, unless there was someone chasing the case and ensuring due diligence by the state officials, the case would often languish. A psychiatrist working for an NGO in Managua explained that “When there isn’t anyone pushing the reported crime, the police – even though they know they have a duty to actively pursue the investigation – they don’t do it. If the mother is not arriving and insisting or if someone helping her is not putting pressure on, the police frequently archive the case, and even on occasion administratively close the case. We try to support the family to make sure they know what steps need to be completed.”

LACK OF PROTECTION DURING INVESTIGATION AND TRIAL

The *Guía Ética para el Personal Policial* (Ethical Guidelines for Police Personnel) sets out the duty of the police to protect girls at risk of rape or abuse and survivors of abuse. It also clarifies the responsibility of the Interior Ministry for overseeing and co-ordinating this protection.¹⁷ The measures outlined in the Guidelines include restraining orders, and other methods for ensuring and actively preventing threats, intimidation or further physical or psychological harm to the survivor.

The police are required to ensure all due diligence in guaranteeing the physical and psychological safety of the victim, and a rapid and effective response by the police to allegations of abuse.¹⁸ In addition, the Interior Ministry is mandated to work closely with the police to assess any risks and take any measures necessary to ensure the safety of the survivor during the investigation and trial.¹⁹ However, these obligations to identify risks and to develop protection measures to prevent further harm to the child do not appear to be effectively implemented in practice.

Several survivors told Amnesty International that in some cases the police waited days or even weeks before arresting the alleged perpetrator and told girls to return home – the very place where they were at risk of rape and abuse – during that time. Little or no protection is provided for most girls during investigation of their complaint or the trial of their attackers.²⁰

Julie was 13 when she was sexually abused by her father. He raped her three times while her mother, Alondra, was in hospital. When Julie, then 14, and her mother reported the rape to the police, they were told to go back home and act as though nothing had happened until the police came to arrest him. Julie and Alondra were not told when the arrest would happen. They had to wait for two days for the police to come and arrest the father. Alondra told Amnesty International: “The police told me that I could not say anything to him. If I did I would be giving him advance warning and giving him the opportunity to get away. I did not say anything to my husband about it... I felt horrible. I did not do it, but I wanted to kill him. It was so awful, because she is his daughter. I think it is so appalling, she is his daughter, he is not just anyone to her. I do not even have the words to explain it.”

Fifteen-year-old Lucía was abducted on 12 April 2010 by a man known to her family. Her abductor sexually abused her and then kept her at a friend’s house where she was forced to help with household chores. She was eventually rescued by police on 5 July 2010 and returned to the home she shared with

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her guardian. Although the police had all the details necessary to investigate the man, progress has been slow. The man accused of rape and abduction has been spotted by her guardian driving slowly past their house at least 13 times since Lucía returned home. When Lucía's guardian told police of her concerns about Lucía's safety and asked for police protection, one of the officers said: "If he [the accused] had wanted to kill Lucía, he would have already done it." No action has been taken to ensure their safety. Both Lucía and her guardian are frightened that man who abducted Lucía will try to harm her again, as she has not been provided with any protection and he has as yet not been detained pending the outcome of the investigation. Lucía's physical and psychological health have been seriously affected by the rape, and the threat of a further attack is undermining her recovery.

Even in those cases where perpetrators are detained, the threat of further attack can suddenly re-emerge. Experts told Amnesty International of cases where the accused had initially been detained but then released on grounds of ill-health. A lawyer at a centre for abused girls and women in Granada explained: "There is a risk that at this stage of the legal process, the accused may flee the country or go into hiding. Or he can simply move away and fail to appear at the hearing... We had a recent case of an 11-year-old girl who was abused. Her attacker was identified and detained. His defence lawyer argued that he was very ill and it was agreed that he could be released on bail and report to the police station regularly pending trial. For two or three weeks he went to the police station to sign in. The next week he just disappeared."

For some the threat continues even after their attacker has been convicted, as survivors are given no warning that their attackers will be released early. State failure to ensure that survivors of rape are protected can have serious, or indeed fatal, consequences. In August 2009, a 13-year-old Nicaraguan girl was stabbed to death with a bayonet by her stepfather. He had been released from prison three days earlier on health grounds after serving only eight months of his sentence; he had been sentenced to 13 years' imprisonment for aggravated rape. The girl, who had become pregnant as a result of the rape, was living with her mother and the baby when the stepfather was released. Neither the girl nor her family were notified of his release and no protection measures had been put in place. No investigation is known to have been undertaken into the court's decision to release him.

LACK OF POLICE RESOURCES

The government has failed to ensure that sufficient resources are allocated to allow the police to carry out their work effectively. While in some cases lack of resources may be cited by police in an attempt to excuse their failure to take action, there is no doubt that funding problems are a real obstacle to effective protection and investigation. For example, some police stations lack even basic resources, such as fuel and vehicles, and this seriously hampers their ability to provide protection or investigate reports of rape or sexual abuse of young girls and women. Many of those who spoke to Amnesty International – policewomen, survivors, relatives of survivors and those working with survivors – highlighted the failure to fund police fuel costs. Some policewomen had to use their own money to cover the costs of fuel in order to respond to reports of rape or transport a victim to a clinic to receive medical treatment.²¹ Other officers, however, appear to use the lack of fuel as an excuse not to fulfil their duties to investigate crimes or protect survivors of rape.

When 15-year-old Lucía was kidnapped in Managua in April 2010, her guardian immediately reported her as missing and told police officers of her suspicions that a neighbour had taken the girl. She gave them his name, the make and registration number of his car, and his address. "I also asked them to visit the place where I thought the man might be holding her, but in the end the police did nothing, stating that they did not have a vehicle available, or fuel, to be able to do anything." Lucía's guardian offered to give the police officers the fuel they needed, but they refused. Meanwhile, Lucía was raped and kept in the house of one of her attacker's relatives. Her abuser told Lucía that if she tried to contact anyone, he would kill her father. On 4 July, Lucía's guardian received a call from someone she knew who said she had spotted Lucía in a nearby house. Lucía's guardian immediately contacted the police again, but they said they could not do anything because, once again, they did not have any fuel or sufficient staff. Lucía was finally recovered from the house by police officers on the afternoon of 5 July, nearly two months after she was abducted.

As Lucía's experience shows, lack of transport and money for fuel affects police forces even in the capital. However, it is a particular problem for police in rural areas. In the autonomous regions of

Nicaragua, such as the South Atlantic Autonomous Region (RAAS), where policewomen have to cover huge distances and overcome challenging terrain, inadequate police resources pose a serious obstacle to the protection of survivors of rape and sexual abuse. A police officer explained that in Bluefields and in the RAAS some small villages are eight hours from the police station by boat or car: "The problem is getting there. When the destination is to the west it's easier, because you can just catch a bus and go, or hire a truck or a car, but here it costs a lot in fuel to reach the municipalities, we are talking about 150 gallons to get to La Cruz de Río Grande. It's four hours away, or five, depending on how the lake is."

Lack of funds for fuel and transport means that survivors who file a complaint at a police station often have to find and pay for their own transport to go to the Forensic Institute for assessment. Without an assessment by the Forensic Institute, the case will not proceed to the courts. The cost of the trip to the Forensic Institute can be prohibitive for girls from families on low incomes, especially if they live in rural areas where the cost of travelling to attend appointments with lawyers or court hearings is greater. Lack of police resources means that it is left to survivors, NGOs such as the Alliance of Women's Centres (Alianza de Centros de Mujeres) and occasionally to police officers themselves to find the money to enable survivors to get the legal advice and support that will allow their case to progress through the courts. As a result, many survivors are effectively denied access to justice and care.

