

LAW LIBRARY OF CONGRESS

NICARAGUA

CHILDREN'S RIGHTS: INTERNATIONAL AND NATIONAL LAWS AND PRACTICES

Executive Summary

Nicaragua has issued many legislative enactments to comply with the international legal instruments to which it has subscribed. Chief among them are: the inclusion of the Convention on the Right of the Child as an express constitutional mandate; the promulgation of the Code of Childhood and Adolescence and the General Law on Education; extensive amendments to the Penal Code protecting minors; adoption of a new General Law on Health with its Program of Comprehensive Care for Women, Children, and Adolescents; and creation of a new Labor Code, raising the minimum working age and protecting young workers from being exploited.

I. Introduction

This report covers international treaties on children's issues to which Nicaragua has become a party, Constitutional provisions, and some of the most relevant statutes and national policies issued for the protection of children and adolescents.

II. Implementation of International Rights of the Child

Treaty Ratifications

Nicaragua is a party to the following international treaties related to the right of the child:

- Convention on the Rights of the Child, adopted by U.N. General Assembly resolution 44/25 of November 20, 1989.¹ Nicaragua signed the Convention on February 6, 1990, and ratified it on October 5 1990.²
- Universal Declaration of Human Rights.³ Nicaragua voted in favor of it at the time it was adopted by the U.N. Plenary Meeting of the General Assembly, on December 10, 1948.⁴

¹ The Convention on the Rights of the Child, with a Preamble and 54 articles, was adopted by the U.N. General Assembly Nov. 20, 1989, and entered into force Sept. 2, 1990. G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989); 28 Int'l Legal Materials 1448 (1989) (an unofficial source). For an online text, see the Office of the UN High Commissioner for Human Rights [OHCHR] Web site, <http://www.ohchr.org/english/law/crc.htm> (last visited Aug. 8, 2007).

² *Id.* Ratifications and reservations are available on the OHCHR web site, at <http://www.ohchr.org/english/countries/ratification/11.htm> (last visited Aug. 8, 2007).

³ The Universal Declaration of Human Rights, with a Preamble and 30 articles, was adopted by the U.N. General Assembly Dec. 10, 1948. G.A. Res. 217 A (III), U.N. Doc. A/810 at 71 (Dec. 10, 1948). For an online text, see the United Nations Web site, <http://www.un.org/Overview/rights.html> (unofficial source) (last visited Aug. 8, 2007).

⁴ The Universal Declaration of Human Rights, Legislative History, Yearbook of the United Nations, 1948-49. It is available on the online web site of the OHCHR, at <http://www.ohchr.org/english/issues/education/training/udhr.htm> (last visited Aug. 9, 2007).

- International Covenant on Civil and Political Rights, adopted by the U.N. General Assembly, on December 16, 1966.⁵ Nicaragua ratified it on March 12, 1980.⁶
- Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the U.N. General Assembly, on December 18, 1979.⁷ Nicaragua signed it on July 17, 1980, and ratified it on October 27, 1981.⁸

Other conventions and protocols to which Nicaragua is a party are cited below, on pages 4, 5, and 7.

Available sources do not indicate that Nicaragua is a party to the following:

- Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in Respect of Parental Responsibility and Measures for the Protection of Children;⁹
- Hague Convention on Jurisdiction, Applicable Law and Recognition of Decrees Relating to Adoptions;¹⁰
- Inter-American Convention on Conflict of Laws Concerning the Adoption of Minors;¹¹
- Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption.¹²

A number of legislative enactments have been issued by Nicaragua to protect children and adolescents and to comply with its international legal obligations. Five years after Nicaragua ratified the Convention on the Rights of the Child, in 1995, that Convention was given constitutional status through an amendment to Article 71 of the Constitution. The amended provision states that “[c]hildhood enjoys special protection and all the rights that its status may require [and] for that reason, the International

⁵ The International Covenant on Civil and Political Rights, with a Preamble and 53 articles, was adopted by the U.N. General Assembly on December 16, 1966, and entered into force on March 23, 1976. G.A. Res. 2200A (XXI), 21 U.N. GAOR, 21st Sess. Supp. (No. 16) at 52, U.N. Doc. A/6316 (Dec. 16, 1966), 999 U.N.T.S. 171. For an online text, *see* the OHCHR Web site, <http://www.ohchr.org/english/law/ccpr.htm> (last visited Aug. 8, 2007).

