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Nicaragua: Government Firm On All-out Abortion Ban

by LADB Staff

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The Nicaraguan government continues to back a total ban on abortion despite routine complaints from human rights groups that say the policy updated in 2006 to eliminate all exceptions is discriminatory and unnecessarily puts the lives of women and girls in jeopardy. Echoing concerns raised regularly by influential groups such as Amnesty International (AI) and Human Rights Watch (HRW), the UN Office of the High Commissioner for Human Rights (OHCHR) in early February urged Nicaragua to relax the blanket ban and make exceptions for therapeutic cases (where pregnancy is deemed a health risk for the mother) as well as for pregnancies resulting from rape and incest. The OHCHR made the recommendation during a periodic review of the Central American country, which, according to the Geneva, Switzerland-based UN body, would also do well to improve protections for women and girls victimized by domestic and sexual violence. The Nicaraguan penal code's total ban on abortion "applies even in cases of rape, incest, or apparently life-threatening pregnancies that in many cases are the direct result of crimes of gender violence," said the OHCHR. Nicaragua's ultrastrict abortion law has also been criticized in recent years by the UN Committee against Torture (CAT), the Committee on Economic, Social and Cultural Rights (CESCR), and the Committee on the Elimination of Discrimination against Women (CEDAW). Except in Cuba and the two Guyanas, elective abortion is prohibited throughout Latin America. Blanket bans, however, exist only in Nicaragua, Chile, El Salvador, and the Dominican Republic. Therapeutic abortions are also illegal in Malta, the Philippines, and Vatican City. Bolivia, Brazil, Colombia, Ecuador, Mexico, Panama, and Uruguay make exceptions for rape victims.

The Nicaraguan government, led by one-time Sandinista revolutionary President Daniel Ortega, staunchly defends the ban, which it hails as a "sovereign decision" that should, therefore, be respected by international bodies. While it accepted many of the OHCHR's recommendations, the government is refusing to budge on the abortion issue. Insisting that a majority of Nicaraguans support the ban, Interior Minister Ana Isabel Morales told the UN body that the people of her country "believe it's important that the unborn have a right to live since they're also human beings." She added, "Abortion is not an appropriate method of birth control." Like in most Latin American countries, elective abortion abortion upon request has long been outlawed in Nicaragua. Until recently, however, exceptions were allowed for therapeutic cases. In practice, at least, exceptions were also made in certain cases for women and girls impregnated through rape and incest, according to AI. But in late 2006, just ahead of a five-way presidential election, the Asamblea Nacional (AN) rushed through a Catholic Church-backed bill to extend the country's already restrictive abortion law to therapeutic cases as well (see NotiCen, 2006-11-02). Of the five candidates, only Edmundo Jarquin of the Movimiento Renovador Sandinista (MRS) opposed the total ban, to his own political detriment. Jarquin finished a distant fourth in the election (see NotiCen, 2006-11-09). The winner, Ortega, the historic leader of the Frente Sandinista de Liberacion Nacional (FSLN), joined his conservative opponents in backing the abortion ban. Critics who remember the one-time leftist revolutionary as a proponent of women's rights said the ideological about-face smacked of pure political opportunism. "In a close election where every vote mattered, Ortega was determined to make whatever policy changes were necessary to increase his prospects of winning the presidency," the Washington-based Council on Hemispheric Affairs (COHA)
noted (see NotiCen, 2009-08-06). The ratcheted-up abortion law went into effect in July 2008. It stipulates lengthy prison sentences not only for women who choose to abort but also for health-care practitioners who assist them. The law also criminalizes any medical treatment that could even inadvertently terminate a pregnancy. Simply in attending pregnant women, doctors and nurses put themselves at potential odds with the law. Of course the biggest risks associated with the total abortion ban are to pregnant women. Without the option of an abortion, women with serious complications such as ectopic pregnancies (where a fertilized egg is implanted outside the uterus) have good reason to fear for their lives. AI found that, in the first five months of 2009, there were 33 maternal deaths reported in Nicaragua, 13 more than in 2008, before the abortion law was changed. The group, which calls the law a "cruel disgrace," suspects the true incidence of maternal death to be much greater as even the Nicaraguan government admits cases are underreported.

"The change generates fear among both health-care workers and women," Azahalea Solis of the Movimiento Autonomo de Mujeres (MAM), a Managua-based women's rights group, told NotiCen. "Given how strict the law is, women who need abortions turn to the hidden, underground system and thus risk their lives. And in the case of doctors, they're simply afraid to deal with emergencies involving pregnant women." In practice, the ban also takes away any hope a woman or girl may have of ending an unwanted pregnancy brought about by rape or incest. The issue is particularly relevant in Nicaragua, where the incidence of intrafamiliar sexual abuse is known to be high (see NotiCen, 2007-08-23). "Forcing a woman or girl to carry a pregnancy which is a result of rape or incest to term is recognized as a form of torture and cruel, inhuman and degrading treatment," AI wrote in a recent report. "The revised Penal Code is gender discriminatory, denying women and girls treatment which only they need. Only women and girls risk physical and mental suffering or losing their lives as a result of delays in or denial of medical treatment if complications arise during pregnancy. Only women and girls are compelled to continue a medically dangerous or unwanted pregnancy or face imprisonment. Only women and girls suffer the mental anguish and physical pain of an unsafe abortion, risking their health and life in the process." Defenders of the policy point out that, even before the ban was extended to therapeutic cases, very few legal abortions were actually performed in Nicaragua. Women seeking to terminate a pregnancy needed consent from three different medical practitioners as well as from the husband or a close family member. The already modest number of procedures reduced to barely a trickle during the 1990s, when Nicaragua turned to the right politically. The New York Times reported that, in 2002, the last year for which official data is available, Nicaraguan doctors performed just six legal abortions. An October 2007 HRW study, published less than a year after the ban on therapeutic abortions was first issued, reported that 82 women had already died as a result. Without reliable abortion and maternal-death statistics, which are simply unavailable in Nicaragua, it is impossible to judge the accuracy of such claims. Abortions then, as now, are performed behind closed doors and simply not talked about. Even some opponents of the ban agree the change in the law is more symbolic than real. "No, there's hasn't been a real change because they're still performing abortions in the hospitals," said Klemen Altamirano, a sociologist with the Red de Mujeres Contra la Violencia (RMCV). "Yes there's more legal pressure in hospitals and clinics, but up to now nobody's been convicted for that." Still, as long as that pressure exists, women's lives will be at risk, argue groups like MAM, the Centro Nicaragüense de Derechos Humanos (CENIDH), and the Sociedad Nicaragüense de Ginecología y Obstetricia (SNGO). In framing the ban as a sovereignty issue, they say, the government is ignoring that the law whether it enjoys majority support or not violates a fundamental human right: the right a woman has to live. "There's no reason why national sovereignty should go against fundamental rights," said Solis. "It's not about how many legal abortions there were before versus now. The
fact is, this law causes fear and intimidation when it comes to treatment, thus increasing risks for women." Solis added, "It's a contradiction that a revolutionary [Ortega] would use the lives of human beings for political reasons, to get votes. To play with the lives of people to win political points is really immoral. It shows a lack of scruples, an absolute lack of ethics."

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