REPEATED CANCELLATION OF HEARINGS

Survivors of rape or sexual abuse whose cases get as far as prosecution frequently abandon the case before or during trial because the legal process is either too expensive for them or too traumatic. Several lawyers representing survivors told Amnesty International that court hearings are often cancelled at the last minute. Each time this happens, the family incurs costs: they have to pay travel costs and they lose pay if they have to take the day off work to attend the hearing. Repeated deferrals also take a heavy emotional toll. Preparing to give testimony and to face their attacker in court time after time wears people down. A lawyer working at a women and children's centre in Managua described how in one case: "The trial of her rapist was rescheduled five times as it was a jury trial and jury members failed to turn up. Then there was a problem with the composition of the jury. We arrived at court five times and finally on the fifth occasion the jury was convened and the hearing took place. This process is another total re-victimization for the family who enter the justice system."

Rules established in good faith to protect the accused from prolonged pre-trial detention set out a maximum period of three months during which time the trial should take place. However, lack of resources to ensure that the rules are applied in a way consistent with survivors' right to justice has resulted in unintended negative consequences for some survivors of sexual violence. If the three-month limit is exceeded, the case is classified as a mistrial and the accused is freed. Lawyers who work with survivors expressed their concern that sometimes this was exploited by defence lawyers to ensure their clients were released without trial. The mother of a young survivor described how: "The authorities detained him [the attacker] for three months so that the trial could start, but always just as the hearing was about to start it would be cancelled... After some six or five attempts, the hearing finally took place. And I said to myself 'Oh God, please let the case finish properly and not end with him being freed' because they said if this trial didn't reach its end, he could walk free because they have gone over the three months, and then they would be violating his rights."²²

RESPONSE OF POLICE, PROSECUTORS AND THE COURTS

"Many times I wanted to kill myself. The trial was like a 10-month nightmare. I had to see him again and again, and to see him meant going through it all again... I felt like I was dying, but slowly, slowly, slowly."

Estefany, who was raped when she was 17

In 2003, a comprehensive and detailed manual was published by the Supreme Court with the support of the Spanish International Technical Assistance and Cooperation Agency entitled *Protocol of Conduct in Crimes of Domestic Violence and Sexual Assaults – a Guide for Police, Prosecutors, Forensic Experts and Judicial Officials (Protocol)*.²³ The Protocol provides information and guidance on the special needs of survivors of rape and domestic violence and the procedures officials should adhere to when dealing with cases of this kind. For example, it sets out the rules for the conduct of justice officials in relation to interviewing survivors in a respectful way and keeping victims informed of progress and developments in the case. However, many lawyers and psychiatrists working with survivors are concerned that not enough has been done to ensure that the standards of care set out in the Protocol are put into action by state

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officials.

Lawyers working for NGOs who accompany survivors through the trial described the negative consequences of a shortage of prosecutors, which means that at best they have too many cases and little time to spend with the victims and at worst they simply ignore their obligation to uphold the Protocol and look after victims during the trial:²⁴ “We work with the Police Station for Women and Children, which refers cases to us so that we can provide legal advice and accompany victims who, in the vast majority of cases, do not have the economic resources to pay for a lawyer. Although the prosecutor takes on the actual legal representation of the victim in court, they simply do not have the time, the inclination – I am not sure that it is the policy of the Interior Ministry – to sit calmly and patiently with the victim and explain what is happening with her case, that there are requirements to be complied with... at times if it wasn't for our intervention the attorney would not even meet the victim until the day of the trial... they often do not have the sensitivity to spend a bit of time understanding the victim and their case. Often, for them it is another case, nothing more, just one docket more with a list of evidence and someone to accuse. We take on the role of ensuring that there is a human face to the justice system and liaise between the victim, the victim's mother and the judicial officials, because the vast majority of cases relate to children and teenage girls, who have to be accompanied by a mother or a father.”

Gender stereotyping and negative attitudes towards women and girls in Nicaragua fuel the violence that they suffer. They also create an obstacle to victims' access to justice and recovery services as those same negative attitudes are reflected by the state officials they come into contact with. A concern expressed by several lawyers was the lack of consistent and accurate identification by police of the criminal act committed. They felt that frequently the police would make judgements about the crime before the evidence was submitted to the Interior Ministry which is responsible for deciding what charges the alleged perpetrator will face. As one lawyer explained: “Those of us who provide assistance and legal advice to victims are aware of the problem of prejudice in the community. For example the police will start by perhaps questioning the responsibility of the mother, or, if the crime does not seem serious to them, they simply won't prioritize it. The police give an evaluation beforehand, undermining the role of the Interior Ministry... This is one of the problems that the Interior Ministry complains about, that the police prejudice their work. And sometimes the police say that, if there are no witnesses, they think the case is a lost cause, but that runs contrary to the nature of the crime – how can you have witnesses in a sexual abuse case? The rapists are going to do it in a private place, so they won't be found out.”

The failure to implement and enforce the Protocol fully has led to some survivors being re-victimized during the investigation or judicial process. Failure to apply procedures properly has also allowed those responsible for rape and sexual abuse to escape punishment, with serious repercussions for survivors and their families. One psychiatrist working with survivors in Granada told Amnesty International: “People think ‘if they let him go, you must be the guilty one.’ The people associate guilt with the outcome. The environment here is one in which society and families blame the victim.” One of the survivors she worked with described the consequences of a failed prosecution: “When the case failed, I became hysterical. My mother was also in a bad way, she knew I was not the guilty one.”

Police officers, prosecutors, forensic experts and judicial officials have an obligation to implement and adhere to the Protocol and should be held to account if they fail to do so.



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Woman and child, Managua, 2010. The government has implemented a number of poverty reduction programmes and improved access to antenatal health care and education. However, the issue of sexual violence lags far behind on the government agenda.



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Young girls doing their homework after school, Bluefields, 2010. More than two thirds of all rapes reported between 1998 and 2008 were committed against girls under 17. In almost half of all rape cases, the girls were under 15.



A psychologist at the entrance to a non-governmental women's centre run by the "Movement of Women, Chinandega". The sign reads:

"We provide free legal and psychological support to women, children and adolescents who suffer:

- Physical violence (beatings, bruises, wounds)
- Sexual violence (rapes, abuse, touching, groping)
- Psychological violence (insults, shouting, threats, depression)

Women, don't be afraid, report your abuser".



A woman waits in the reception area at the Women and Children's police station, Bluefields. The network of 37 Women and Children's Police stations across Nicaragua was established to provide specialist services for women, children and teenagers.



"People said things to me, and as he [the abuser] was an Evangelical priest, no one believed me. Instead, they said 'Why are you saying these things?' This reaction hurts me even now."

Linda, aged 12

The sustained support of a non-governmental centre for women and children helped ensure that Linda's abuser was sentenced to 30 years in prison. However, for many survivors the outcome is very different. Survivors of rape or sexual abuse whose cases get as far as prosecution often abandon the case before or during trial because the legal process is either too expensive for them, or too traumatic.

“I would ask that [the authorities] at least listen to women and girls who have survived rape.”

Psychiatrist working with survivors of rape in Granada



“I demand that the government respects our rights as women. We are girls and we have rights, and so long as they do not respect these rights, we will continue to fight to demand them.”

Clara, aged 18

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“[The government] must... make sure that in schools the teacher teaches girls what to do if something happens, and also about sexual health matters.”

Alejandra, 12-year-old survivor of sexual abuse



(Top right) Survivors of sexual violence with their carers and support staff at a women's centre.
(All other photos) Young survivors of sexual violence draw their hopes and dreams for the future, 2010.



“Their words have power! This is the message girls must receive, they must feel, they must know, that their words have power.”

Director of a centre working with girls and women survivors of violence



“I would demand justice! And that they believe what the child or teenager says. I would demand that girls who are left pregnant after sexual abuse and who want to terminate the pregnancy should be able to do so. I say yes to abortion in the cases of children and teenagers.”

María, mother of a seven-year-old girl abused by her uncle



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LISTEN TO THEIR VOICES AND ACT
STOP THE RAPE AND SEXUAL ABUSE OF GIRLS IN NICARAGUA



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The Director of a women's shelter embraces a young survivor of sexual violence. There are 10 shelters run by NGOs for survivors of domestic abuse and rape in Nicaragua, three of which are specifically for children. These receive no financial or other support from the Nicaraguan authorities.