⁶ *Id.*, Ratifications and Reservations, available on the same web site, at <http://www.ohchr.org/english/countries/ratification/4.htm> (last visited Aug. 8, 2007).

⁷ CEDAW, comprising a Preamble and 30 articles, was adopted by the U.N. General Assembly Dec. 18, 1979, and entered into force Sept. 3, 1981. G.A. Res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46. For an online text, *see* the U.N. Division of the Advancement of Women Web site, <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article1> (last visited Aug. 8, 2007).

⁸ CEDAW. The list of the status of signatures, ratifications, and accessions is available on the same Web site, at <http://www.un.org/womenwatch/daw/cedaw/states.htm> (last visited July 27, 2007).

⁹ The 1996 Convention was adopted Oct. 19, 1996, and entered into force Jan. 1, 2002. 35 INT'L LEGAL MATERIALS 1391, 1396 (1996). For an online text, *see* the Hague Conference on Private International Law (HCCH) Web site, http://hcch.e-vision.nl/index_en.php?act=conventions.text&cid=70 (last visited July 27, 2007).

¹⁰ The Hague Convention on Jurisdiction, Applicable Law and Recognition of Decrees Relating to Adoptions, Hague No. 13, was concluded Nov. 15, 1965, and entered into force Oct. 23, 1978. In accordance with its article 23, it will cease to have effect Oct. 23, 2008. For an online text, *see* the HCCH Web site, http://hcch.e-vision.nl/index_en.php?act=conventions.text&cid=75 (last visited July 27, 2007).

¹¹ The Inter-American Convention, May 24, 1984, in force May 26, 1988. O.A.S.T.S. No. 62. For an online text of the Inter-American Convention, *see* the OAS Web site, <http://www.oas.org/juridico/english/sigs/b-48.html> (last visited July 30, 2007) (scroll to the end of the page for the hyperlink to the treaty text). The URL also lists the status of signatures and ratifications to the Convention.

¹² The Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption was concluded May 29, 1993, and entered into force May 1, 1995. 32 INT'L LEGAL MATERIALS 1134 (1993). For an online text, *see* the HCCH Web site, http://www.hcch.net/index_en.php?act=conventions.text&cid=69 (last visited July 27, 2007).

Convention on Rights of Children [*el Niño y la Niña*] is fully applicable in Nicaragua.”¹³ The same constitutional reform established the concept of family property to be free of taxes and from seizure.¹⁴ The Constitution prohibits child labor in tasks that can affect normal development or the compulsory education calendar. The Constitution also prohibits any form of economic and social exploitation of children and adolescents.¹⁵

Other constitutional provisions state that minors cannot be subject to or be the object of judgment, nor can they be submitted to any legal proceeding. Transgressor minors cannot be taken to penal rehabilitation centers, and they must be attended to in centers under the responsibility of a specialized institution. A law must regulate this matter.¹⁶

The Code of Childhood and Adolescence was promulgated in 1998. The Code defines “children” as those who have not reached thirteen years of age and “adolescents” as those who are between thirteen and eighteen years of age. It deals with family life; civil and political rights of children and adolescents; their rights to health, education, social security, culture, and recreation; duties and responsibilities of girls, boys, and adolescents; the creation of the National Council for Comprehensive Care and Protection of Children and Adolescents, which is attached to the Office of the President; the establishment of the Council’s national policy; special protection for children and adolescents and preventive measures; duties of organizations and centers that work in the fields of childhood and adolescence; and a specialized criminal justice system for youth.¹⁷