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A psychiatrist and a lawyer at an IXCHEM women's centre. Non-governmental centres like IXCHEM provide women and girls across the country with health information and offer legal and psychological support to survivors of sexual violence. Such non-residential women's and girls' centres fill the gaps in state provision by offering support services.



Schoolgirls walking down a street in León. Survivors of rape and sexual abuse must be free to make their own decisions about how to manage the consequences of rape and begin to rebuild their lives. Rape must not be the event that defines the rest of their lives.

LISTEN TO THEIR VOICES AND ACT
STOP THE RAPE AND SEXUAL ABUSE OF GIRLS IN NICARAGUA

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Amnesty International Sweden staff and volunteers with signed petitions to the Nicaraguan authorities.

CHAPTER 4: BARRIERS TO RECOVERY

‘Here I have found peace, I have found friends, very special friends, I have managed to come a bit out of the dark place I was in.’

Connie, a young rape survivor, speaking about the support she has received from an NGO in Managua

States have an obligation to ensure full reparation for girls who have been subjected to rape and sexual abuse.²⁵ This should include providing services that foster the health, self-respect, autonomy and dignity of survivors and ensure their physical and psychological recovery and social reintegration. According to the World Health Organization’s Guidelines for the Medico-Legal Care for Victims of Sexual Violence, “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.”²⁶

However, the government has failed to invest in the information programmes and services that survivors of rape and sexual abuse need. Shelters are few and far between and women’s centres receive no government financial support. Many survivors are left to deal with the consequences of rape and sexual abuse alone, as they have limited access to state support and refuges, unless they are referred to an NGO.

The care and support that survivors receive has an enormous impact on the long-term consequences of rape and sexual abuse. A psychiatrist working in Bluefields described what can happen if a young girl who has been raped gets the right help and support: “There are girls who sit in front of you crying and saying nothing. They feel that they’re letting down their families if they talk to you about sexual abuse because of the guilt they feel. When you work with them, they start to tell you everything that happened – ‘What my granddad did, that he shouldn’t have done.’ When recognition starts, the change begins – and most of all, they stop hiding their faces and looking away because they feel ashamed or not as good as you – you could compare raising their gaze with raising their spirits and lifting their hopes a little.”

The sooner the assistance is provided, the better the chances of reducing the long-term psychological and physical damage to survivors. A psychiatrist in Managua explained: “There is a significant difference in the recovery of those who receive medical, legal and psychological support immediately compared to those who either do not get any support or where there is a delay in getting support. This is because abuse starts to take its toll on the victim from the first moment.”

Survivors of rape should have access to a comprehensive range of support to enable them to put their lives back on track and to pursue the paths they have chosen, for example by continuing their education or work. Timely and appropriate support can make all the difference to survivors’ life chances. Connie, who was raped by her father, described what the support she was receiving at an NGO centre for survivors in Managua had meant for her: “I have felt OK, I have appointments with my psychologist. I have met lots of other girls. I get to know older people, I really like to be surrounded by older people. I really liked the group as I learnt so much and we shared a lot. We listened to each other, it was nice. Here I have found peace, I have found friends, very special friends, I have managed to come a bit out of the dark place I was in. I see them now almost every day.”

LACK OF GOVERNMENT FUNDING FOR SHELTERS AND SERVICES FOR RAPE SURVIVORS

Shelters for survivors of domestic violence and rape in the whole of Nicaragua, particularly those which are specifically for children, are scarce. There are 10 shelters (or refuge houses) run by NGOs who are dependent on international donors for funding. The Nicaraguan government does not currently provide any financial or other support to the NGOs running shelters.

At the local level, shelters work with MIFAMILIA and the Police Stations for Women and Children. At this level, co-operation between NGOs and government officials on specific cases appears to function well, with many of the Women and Children's Police Station officers and MIFAMILIA staff referring girls to support centres to receive psychosocial and legal assistance, shelter provided by NGOs, or temporary housing in foster homes with families.

A safe place to stay and psychosocial and legal support are essential for the protection and rehabilitation of survivors. Without such support, it is more likely that criminal prosecutions will fail and that survivors' rehabilitation needs will not be met. MIFAMILIA must protect the best interests of the child and take action to monitor and ensure the highest standards in the foster homes where children are temporarily placed when they are deemed to be at risk in their own families. Some policewomen and NGOs have tried to compensate for the lack of shelters by taking survivors into their own homes so that they can attend hospital appointments, court hearings or even just to ensure they are protected from further abuse and do not have to return to the home where the abuse took place. In contrast to those who go beyond their responsibilities to help survivors, the Nicaraguan government continues to fall far short of its obligation towards survivors of domestic violence and rape.

María, the mother of a seven-year-old girl, described how in 2008 she had delayed reporting the sexual abuse of her daughter because of her fears about how the community would react, as the man who abused her daughter was an influential and respected member of the tightly knit community. Because she delayed reporting the abuse, the authorities threatened to prosecute her and decided her daughter should go into temporary foster care. During the month her daughter was with MIFAMILIA approved foster family, she was neglected and beaten for being rebellious. María explained: "they came to take the girl they arrived at my house with a police officer. When [they turned up at the house] they told my mum: 'we've come for the girl, because of a complaint of sexual abuse, and you shouldn't try and stop us.' I thought it was a kidnapping because they came without identification... I called the Ministry and asked who the woman managing the case was, but they didn't give me any information... When I finally got to see my daughter... she was very sad, saying that she didn't want to be with the family where she was staying, that the woman taking care of her was really nasty, that she had to sleep in the kitchen, not in a bedroom... They even beat her there... I think that [the Ministry] should keep an eye on the people who are looking after children, to be sure of what they do to someone else's child... I know they didn't want to hurt me, they wanted to help me, but there are a lot of things they don't do well. Like coming to my house without any document stating that the woman represented the Ministry. With no authorization to take the girl. I feel in one way that the Ministry truly helped me, but at the same time I have my rights, which they ignored. And the girl's rights too, because she was taken away from her home for a month."

The lack of financial support for rape survivors is also an obstacle to survivors travelling to receive the psychosocial and medical support they need. A psychiatrist with many years experience of working with child survivors of rape and sexual abuse explained: "One of the reasons survivors frequently give for abandoning counselling sessions and appointments, is that they do not have the money to cover the cost of the journey."

LACK OF SUPPORT FOR PREGNANT RAPE SURVIVORS

All the rape survivors interviewed by Amnesty International underlined the importance to them of having all options available to them in order to deal with the consequences of rape and abuse in the way that is best for them, including the option of therapeutic abortion. All survivors emphasized the need for the state to be supportive of the survivor, whatever her decisions. When the victims are children, the state has an additional obligation to protect their human rights and to consider their best interests.

The World Health Organization guidelines state that any woman or girl who has become pregnant as a result of rape must have access to a range of support services, including treatment and follow-up care for physical injuries, pregnancy prevention and management and sexually transmitted infections as well as counselling

and social support. A component of the support offered by states must include information about, and the option of accessing, safe and legal abortion services.²⁷

Before 2006, Nicaraguan law permitted exceptions to the general ban on abortion. The exceptions covered women and girls whose life or health would be at risk if the pregnancy continued and, in certain instances, victims of rape.²⁸ This has now completely changed. The revised Penal Code imposes a blanket ban on all abortions without exception and criminalizes all forms of abortion, regardless of the circumstances in which the abortion is sought, obtained or performed.²⁹

The ban and the criminalization of abortion in Nicaragua had a particularly acute impact on the narrow categories of women and girls who could obtain a legal abortion before 2006, namely women and girls pregnant as a result of rape or whose life or health is threatened by continued pregnancy. In other words, the laws criminalizing abortion are discriminatory on the basis of sex (only women and girls can become pregnant) and age (young girls and teenagers are disproportionately affected).

The UN Committee on the Rights of the Child has stated that laws which deny rape and incest victims the option of accessing safe and legal abortion services are in breach of the UN Convention on the Rights of the Child (CRC). In October 2010, the Committee recommended that the Nicaraguan authorities “repeal the articles of the Penal Code that criminalize abortion, ensuring that girls are not subject to criminal sanctions for seeking or obtaining an abortion under any circumstances.”³⁰ In the case of Palau, the Committee recommended that “the State Party review its legislation concerning abortion, with a view to guaranteeing the best interests of child victims of rape and incest”.³¹ The Committee also expressed concern at the fact that current legislation criminalizes abortion in all circumstances in El Salvador, and stated that “absolute prohibition may lead girls to resort to unsafe and clandestine abortion practices, sometimes with fatal consequences.”³²

Criminalizing abortion does not mean that no abortions take place. But it does mean that rape survivors are forced to resort to backstreet abortions in violation of the law and in unsafe circumstances, risking their health and lives as well as imprisonment. Girls who continue with a pregnancy face further risks to their life and health as unintentional harm to the foetus is also a criminal offence and therefore health professionals may delay or deny treatment the girls need.³³ This would affect, for example, giving medical assistance during an obstructed birth – a condition which often affects young girls who are not yet fully physically developed.

Pregnant girls and women under the age of 20 are at higher risk of obstetric complications than women between the ages of 20 and 35, according to the Nicaraguan Society of Gynaecologists and Obstetricians (SONIGOB) and international medical opinion.³⁴ In Latin America, the risk of maternal death is four times higher among teenagers under 16 years of age than among women in their twenties.³⁵ The complications young girls and teenagers face include obstructed labour because the pelvis is too narrow to allow passage of the baby (cephalo-pelvic disproportion). This condition often occurs in younger girls who have not yet reached physical maturity.³⁶ It is widely accepted medical practice to terminate a pregnancy where a girl's life or health would be at risk if the pregnancy continued. Indeed, even the current protocols and procedures on best practice issued by Nicaragua's Ministry of Health recommend termination of the pregnancy in cases of severe pre-eclampsia, ectopic pregnancy or other cases where the pregnancy poses a risk to the life or health of the patient.³⁷

The fullest possible rehabilitation for rape victims needs to address the continuous impact of the initial violation and its consequences, including a pregnancy which the survivor may, or may not, want to carry to term.³⁸

A psychiatrist with long experience of providing support to girls and women who have experienced violence explained: “The additional impact of a pregnancy as a result of rape means that, from a physical perspective, it puts them at risk as their bodies are not developed sufficiently to sustain both the pregnancy or the birth. Some try to abort it clandestinely and this of course has all sorts of risks including that they are thrown out of the house because generally they are blamed for what has happened and in this state they are very vulnerable. Often they will try to commit suicide. Now there are other risks of secondary trauma due to the government policy changes, as they are compelled to take on a responsibility for which they are not prepared... A survivor like this leaves school because she has to fulfil the functions of a mother. Her friends are no longer the same. They reject her and judge her in the same

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way society as a whole does. She no longer plays like other little girls. Basically, she is left with a deep wound that only occasionally, and with time, will diminish.”

Whether a rape survivor wants to continue with the pregnancy or not, a common thread running through their experiences is the almost total failure by the authorities to support them in realizing their rights to education, work, health and dignity.

Girls who decide to continue – or have no choice but to continue – with a pregnancy are also failed by the state by the lack of support they receive once they have the baby. A 14-year-old girl who had been raped by her father told Amnesty International: “During the pregnancy I had very high blood pressure, and I had my daughter at six and a half months. At first I did not want her, I didn’t want her at all. Some people came to see me in the hospital to see if I wanted to give her up for adoption but then, when I arrived home, I didn’t want to. I kept her and I made sure that not even a fly landed on her... I went to my father’s house – well I had to, as I didn’t have anything, no clothes, nothing. My family had burned everything, my clothes, my bed... I asked them for money for milk and they said no... I had no clothes for the baby, none for me, no bed, nothing. The neighbours gave me a cot and a mattress, and another gave me something to carry the things for the baby.”

Estefany became pregnant at 17 after she was raped. In 2008, just after she gave birth to her son she told Amnesty International: “What happened to me shattered my dreams, my hopes – I wanted to be someone who worked outside the home but I spend all day at home looking after the baby... I can’t even sleep and I feel very unsafe, many of my days are a nightmare, it’s very hard to carry on and I feel very sad and very tired. I ask myself, why did these things happen to me?” Two years later, she spoke to Amnesty International again about her life and hopes: “I try to give the impression that I am strong, because I don’t want people to carry on pressuring me, not my family, not anyone. I’ve been sitting at home, without work, without studying. I have had no help from the government at all at any time, not with work or education. I have to pay a monthly fee to attend classes in Managua... The only institution which has supported me has been an NGO... Sometimes it’s a struggle to keep believing, but, yes, I do believe I have a future.”³⁹

Thirteen-year-old Rosmery lives with her mother, brother, sister and grandmother. When she was 12 years old, her uncle came to live with them for a few months. While Rosmery’s mother was out at work, he raped her repeatedly over a period of several weeks. Rosmery’s mother, Adriana, explained how horrified and sickened she was to find out her daughter had been raped, and how difficult it was to come to terms with the additional trauma of the pregnancy: “For me it was horrifying, that a child should have to give birth to another child... this tormented me very much. I felt a deep pain at the idea that my daughter should have to go through this, that something would come out of her after being raped... and of course the risk to her health at that age.” Rosmery herself was very frightened. She told her mother: “Something is moving inside of me, I don’t want this to happen.” They saw no alternative but to seek a clandestine and illegal abortion. Through contacts, they managed to get expert assistance, so the abortion Rosmery had, although clandestine, was performed by professionals and in hygienic conditions. But the fear of prosecution still hangs over Adriana and those who helped Rosmery.

Like the girls and women they support, doctors who perform abortions are at risk of punitive measures, including professional, criminal and even religious sanctions.⁴⁰ When confronted with a girl whose pregnancy is a threat to her health or the result of rape, and who does not want to take the pregnancy to term, doctors have to make a stark decision. They must decide either to obey the law or to fulfil their ethical obligation to save life and health and respect the inherent dignity of their patient by providing her with an abortion.

Nicaraguan laws on abortion breach the right of girls to health and dignity. They also violate girls’ right to be free from torture and other cruel, inhuman or degrading treatment because the law allows for no exceptions under any circumstances to the total prohibition on abortion. Denying girls access to legal and safe abortion services can cause immense mental and physical anguish and lead to delays in treatment that pose a threat to their health and life. A doctor told Amnesty International about a mother he had seen earlier that week whose 15-year-old daughter had been raped by a neighbour and become pregnant as a result. He described how the girl was distraught and had attempted to kill herself by cutting her wrists.⁴¹

Denying girls and women access to abortion can cause suffering so severe that it poses a life-threatening risk. The new law limits the options that pregnant women and girls have to such an extent that some may feel driven to commit suicide.⁴² The Committee on the Rights of the Child has repeatedly called on states to take measures to prevent suicide.⁴³ In Nicaragua, an analysis by the Ministry of Health of the maternal mortality figures for 2007 and 2008 found that the principal causes of adolescent maternal mortality were pre-eclampsia and the consumption of poison.⁴⁴

CHAPTER 5: CALL TO ACTION

‘I am not asking for sympathy, I want your solidarity.’

Estefany, who was raped and made pregnant by her uncle when she was 17

The Nicaraguan authorities face serious challenges including entrenched poverty and the urgent need to improve access to services including health care and education.⁴⁵ The government has implemented several poverty reduction programmes, such as “Zero Hunger” and improved access to ante-natal services. These deserve recognition, particularly in the face of a global financial crisis. However, these important concerns cannot be allowed to silence the voices of Nicaragua’s rape survivors or undercut the government’s obligations to safeguard their rights.

Nicaragua’s international legal obligation to prevent the rape and sexual abuse of children stems from multiple international treaties and its own Constitution.⁴⁶ One of the international treaties to which Nicaragua is party is the CRC, which requires that states always prioritize the best interests of the child. The CRC also requires that the state prevent sexual violence against children and ensure justice and reparation for survivors.⁴⁷

Women’s and children’s rights organizations and NGOs are playing a vital role in providing care and support to survivors of rape and other forms of gender-based violence. Their efforts stand in marked contrast to the failure of the state to fulfil its obligation to provide victims with shelter and protection, and to ensure that survivors have access to justice through a legal and judicial process that understands and meets their needs. The government has not only failed to support efforts by NGOs to raise awareness of the rights of women and girls, it has at times actively undermined them.