In compliance with the mandate of Code of Childhood and Adolescence, Law No. 351 on the Organization of the National Council for Comprehensive Care and Protection of Childhood and Adolescence and the Office of the Children and Adolescents’ Ombudsman was promulgated. The Council is a made up of a broad group of government ministries and agencies and representatives of civil society; it is responsible for the government’s comprehensive policy on youth. The Youth Ombudsman’s Office is responsible for the defense and protection of the rights of children and adolescents as provided in the Code.¹⁸

Extensive amendments to the Penal Code were promulgated in 1992, strengthening the provisions dealing with rape and statutory rape; procuring, aiding, or encouraging the sexual corruption of a minor; various kinds of sexual abuses and assaults; aiding, assisting, protecting, or procuring the prostitution of another; and other crimes that infringe the physical and moral integrity of persons.¹⁹

Under the amendments, these criminal offenses are prosecuted *sua sponte* by the public prosecutor if the victim is less than sixteen years old.²⁰

The Penal Code was further amended and provisions were added to strengthen the provisions concerning protection against domestic violence and child abuse.²¹

¹³ Ley N. 192, Ley de Reforma Parcial a la Constitución Política de Nicaragua, Art. 71 (L.G. July 4, 1995).

¹⁴ *Id.*

¹⁵ Constitución Política de la República de Nicaragua, art. 84 (L.G. Apr. 30, 1987), as amended many times, *available at* <http://www.asamblea.gob.ni/opciones/constituciones/constitucion.pdf>.

¹⁶ *Id.*, art. 35.

¹⁷ Código de la Niñez y la Adolescencia (L.G., May 27, 1998).

¹⁸ Ley de Organización del Consejo Nacional de Atención y Protección Integral a la Niñez y la Adolescencia y la Defensoría de las Niñas, Niños y Adolescentes (L.G., May 31, 2000).

¹⁹ Ley No. 150, Reformas al Código Penal, amending arts. 195-205 (L.G., Sept. 9, 1992).

²⁰ *Id.*, art. 205.

The Law creating the Office of the Government Attorney for the Defense of Human Rights was promulgated in 1996; within this Office, the Office of the Government Attorney for the Defense of Children's Human Rights was created.²²

The National Commission on Violence against Women, Children, and Adolescents was created by Executive Decree No. 116-2000. The Decree mandates the Commission to develop the National Action Plan for the Prevention of Violence against Women, Children, and Adolescents.²³

An Executive Decree of 2006 creating the National Program of Gender Equality was promulgated in 2006. Its objective is to encourage gender equality between Nicaraguan women and men during the five year period 2006-2010. This will contribute to and create positive conditions in such areas as the eradication of violence, education, health, employment, and access to and control of productive economic resources.²⁴

An Executive Decree No. 20-2006, on the Special Policy of Special Protection of Boys, Girls and Adolescents was promulgated in 2006. Its goal is to contribute to the highest level of well-being and development of children and adolescents that are in situations that require special protection, guaranteeing the restitution of the exercise of their rights in conditions of dignity and equality of opportunity. The Decree endorses the special policy approved by the National Council for Comprehensive Care and Protection of Childhood and Adolescence to comply with Nicaragua's obligations under the UN Convention on the Rights of the Child.²⁵ The same Decree No. 20-2006 makes reference to the fact that in compliance with the Convention on the Right of the Child, Nicaragua became a party to and ratified the following:²⁶ the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography;²⁷ and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts.²⁸

Nicaragua acceded to the Hague Convention on the Civil Aspects of International Child Abduction of October 25, 1980, on December 14, 2000.²⁹ Nicaragua is also a party to the Inter-American Convention on the International Return of Children, adopted in Uruguay on July 15, 1989.³⁰

²¹ Ley No. 230, Ley de Reformas y Adiciones al Código Penal (L. G., Oct. 9, 1996).

²² Ley No. 212, Ley de la Procuraduría para la Defensa de los Derechos Humanos, art. 18 (17) (L.G., Jan. 10, 1996). This statute was amended by Ley No. 471, de Reforma a la Ley No. 212, Ley de la Procuraduría para la Desensa de los Derechos Humanos (L.G., Oct. 9, 2003).