Lack of confidence in the police and the justice system must be addressed to enable girls to rely on these institutions when seeking protection and redress. Stereotyping and a lack of understanding among many state officials that sexual violence against girls is a serious violation of human rights are also barriers to justice and protection. This needs to be addressed urgently. The failure of the authorities to ensure that state officials adhere to the Protocol of Conduct in Crimes of Domestic Violence and Sexual Assaults – a Guide for Police, Prosecutors, Forensic Experts and Judicial Officials is re-victimizing survivors and undermining their access to protection, justice and proper long-term rehabilitation with dignity. The refusal of the authorities to ensure rape survivors have access to the medical support and care they need, and indeed the threat of imprisonment if they do not continue with the pregnancy, are serious violations of their human rights that have been roundly condemned by a number of international and regional human rights bodies.

Nicaragua has been repeatedly asked to take action on violence against women and girls by UN expert committees. It has been also urged to ensure victims have access to justice, reparation and rehabilitation services. In October 2010, the Committee on the Rights of the Child stated that it was “deeply concerned at the high level of child abuse and neglect, including sexual abuse, and of domestic and gender-based violence.” It expressed particular concern at “the high number of girls who are raped and sexually abused by family members and that the Penal Code has eliminated the possibility of abortion, including for pregnant children victims of rape and incest.” The Committee made strong recommendations to Nicaragua to take action to improve the way in which the legal system dealt with violence against children, including better protection for children at risk, improved rehabilitation services and the formulation of a National Plan for the Prevention, Care and Reparation of Violence against Children. The Committee highlighted the need for the best interests of the child to be paramount, and for rape survivors to count on independent information and rehabilitation services to support them in managing the consequences of rape.

The UN Committee against Torture has expressed its concern at the high levels of gender-based violence – particularly sexual violence – and at the fact that victims have insufficient access to justice. The Committee urged the state to “ensure that all victims of violence have access to immediate redress, protection, support and legal assistance.”⁴⁸

The UN Committee on the Elimination of Discrimination against Women (CEDAW) has also recommended that the state urgently address the issue of violence against women and girls, including the development of a multi-faceted national strategy to eliminate violence against girls that contains “legal, educational, financial and social components.”

The UN Committee on Human Rights urged the Nicaraguan authorities to “provide police protection for victims” and to take action to “prevent and warn against gender violence.”

The Beijing Platform for Action of the Fourth UN World Conference on Women recognized that “[t]he human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence.”⁴⁹ Rape is the ultimate denial of this right. In specific circumstances it constitutes a form of torture and other cruel, inhuman or degrading treatment.⁵⁰ Other authoritative bodies with mandates relating to human rights have also commented on the need for safe and legal abortion services to be available as an option to survivors of rape.⁵¹

Despite repeated demands by several UN expert committees, and 12 member states during the Universal Periodic Review, the Nicaraguan government has failed to take any action to reform the law.⁵² The Committee against Torture has urged Nicaragua to “review its legislation on abortion, as recommended by the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights in their latest concluding observations, and to consider the possibility of providing for exceptions to the general prohibition of abortion for cases of therapeutic abortion and pregnancy resulting from rape or incest. The State party should, in accordance with the guidelines issued by the World Health Organization, guarantee immediate and unconditional treatment for persons seeking emergency medical care. The State party should also avoid penalizing medical professionals for the exercise of their professional responsibilities.”⁵³ As a result girls in Nicaragua continue to be a serious risk of torture and other ill-treatment as a direct consequence of the state’s legislative action.

International human rights bodies and the survivors of rape and sexual abuse whose voices are at the heart of this report have sent a clear message to their government. It is vital that the government listen to their voices and take urgent steps to act on their words.

IN THEIR OWN WORDS

Amnesty International asked survivors, girls in community groups, mothers of victims and experts what action they wanted the government to take. This is what they said:

“I would ask that [the authorities] at least listen to women and girls who have survived rape.”

Psychiatrist working with survivors of rape in Granada

“I would ask that more support is given to victims and that people believe victims”

Juana, mother of a rape survivor

“I demand that the government respects our rights as women. We are girls and we have rights, and so long as they do not respect these rights, we will continue to fight to demand them.”

Clara, youth rights promoter, aged 18

“I want them to make some changes in education, in family and social attitudes. I want them to know that we as young people want them to help us, that we want to know more about our rights and that we want to defend our rights.”

Laura, youth rights promoter, aged 15

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“[The government] must... make sure that in schools the teacher teaches girls what to do if something happens, and also about sexual health matters.”

Alejandra, 12-year-old survivor of sexual abuse

“I would ask that the Police for Women and Children have more respect and take care of us. We are human beings and their equals. There are just some little details which are different, but we are essentially the same and we want to be treated with respect.”

Connie, survivor of rape from the age of nine and made pregnant at the age of 14 by her father

“I would ask the Police for Women and Children to give more support and security for women and girls who have suffered sexual violence or been mistreated, this is what I would ask for: protection for women. Also, that the government allow therapeutic abortion, because the pregnancy is interrupting, particularly in the case of a little girl or adolescent, her plans for her life, and also there are the risks to the health of a little girl who gives birth to another child.”

Adriana, mother of 12-year-old survivor of rape

“I would ask the government to allow therapeutic abortion for survivors. Even though if they had offered abortion to me, I would have said no, it has cost me a lot to accept and take on this responsibility.”

Estefany, who was raped at gunpoint at 17 and had a child as a result

“I would demand justice! And that they believe what the child or teenager says. I would demand that girls who are left pregnant after sexual abuse and who want to terminate the pregnancy should be able to do so. I say yes to abortion in the cases of children and teenagers.”

María, mother of a seven-year-old girl abused by her uncle

“I wish there was more justice and that the authorities didn't let six months or a year go past while they are investigating, because while they are investigating the perpetrator has time to escape. And the victim is left with no justice.”

Mother of three children, two boys and a girl, all sexually abused by their father

“I would ask the state to make sure that in foster homes the people entrusted with the care of children really look after the children and to be careful about who will be around the child while he or she is there. And they must not hit the child.”

María, mother of a seven-year-old girl abused by her uncle

“We would like the authorities to work hand in hand with civil society. We are not enemies. They should see NGOs as allies, not as opponents.”

Case worker at a centre for women and children in Granada

“I would demand that every institution fulfils what it is mandated to do by law. There is nothing new to add, because the law has already established everything. The Police law governs their duties – it should be enforced! The Public Prosecutor [Ministerio Público] should intervene according to the law, and the same for the Judicial Organs [Organismos Judiciales]. The institutions involved (MIFAMILIA), should also make sure they operate for good of the victims”

Director of a centre working with girls and women survivors in Granada

“The authorities must ensure people have access to information, because if you are informed and they give you the necessary means to prevent this from happening, you can stop it straight away. In terms of measures, I would ask that the system be more sensitive, that they offer more protection to victims. I would also ask that the cases proceed more swiftly, that they prioritize women and adolescents when they are suffering from abuse.”

Juana, mother of two girls raped by their stepfather

AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO THE NICARAGUAN GOVERNMENT

Amnesty International urges the Nicaraguan government first and foremost to listen to the voices of girls who have survived rape and sexual abuse.

The responsibility for eradicating sexual violence lies with everyone in government. Government departments must take specific action within their sphere of influence, and in a co-ordinated manner, with other departments. The following recommendations require that the President; the Attorney General; the Ministry of the Family, Adolescents and Children; the Nicaraguan National Police; the Ministry of Education; and the Ministry of Health, urgently take individual and co-ordinated actions.

Amnesty International urges the authorities:

1. Address rape and sexual abuse of children in Nicaragua, including the development, consultation and implementation of an integrated plan with the objective of:
 - a) preventing rape and sexual abuse, including by family members, of children;
 - b) protecting survivors of abuse and bringing perpetrators to justice; and
 - c) ensuring full reparation for girls who have been targeted for rape and sexual violence, including the provision of services which foster the health, self-respect, autonomy and dignity of survivors and ensure their physical and psychological recovery and social reintegration.

The authorities must listen to the voices and experiences of survivors and consult widely with key stakeholders, including NGOs working with survivors, when developing such a plan and co-ordinating its implementation. This plan must count on the necessary resources to be implemented effectively.

2. Develop and deliver a nationwide programme of education promoting physical autonomy and personal integrity as a component of the curriculum in all schools. The programme should encourage a sense of physical autonomy and respect for the physical autonomy of others in all young girls and boys and teenagers. The programme must clearly explain to children and teenagers what constitutes physical, psychological and sexual abuse and how to seek help if they experience abuse or know someone who is suffering abuse. The programme must be made accessible in all languages and in all localities, including rural areas. The use of physical punishment in school and in the home must be eradicated.
3. Ensure that children, their families and members of the community are made aware of the criminal nature of specific kinds of conduct and the severity of the crimes and of the impact such crimes have, in particular on girls. This should also include information on which state officials are responsible for the investigation and reparation and what the processes are that should be followed.
4. Fulfil their obligation to address as a matter of urgency the crimes of sexual violence – including by private individuals (non-state actors) – against girls. The government must take the appropriate measures to prevent, investigate and impose penalties for violence against girls and fulfil its duty to provide adequate responses in the legal system to punish and eradicate violence against girls.
5. Repeal Articles 143, 145, 148 and 149 of the Penal Code relating to abortion. The government must reform the Penal Code to ensure that women and girls are not subject to criminal sanctions for seeking or obtaining an abortion under any circumstances. It must also ensure that medical health practitioners are not criminalized solely for providing abortion services that are safe. Further, the Nicaraguan government must take all corrective measures necessary to ensure that safe and legal abortion services are accessible without unreasonable restrictions to all girls and women who require them in cases of pregnancy resulting from rape and in circumstances where the continuation of pregnancy would put the health or life of the woman or girl at risk.
6. Fully support children who survive rape and provide them with comprehensive counselling, medical care and psychosocial legal support. This support must be gender sensitive and girls must be fully supported to make free and informed choices on how to manage the consequences of rape, including in relation to continuation or termination of pregnancy. Girls who decide to continue with the

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pregnancy must receive the information and support necessary to continue pursuing their life plan with dignity, including continuing with their education or work, in accordance with their wishes. Equally, girls who do not wish to continue with the pregnancy must have access to safe and legal abortion services, and must be able to count on the support necessary to continue their life plans with dignity.

- 7.** Take steps to ensure that girls who have been raped or sexually abused have access to justice including an effective remedy. This must include support in covering the costs of seeking justice and reparation. In particular, girls from rural areas and those travelling long distances must be supported so that they can participate in court hearings and meetings with relevant officials. The state must ensure provision of shelter and psychosocial and legal support to survivors in order to provide protection and rehabilitation.
- 8.** Ensure the implementation of the Protocol of Conduct in Crimes of Domestic Violence and Sexual Assaults – a Guide for Police, Prosecutors, Forensic Experts and Judicial Officials in order to prevent re-victimization of survivors. The Nicaraguan authorities must develop and implement programmes to ensure survivors of rape, including by family members, are treated in a way which does not re-victimize them, but rather that treats them with respect, dignity and professionalism.
- 9.** Ensure that girls who survive rape are protected from any threat of further abuse, and that their dignity, physical and psychological integrity, and right to life and wellbeing are prioritized. Particularly during the investigation and trial, the authorities must ensure that strategies for protection of survivors who are at risk are developed and implemented.
- 10.** Produce disaggregated statistics and information on the cases of rape which come to the attention of the authorities. Information should be gathered about all stages of the judicial process and the recovery, reintegration and reparation of rape survivors. This should inform state actions to remove barriers to the administration of justice in rape cases.
- 11.** Ensure that all laws and policies respect the right of girls not to suffer discrimination on the basis of sex or age. Any laws and policies which violate these rights must be repealed and reformed.
- 12.** Comply with treaty body recommendations from the UN Committee on the Rights of the Child, the UN Committee against Torture, the UN Committee on Human Rights, the UN Committee on Economic, Social and Cultural Rights and the UN Committee on the Elimination of all forms of Discrimination against Women. This must involve taking urgent action to prevent gender-based violence, including violence against girls; protect those at risk of violence; ensure access to justice and reparation; improve the provision of post-rape care and rehabilitation services; and ensure the dignity of the survivor is protected. An integrated plan of action must also be developed to ensure the elimination of gender-based violence as part of government efforts to implement the recommendations and comply with the state's international legal obligations to protect children.
- 13.** Comply with treaty body recommendations, including the recommendation of the UN Committee on the Rights of the Child which is the fifth UN treaty body to demand that the Nicaraguan government repeal the complete ban on abortion in all circumstances because the ban violates the rights of women and girls. The UN Committee against Torture, the UN Human Rights Committee, the UN Committee on Economic, Social and Cultural Rights and the UN Committee on the Elimination of All Forms of Discrimination against Women have already highlighted to the Nicaraguan government that this law breaches Nicaragua's international legal obligations and places the lives and health of women and girls in jeopardy.

ENDNOTES

¹ Maternal houses (casas maternas) are temporary shelters for girls and women with high-risk pregnancies where they can spend their final weeks before the birth with trained professional assistance on hand.

² Amnesty International's translation. See Law No. 641, Penal Code of the Republic of Nicaragua, Chapter 2, Crimes against sexual freedom and integrity Articles 167–183. For the full text of the revised Penal Code, see www.poderjudicial.gob.ni/arc-pdf/CP_641.pdf, last visited 16 September 2010.

³ See Law No. 641, Penal Code of the Republic of Nicaragua, Chapter 2, Crimes against sexual freedom and integrity Articles 167–183. For the full text of the revised Penal Code, see www.poderjudicial.gob.ni/arc-pdf/CP_641.pdf, last visited 16 September 2010.

⁴ See Nicaraguan National Police Annual of Statistics for 2008, p. 67.

⁵ A psychiatrist in Managua, with extensive experience of providing psychological support to survivors of rape described how she sees the situation: “The problem of sexual violence in Nicaragua is huge, it is an epidemic. The impact it has on people's lives is so great that it should be seen as a public health issue. And above all because in most cases we are talking about young and teenage girls and little boys – our future generations. It is they who bear the scars... Sexual violence and abuse affects children from all classes of society. The principle risk factor for suffering sexual abuse is being female... Where social class does make a difference is in accessing justice.”

⁶ See Corte Suprema de Justicia Instituto de Medicina Legal, Subdirección de Vigilancia y Epidemiología Forense, *Boletín Estadístico Mensual Numero 12*, December 2008 and also Policía Nacional – Comisaría de la Mujer, *Características de las Mujeres Víctimas de Delincuencia a Nivel Nacional*, 1st semestre 2008, which records that of the 945 victims of rape reported in the first semester of 2008, some 626 were below the age of 17.

⁷ The NGO Catholics for Choice was founded in 1973 to serve as a voice for Catholics who believe that the Catholic tradition supports a woman's moral and legal right to follow her conscience in matters of sexuality and reproductive health. This study was carried out by the Nicaraguan section of Catholics for Choice.

⁸ Católicas por el Derecho a Decidir, “Medios de Comunicación y Abuso Sexual”, 18 April 2008.

⁹ See concluding recommendations of the report A/61/299 of the independent expert for the UN study on violence against children, Paulo Sérgio Pinheiro, submitted pursuant to UN General Assembly resolution 60/231. Further, the concluding comments of the Committee on the Elimination of Discrimination against Women on Nicaragua contained in CEDAW/C/NIC/CO/6 which recommended a multi-faceted national strategy to eliminate violence against women and girls, including educational elements. Also see CEDAW Article 5 (a) and the concluding observations from the Committee on the Rights of the Child 1 October 2010.