²³ Decreto No. 116-2000, de Creación de la Comisión Nacional Contra la Violencia Hacia la Mujer, Niñez y Adolescencia (L.G., Dec. 13, 2000).

²⁴ Decreto No. 36-2006, Del Programa Nacional de Equidad de Género (L.G., July 18, 2006).

²⁵ Decreto Ejecutivo 20-2006, de la Política de Protección Especial a los Niños, Niñas y Adolescentes, art. 1 (L.G., Apr. 4, 2006).

²⁶ *Id.* at 2718-2719.

²⁷ The Sex Trafficking Protocol comprises a preamble and 17 articles. G.A. Res. A/RES/54/263, May 25, 2000. It entered into force Jan. 18, 2002. For an online text, see the UNHCHR Web site, <http://www.unhchr.ch/html/menu2/dopchild.htm> (last visited Aug. 8, 2007).

²⁸ The Child Soldiers Protocol, comprising a Preamble and 13 articles, entered into force Feb. 12, 2002. G.A. Res. A/RES/54/263, May 25, 2000. For an online text, see the UNHCHR Web site, <http://www.unhchr.ch/html/menu2/6/protocolchild.htm> (last visited Aug. 8, 2007).

²⁹ Convention on the Civil Aspects of International Child Abduction, adopted by the Hague Conference on Private International Law, at its fourteenth session, held at the Hague, Oct. 6-25, 1980. 1343 UNTS 89, 90 (f), 98 (E). For an online text, see the Hague Conference on Private International Law, The Child Abduction Section Web site http://www.hcch.net/index_en.php?act=text.display&tid=21 (last visited Aug. 8, 2007). The status table of contracting states to this Convention is available on the same web site, at http://www.hcch.net/index_en.php?act=conventions.status&cid=24 (last visited Aug. 8, 2007).

The Law on the Organization, Jurisdiction, and Procedures of the Executive Branch, which was enacted in 1998 and later amended, includes among the agencies that make up the Presidential Cabinet the Ministry of the Family, the Nicaraguan Institute on Women, and the National Council for Comprehensive Care and Protection of Childhood and Adolescence.³¹

III. Child Health and Social Welfare

The General Law on Health was promulgated in 2002. Nicaragua, in its third period report to the UN Committee on the Rights of the Child, stated that the principles protected by the Convention are reflected in the Law's basic principles; the importance given to the Program of Comprehensive Care for Women, Children, and Adolescents; and the definition of a basic package of health services for the care of children and adolescents.³²

The Law on Prevention, Rehabilitation and Equal Opportunities for Persons with Disabilities was promulgated in 1995,³³ together with its Regulation.³⁴ In the same year, the National Council for Comprehensive Care of Children with Disabilities was created.³⁵

In addition to statutes and regulations, Nicaragua has created several national policies and plans to reaffirm children's rights and to protect them, such as the National Policy for the Comprehensive Care of Children and Adolescents; the National Plan for the Reduction of Maternal, Perinatal, and Infant Mortality; and the ambitious National Action Plan for Children and Young Persons, 2002-2011.³⁶ Moreover, in 2001, the Government initiated its Enhanced Economic Growth and Poverty Reduction Strategy, which contains a framework of policies and programs to increase the welfare of people through higher employment, greater investment in human capital, better protection of the most vulnerable, and improved governance.³⁷

IV. Education, Including Special Needs

The Constitution states that the State must create programs and develop special centers for the care of minors; minors have the right to measures of prevention, protection, and education from their family, society, and the State, as required by their condition.³⁸

³⁰ The Inter-American Convention on the International Return of Children, was adopted at the 4th Inter-American Specialized Conference on Private International Law, held at Montevideo, July 9-15, 1989. OASTS 70; 29 INT'L LEGAL MATERIALS 63, 66 (text); RDU 1989(I):368. For an only text see the OAS, Office of International Law web site, at <http://www.oas.org/juridico/english/treaties/b-53.html> (last visited Aug. 9, 2007). Signatures and Ratifications are available on the same web site, at <http://www.oas.org/juridico/english/sigs/b-53.html> (last visited Aug. 9, 2007).