¹⁰ CONAPINA was a forum for inter-institutional dialogue established through the Children's Code (1998). In 2007, CONAPINA was put on hold indefinitely by the current administration. Although not mandated specifically to provide a forum for the discussion of rape and sexual abuse, NGOs considered that CONAPINA had been a very useful forum for discussing strategies and challenges relating to violence against children. See article published in *El Nuevo Diario*, “Prevén eliminar Conapina: No hay interés del presidente Daniel Ortega para asumir el Consejo Nacional de Protección Integral a la Niñez y la Adolescencia”, 2 August 2007.

¹¹ Interview with survivor and his mother, Granada, March 2010.

¹² *Nicaragua: Defending women's right to life and health: Women human rights defenders in Nicaragua* (Index: AMR 43/001/2008), available at www.amnesty.org/en/library/info/AMR43/001/2008/en

¹³ Law No. 641, Penal Code of the Republic of Nicaragua, Articles 167–183. For the full text of the revised Penal Code, see www.poderjudicial.gob.ni/arc-pdf/CP_641.pdf, last visited 16 September 2010.

¹⁴ Information obtained during interview with lawyers. See also article by Rafael Lara, published in *El Nuevo Diario*, “Ministerio Público admitió su error: TAM mantiene a madre en prisión y violador suelto”, 5 May 2010, available at www.elnuevodiario.com.ni/nacionales/73776, last visited 16 September 2010.

¹⁵ Nicaraguan state report to the Committee on the Rights of the Child, UN doc. CRC/C/OPSC/NIC/1.

¹⁶ Interviews with police officers from Police Stations for Women and Children, Managua, 2008 and Bluefields, 2010.

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¹⁷ See Corte Suprema de Justicia, *Protocolo de Actuación en Delitos de Maltrato Familiar y Agresiones Sexuales – Guía para Personal Policial, Fiscal, Médico Forense y Judicial*, published in Managua, 2003, in particular the *Guía Ética para el Personal Policial* p. 50.

¹⁸ See *Guía Ética para el Personal Policial*, pp. 21 and 22.

¹⁹ See *Guía Ética para el Personal Policial*, p. 37.

²⁰ See Corte Suprema de Justicia, *Protocolo de Actuación en Delitos de Maltrato Familiar y Agresiones Sexuales – Guía para Personal Policial, Fiscal, Médico Forense y Judicial*, published in Managua, 2003, in particular the *Guía Ética para el Personal Policial* p. 50 – medidas cautelares.

²¹ Meetings with policewomen in Managua in 2008 and in Bluefields in 2010.

²² Interview with mother of survivor of abuse, Managua, March 2010.

²³ Corte Suprema de Justicia, *Protocolo de Actuación en Delitos de Maltrato Familiar y Agresiones Sexuales – Guía para Personal Policial, Fiscal, Médico Forense y Judicial*, published in Managua, 2003.

²⁴ Corte Suprema de Justicia, *Protocolo de Actuación en Delitos de Maltrato Familiar y Agresiones Sexuales – Guía para Personal Policial, Fiscal, Médico Forense y Judicial*, published in Managua, 2003, p. 38.

²⁵ See UN Doc CRC/GC/2003/4, CRC General Comment Number 4, at paras 12, 23 and 37 and, further, Articles 3, 19, 24 and 39 of the Convention. A framework of due diligence in relation to violence against women has been elaborated by the Committee for the Elimination of all forms of Discrimination Against Women General Recommendation 19 and also in the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women “Convention of Belem do Para”, both treaties to which Nicaragua is party.

²⁶ World Health Organization, *Guidelines for Medico-Legal Care for Victims of sexual violence*, p. 9.

²⁷ World Health Organization, *Guidelines for medico-legal care for victims of sexual violence*, p. 63.

²⁸ The circumstances in which therapeutic abortion was permitted were not explicitly defined in Nicaraguan law. However, the Health Ministry in its laws governing the provision of therapeutic abortion, defined therapeutic abortion as “Interruption of pregnancy before 20 weeks gestation through medically indicated treatment due to maternal pathologies... that are exacerbated by the pregnancy or for maternal pathologies that have a negative effect on the growth and development of the foetus.” Ministerio de Salud, *Norma de Atención al Aborto*, Managua, Nicaragua, 1989.

²⁹ See Law No. 641, Penal Code of the Republic of Nicaragua, Articles 143 and 145.

³⁰ See para. 59 (b) of the CRC/C/NIC/CO/4 Committee on the Rights of the Child concluding observations for Nicaragua, published on 1 October 2010.

³¹ See Section 5, *Basic health and welfare*, paras 46 and 47, Palau CRC/C/15/Add.149, Committee on the Rights of the Child concluding observations for Palau, published on 21 February 2001.

³² See UN document CRC/C/SLV/CO/3-4 at para. 60, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/406/86/PDF/G1040686.pdf?OpenElement>, last visited 15 October 2010.

³³ *The total abortion ban in Nicaragua: Women’s lives and health endangered, medical professionals criminalized* (Index: AMR 43/001/2009); *Not even when her life is at stake: How the total abortion ban in Nicaragua criminalizes doctors and endangers women and girls* (Index: AMR 43/004/2009); *The impact of the complete ban of abortion in Nicaragua: briefing to the United Nations Committee against Torture* (Index: AMR 43/005/2009), published on 28 April 2009, and *Amnesty International briefing on Nicaragua to the United Nations Committee on the Rights of the Child: 55th Period of Sessions, 13 September - 1 October 2010* (Index: AMR 43/004/2010).

³⁴ Amicus Curiae to the Constitutional Section of the Nicaraguan Supreme Court, by SONIGOB, 28 May 2007.

³⁵ See World Health Organization, fact sheet on adolescent pregnancy, 2008, available at www.who.int/making_pregnancy_safer/topics/adolescent_pregnancy/en/print.html, last visited 7 October 2010.

³⁶ Amicus Curiae to the Constitutional Section of the Nicaraguan Supreme Court, by SONIGOB, 28 May 2007.

³⁷ Ministry of Health, *Rules and Protocols for the Management of Obstetric Complications*, December 2006. The Protocols were prepared by the Ministry of Health specifically to reduce maternal illness and deaths and raise the

standard of obstetric care across the country. All doctors in Nicaragua are required to comply with these protocols.

³⁸ The denial of access to essential medical services alone has severe consequences for pregnant women and girls. Those seeking help are often already in a traumatized state, frightened and experiencing severe pain. When Nicaragua's total ban on abortion effectively denies them access to safe and legal abortion services, women and girls are subjected to torture and other ill-treatment. The UN Special Rapporteur on torture has underlined the "need to perceive it [torture] as a process", explaining that the mental trauma and stigma attached to sexual violence and its impact are continuous in nature. Report of the UN Special Rapporteur on torture, Manfred Nowak, to the 7th Session of the Human Rights Council, UN Doc. A/HRC/7/3, 15 January 2008, para 70.

³⁹ Interview with Estefany in Granada, April 2010.

⁴⁰ An example of such religious sanctions can be seen in the case of doctors who provided an abortion to a nine-year-old girl pregnant as a consequence of rape in Brazil. Both the doctors and the mother in this case were excommunicated by the Catholic Church for seeking and providing safe abortion services. For more information on this case see "Excommunicated doctor hailed for abortion on child rape victim", CNN, 11 March 2009, available at <http://edition.cnn.com/2009/WORLD/americas/03/11/brazil.rape.abortion/> and "Excommunication of Brazilian Abortion Doctors in Case of Nine-Year-Old Rape Survivor Fuels Controversy", *Medical News Today*, 16 March 2009, available at www.medicalnewstoday.com/articles/142292.php and "Vatican backs abortion row bishop", BBC News online, 7 March 2009, available at <http://news.bbc.co.uk/1/hi/world/americas/7930380.stm>, all last visited 16 September 2010.