³¹ Ley No. 290, Ley de Organización, Competencia y Procedimientos del Poder Ejecutivo, arts. 12 & 14 (D.O., June 3, 1998). See also Executive Decree 25-2006, Apr. 20, 2006, art. 18 (2) (L.G., May 11, 2006).

³² *Nicaragua - Third Periodic Reports of States Parties due in 2002*, at 14; Committee on the Right of the Child, UN Convention on the Right of the Child, CRC/C/125/Add.3, Oct. 15, 2004, available at <http://daccessdds.un.org/doc/UNDOC/GEN/G04/440/12/PDF/G0444012.pdf?OpenElement>.

³³ Ley No. 202, de Prevención, Rehabilitación y Equiparación de Oportunidades para las Personas con Discapacidad (L.G., Sept. 27, 1995).

³⁴ Decreto No. 50-97, Reglamento a la Ley No. 202 de Prevención, Rehabilitación y Equiparación de Oportunidades para las Personas con Discapacidad (L.G., Aug. 25, 1997).

³⁵ Decreto No. 45-95, Creación del Consejo Nacional de Atención Integral a la Niñez con Discapacidad (CONAINID) (L.G., June 29, 1995).

³⁶ Ley No. 230, Ley de Reformas y Adiciones al Código Penal (L. G., Oct. 9, 1996); *Reports, supra* note 34, at 16-17.

³⁷ *Reports, id.* at 16.

³⁸ Constitución Política de la República de Nicaragua, art. 76 (L.G. Apr. 30, 1987), as amended many times, available at <http://www.asamblea.gob.ni/opciones/constituciones/constitucion.pdf>.

After 105 years following the adoption of the previous statute on education, Nicaragua promulgated a new statute regulating the national educational system in 2006.³⁹ The objective of this statute, known as General Law on Education, is to establish the general guidelines for education and the national educational system, the powers and obligations of the State, and the rights and responsibilities of persons and of society.⁴⁰ The Statute establishes that the educational system is made up of the subsystems of formal education, technical and professional education, higher education, non-formal education, and the autonomous educational subsystem of the Atlantic Coast of Nicaragua.⁴¹ The Statute provides for special basic education for the handicapped and other social groups that are vulnerable or socially excluded.⁴² Elementary school is compulsory, and government schools provide free education at the elementary and high school levels.⁴³

The Law on the Comprehensive Promotion and Development of Youth was promulgated in 2001. Its objective is to promote the human development of young men and women, guarantee the exercise of their rights and obligations, establish institutional policies, and invest resources of the state and the civil society for young people.⁴⁴

V. Child Labor and Exploitation

The Constitution states that no one must be subjected to servitude. Slavery and trafficking [of persons] of any nature are prohibited.⁴⁵ Furthermore, it states that child labor in tasks that can affect normal development or the compulsory education calendar is prohibited. Children and adolescents shall be protected against any form of economic and social exploitation.⁴⁶

A new Labor Code was promulgated in 1996. Under the Code and its amendment of 2003, children are not allowed to work, but adolescents may do so. The amendments raised the minimum age at which a person may begin working from twelve (under the previous Code) to fourteen years.⁴⁷ The amendments consider persons between fourteen and eighteen years of age to be adolescents.⁴⁸ An adolescent between fourteen and sixteen years old requires parental authorization or the authorization of a legal representative to enter into an employment contract, which must also be supervised by the Ministry of Labor.⁴⁹ Adolescents who are between sixteen and eighteen years of age have the legal capacity to enter into an employment contract without parental consent.⁵⁰

The Code prohibits adolescent labor in unhealthy areas, mines, underground workplaces, and dumping areas. It also prohibits work performed with dangerous machines and equipments; work in

³⁹ Miguel De Castilla Urbina, *Anden y la Ley General de Educación: Los Antecedentes Cercanos*, EL NUEVO DIARIO, Sept. 10, 2006, available at <http://www.elnuevodiario.com.ni/2006/09/10/opinion/28562>.