⁴¹ Interview with a gynaecologist in Managua, Nicaragua, November 2008. Also, interviews with experts working in the field of sexual abuse emphasized the concern they had at the rising number of suicides which might be linked to involuntary continuation of pregnancy. Although the authorities have not investigated whether or not they are victims of sexual violence, the prevalence of sexual violence against young girls and teenagers in Nicaragua and the rise in teenage deaths as a result of consumption of poison are of concern. See Ministry of Health, *Análisis Comparativo de Situación de Mortalidad Semanas Epidemiológicas 1 a la 53 Años: 2007-2008*.

⁴² Public health research has established a causal link between unwanted pregnancy and suicide. According to the World Health Organization and the UN Population Fund: "In industrialized countries, rates of suicide in pregnancy have declined over the past 50 years, a change attributed to the increased availability of contraception, affordable and accessible services for the termination of pregnancy, and reduction in the stigma associated with births to unmarried women. Summary reviews have found that suicide in pregnancy is not common; however, when it happens, it is primarily associated with unwanted pregnancy or entrapment in situations of sexual or physical abuse or poverty. Suicide is disproportionately associated with adolescent pregnancy, and appears to be the last resort for women with an unwanted pregnancy in settings where reproductive choice is limited; for example, where single women are not legally able to obtain contraceptives, and legal pregnancy termination services are unavailable." World Health Organization and UN Population Fund, *Mental health aspects of women's reproductive health - A global review of the literature*, 2009, p. 9, http://whqlibdoc.who.int/publications/2009/9789241563567_eng.pdf, last visited 14 October 2010.

⁴³ In 2003 the Committee of the Rights of the Child issued its General Comment No. 4, para. 22 (Adolescent health and development in the context of the CRC), which stated that the Committee was "also very concerned about the high rate of suicide among this age group. Mental disorders and psychosocial illness are relatively common among adolescents. In many countries symptoms such as depression, eating disorders and self-destructive behaviours, sometimes leading to self-inflicted injuries and suicide, are increasing. They may be related to, inter alia, violence, ill-treatment, abuse and neglect, including sexual abuse, unrealistically high expectations, and/or bullying or hazing in and outside school. States parties should provide these adolescents with all the necessary services."

⁴⁴ Ministry of Health, *Análisis Comparativo de Situación de Mortalidad Semanas Epidemiológicas 1 a la 53 Años: 2007-2008*.

⁴⁵ The UN World Food Programme (WFP), in a statement issued in May 2009, predicted that the general global economic decline and increased costs of food could result in reduced foodstuffs in households across Nicaragua. The WFP stated that the subsequent change in diet may cause a rise in the number of children in Nicaragua suffering stunted growth due to malnutrition; the current figure for children suffering from malnutrition is one in five. See *Executive Brief - Nicaragua, Effects of the Financial Crisis on Vulnerable Households*, UNWFP, 26 May 2009.

⁴⁶ See Article 46 of the Nicaraguan Constitution which states that the UN Convention on Civil and Political Rights, the UN Convention on Economic, Social and Cultural Rights, the CRC and the American Convention, among other

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Stop the rape and sexual abuse of girls in Nicaragua

international human rights treaties; form part of the domestic legal block. The Constitution of Nicaragua is available at: www.constitution.org/cons/nicaragu.htm

⁴⁷ See UN Doc CRC/GC/2003/4, CRC General Comment Number 4, at paras 12, 23 and 37 and, further, Articles 3, 19, 24 and 39 of the Convention. A framework of due diligence in relation to violence against women has been elaborated by the Committee for the Elimination of all forms of Discrimination Against Women General Recommendation 19 and also in the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women “Convention of Belem do Para”, both treaties to which Nicaragua is party.

⁴⁸ See CAT/C/NIC/CO/1, 10 June 2009 at para. 15.

⁴⁹ See Beijing Declaration and Platform for Action, Fourth World Conference on Women, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995) at para. 97; available at www1.umn.edu/humanrts/instree/e5dplw.htm, last visited 16 September 2010.

⁵⁰ “It is widely recognized, including by former Special Rapporteurs on torture and by regional jurisprudence, that rape constitutes torture when it is carried out by or at the instigation of or with the consent or acquiescence of public officials.” (Report of the UN Special Rapporteur on torture, Manfred Nowak, to the 7th Session of the Human Rights Council, UN Doc. A/HRC/7/3, 15 January 2008, para. 34). The Special Rapporteur on torture also recognized domestic violence as one of the “forms of violence that may constitute torture or cruel, inhuman and degrading treatment” (para. 44) and elaborated on different manifestations of state acquiescence in domestic violence (para. 46). He further drew attention to the feeling of protection from social stigmatization which victims of sexual violence in Guatemala have reported feeling when the crime is defined as torture rather than rape, forced impregnation or sexual slavery (para. 66).

⁵¹ The European Union has stated that safe and legal abortion services should be made available to women and girls survivors of rape in states parties to the European Convention on Human Rights. The Council of Europe Parliamentary Assembly urged member states to “recognise the inalienable right of women who have been raped to undergo voluntary termination of pregnancy if they wish, this right arising automatically from the rape.” See Resolution 1212 (2000) Rape in Armed Conflicts, available at <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta00/ERES1212.htm>, last visited 16 September 2010. See also, Sexual assaults linked to “date-rape drugs” Recommendation 1777 (2007) full text available from www.coe.int/t/e/legal_affairs/legal_co-operation/steering_committees/cdcj/cj-s-vict/Rec%201777.pdf, last visited 16 September 2010.

⁵² The Nicaraguan government has on several occasions been asked about the cruel and unjustifiable consequences of the total ban on abortion, both in terms of the denial or delay of treatment to pregnant girls and women during pregnancy, and the denial of safe and legal abortion as an option for victims of rape. It has been told that such a ban places Nicaragua in breach of its obligations to protect fundamental human rights including the right to life, the right to health and the right to be free from torture and other cruel, inhuman or degrading treatment or punishment. The Nicaraguan authorities have been urged to reform the abortion laws by a series of UN committees, including the Committee against Torture, the Committee on Economic, Social and Cultural Rights, the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, as well as the several state members of the Human Rights Council and the Committee on the Rights of the Child. Most recently, the Committee on the Rights of the Child expressed its concern that the Penal Code has criminalized abortion, even when the mother’s life is at risk and when the pregnancy is the result of rape or incest, and in this regard it shares the concerns expressed previously by the Committee against Torture (CAT/C/NIC/CO/1, para. 16, 2009), the Human Rights Committee (CCPR/C/NIC/CO/3, para. 13, 2008), the Committee on Economic, Social and Cultural Rights (E/C.12/NIC/CO/4, para. 26, 2008) and the Committee on the Elimination of Discrimination against Women (CEDAW/C/NIC/CO/6, para. 17, 2007).

⁵³ See UN Doc. CAT/C/NIC/CO/1, 10 June 2009 at para. 16.



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LISTEN TO THEIR VOICES AND ACT STOP THE RAPE AND SEXUAL ABUSE OF GIRLS IN NICARAGUA

Rape and sexual abuse are widespread in Nicaragua, and the majority of victims are young, and female. In spite of overwhelming evidence of the scale and seriousness of the problem, the Nicaraguan government is still not treating this hidden human rights emergency with the urgency it warrants.

In this report, young girls and teenagers describe their experiences and the effect on their lives and futures of systemic failures by the Nicaraguan government to protect them from sexual violence and to ensure their rights to justice and reparations. Young survivors, their carers and support workers also explain how appropriate psychosocial, medical and legal support can make all the difference. They can help ensure that sexual violence is not the event that defines the rest of survivors' lives. Yet lack of government funding for such essential services means that they remain beyond the reach of many who need them. The report also highlights the consequences of the 2008 law criminalizing all forms of abortion on young girls made pregnant as a result of rape; for girls who have already been denied control over their own bodies by the rapist, the current law is unbearably harsh and inhumane.

Young survivors of rape and sexual abuse in Nicaragua are not silent victims. They are speaking out, breaking the silence surrounding sexual violence, and standing up for their rights. In the words of Estefany, who was raped and made pregnant by her uncle when she was 17: "I am not asking for sympathy, I want solidarity."

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