⁴⁰ Ley No. 582, Ley General de Educación (L.G., Aug. 3, 2006).

⁴¹ *Id.*, art. 12.

⁴² *Id.*, arts. 6 (i) & 23 (b.5).

⁴³ *Id.*, arts. 19 & 23 c.

⁴⁴ Ley de Promoción del Desarrollo Integral de la Juventud, art. 1 (L.G., July 4, 2001).

⁴⁵ Constitución Política de la República de Nicaragua, art. 4 (L.G., Apr. 30, 1987), as amended many times, available at <http://www.asamblea.gob.ni/opciones/constituciones/constitucion.pdf>.

⁴⁶ *Id.*, art. 84.

⁴⁷ Ley No. 185, Código del Trabajo, art. 131 (L.G., Oct. 30, 1996), as amended by Ley No. 474, Ley de Reforma al Título VI, Libro Primero del Código del Trabajo (L.G., Oct. 21, 2003).

⁴⁸ *Id.*, art. 130.

⁴⁹ *Id.*, art. 131.

⁵⁰ *Id.*

nighttime entertainment centers, which because of their nature are undignified and contrary to human rights; night work in general; work that requires manipulation of psychotropic or toxic substances; and other risky and dangerous kinds of works, in addition to work in circumstances in which adolescents are exposed to physical or psychological abuse and or commercial sexual exploitation.⁵¹ The Code limits the workday for adolescent to six hours and the work week to thirty hours. Moreover, it provides a list of labor rights of working adolescents.⁵² The fines for violations of these provisions have been raised, and inspectors of the Labor Secretariat may close those facilities that breach the law.⁵³

Decree 22-97 of April 10, 1997, created within the jurisdiction of the Ministry of Labor the National Commission for the Progressive Eradication of Child Labor and the Protection of Working Minors.⁵⁴

To comply with its international obligations, Nicaragua became a party to and ratified⁵⁵ the ILO Convention No. 138, Concerning the Minimum Age for Admission to Employment;⁵⁶ and the ILO Convention No. 182, Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.⁵⁷

Enforcement

The U.S. Department of State, in its 2006 COUNTRY REPORTS ON HUMAN RIGHTS,⁵⁸ in the section on Nicaragua, provides abundant, detailed information on many violations to children's rights and the lack of enforcement of the laws protecting them, despite the fact that the Government has publicly expressed its commitment to children's human rights and welfare.⁵⁹ The report also explains how sometimes the government's decisions are not in harmony with its expressed commitment to children's rights and welfare. For instance, the Government did not adequately fund children's programs and primary education.⁶⁰ The Government designated an emergency 24-hour hot line for reporting of trafficking in persons incidents and provided a vehicle to bring the victims to safety. However, there were reports that that by year's end, the hot line service was not fully operational and the vehicle was often not available.⁶¹ Despite the law's prohibition, violence against children remains a significant problem.⁶² The same can be said with respect to trafficking of women and children.⁶³ The report also

⁵¹ *Id.*, art. 133.

⁵² *Id.*, art. 134.

⁵³ *Id.*, art. 135.

⁵⁴ Decreto No. 22-97, Creación de la Comisión para la Erradicación Progresiva del Trabajo Infantil y la Protección del Menor Trabajador (L.G., Apr. 10, 1997).

⁵⁵ Decreto Ejecutivo 20-2006, de la Política de Protección Especial a los Niños, Niñas y Adolescentes, art. 1 (L.G., Apr. 4, 2006), at 2718-2719.

⁵⁶ Convention (ILO NO. 138) Concerning Minimum Age for Admission to Employment, 1015 UNT 297. For an online text see the International Labor Office web site, at http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=6219 (last visited Aug. 9, 2007).

⁵⁷ Convention (ILO No. 182) Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, 38 Int'l Legal Materials 1207 (1999) (unofficial source). For an online text see the Office of the Special Representative of the Secretary-General for Children and Armed Conflict <http://www.un.org/children/conflict/keydocuments/english/iloconvention1828.html> (last visited Aug. 9, 2007).

⁵⁸ U.S. Department of State, *Nicaragua*, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICE – 2006, Mar. 6, 2007, available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78899.htm>.

⁵⁹ *Id.* at 8.

⁶⁰ *Id.*

⁶¹ *Id.* at 9.

⁶² *Id.*

stated, “Rules controlling child labor rarely were enforced except in the small formal sector.”⁶⁴ Although the law provides free and compulsory education through the sixth grade, according to the Pan American Health Organization, approximately 800,000 school-age children did not attend school.⁶⁵ Many other incidents of breach of legal standards and lack of enforcement of the laws protecting youth were cited by the U.S. report.⁶⁶

VI. Sale and Trafficking of Children

The Amendment to the Penal Code of 1992, cited above, dealt also with the trafficking of persons. Consistent with the Constitution,⁶⁷ the amendment prohibits the trafficking of persons. The maximum penalty is applied when the victim is less than fourteen years of age or is married to or united by a *de facto union* to the wrong-doer.⁶⁸

VII. Juvenile Justice

As stated above, the Code of Childhood and Adolescence was promulgated in 1998. It includes a specialized criminal justice system for youth, which provides for rights and guarantees the creation of special courts to hear juvenile cases, proceedings, conciliation, appeals, statute of limitations, measures, definition of measures, and execution of measures.⁶⁹

VIII. Concluding Remarks

Nicaragua has promulgated a number of laws to protect children and adolescents in compliance with the international conventions to which it has adhered. It has also created several national policies and plans to reaffirm children's rights and protect them. Moreover, the government of Nicaragua has publicly expressed its commitment to children's human rights and welfare. An illustration of this intended commitment is the fact that the government has elevated to the rank of Presidential Cabinet agencies the Ministry of the Family, the Nicaraguan Institute on Women, and the National Council for Comprehensive Care and Protection for Childhood and Adolescence. However, very often the laws protecting children have not been enforced, as illustrated by the U.S. Department of State 2006 COUNTRY REPORTS ON HUMAN RIGHTS. In addition, it appears that Nicaragua has not become a party to four major conventions on children's issues, cited above.

Prepared by Norma C. Gutiérrez
Senior Foreign Law Specialist
August 2007

⁶³ *Id.*

⁶⁴ *Id.* at 11-12.

⁶⁵ *Id.* at 8.

⁶⁶ Although the Department of State report on human rights practices in Nicaragua for the most part is accurate, it does contain two errors in its explanation of the law. For instance, contrary to its assertion, the laws against commercial sexual exploitation of minors protect adolescents under 18 year old. In this regard, *see* Ley No. 185, Código del Trabajo, (L.G., Oct. 30, 1996), as amended by Ley No. 474, Ley de Reforma al Título VI, Libro Primero del Código del Trabajo (L.G., Oct. 21, 2003), arts. 130 and 133. *See also* Constitución Política de la República de Nicaragua, art. 84 (L.G. Apr. 30, 1987), as amended many times, available at <http://www.asamblea.gob.ni/opciones/constituciones/constitucion.pdf>, prohibiting children and adolescents from being subject to any form of economic and social exploitation. Similarly, labor trafficking is criminalized. *See also* Ley No. 150, Reformas al Código Penal, amending art. 203 (L.G., Sept. 9, 1992).

⁶⁷ Constitución Política de la República de Nicaragua, art. 40 (L.G., Apr. 30, 1987), as amended many times, available at <http://www.asamblea.gob.ni/opciones/constituciones/constitucion.pdf>.

⁶⁸ Ley No. 150, Reformas al Código Penal, amending art. 203 (L.G., Sept. 9, 1992).

⁶⁹ Código de la Niñez y la Adolescencia (L.G., May 27, 1998).