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Master's Thesis of Kyung Mi Han

Gender Equality in Nicaragua

The Situation of Rural Women

니카라과의 양성 평등

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Abstract

Nicaragua is Latin America's second poorest country, yet it ranks fifth in the world when it comes to Gender Equality. The country has gone under multiple changes in law to achieve said equality between men and women. This paper aims to study the situation of women in Nicaragua, especially those living in rural areas and discover whether these women live in a gender equal environment and are able to enjoy the same rights that men do. However, despite the number of case studies taken, research and NGO interventions, little progress has been made to close the existing gaps between men and women in the rural world. Social norms have been passed on generation to generation that they have a larger weight than the law.

Keyword : Nicaragua, Gender, Equality, Rural Women, Legislation

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Chapter 1. Introduction

1.1. Study Background

Nicaragua, the largest country in Central America and the second poorest country in Latin America^①, was able to become the fifth country in the world to achieve Gender Equality in 2016^② and stay in that position until 2020. This is believed to have been possible due to the evolution of the political rights of women in Nicaragua, which has its own nuances in each historical context. The recognition and participation of women as a political subject has constantly varied and the socio-political situations themselves have influenced the way of their participation in the exercise of power.

In the political history of Nicaragua, the participation of women has been linked to national political events and in that sense, they have had various roles, omissions and restrictions. The irruption of women in the public space has constituted a constant challenge to traditional gender roles and socio-political praxis within the public or private space, which in turn are reinforced by social institutions such as the family, the Church and the State.

It is known that, after the arrival to power of the Sandinista National Liberation Front in 2007, the new government strengthened the role of women in overcoming poverty as key agents of national development by running multiple guided social programs that generated greater visibility of women not only in the economic sphere, but also promoted their participation in different public positions within the State.

① 2019 IMF

② World Economic Forum 2016

Incorporating men and women equally in party proposals for popularly elected positions, and the recurrence of women exercising public functions and positions that had traditionally been held exclusively by men, is a recent phenomenon of interest in Nicaragua.

A related body of literature claims that the recognition of Nicaraguan women as full political subjects is a central element for progress towards real political equality, the processes experienced at the legal and social level have allowed women to participate in political power under equal conditions, opportunities and possibilities. Another key aspect that is pointed out is that female political equality is not only associated with formal political and legal processes, but also that social and cultural dimensions come into play that counterbalance or that may lag the formal advances of the legal order. The very dynamics of social processes and cultural recreation in relation to the transformation of structures of gender-related inequality have their own rhythms, advances and lags. Thus, political and legal processes regarding women's political equality do not necessarily evolve at the same rate as social and cultural processes. It has been Nicaraguan society through culture, which has been in charge of delignifying own social imaginary regarding women and their relationship with power.^③

Another related body of literature states that according to the Global Index of Gender Gaps, from the World Economic Forum, being a woman in Nicaragua is almost a blessing: it is very close to the cusp of gender equality, rubbing shoulders with Nordic countries that have traditionally been an example in this matter. But, landing on official data and private analysis, another reality appears about the gender

^③ Flores, Johnathan. Female Political Equality in Nicaragua.

gap in Nicaragua: here women are more likely to have an informal job than men, despite having a higher educational level; they face difficulties entering the labor market to attend to housework, and businesses run by women tend to be more informal and account less well, undermining their growth potential. And all this reality occurs while Nicaragua is going through a gender bonus, which is nothing more than the strong increase in the labor force participation of women and which should represent an economic benefit for the country.

An additional related body of literature argues that Nicaragua is one of the countries that went through the most legal changes to promote gender equality and remove laws that did not allow women to inherit or own land, but cultural norms are still the biggest blockade towards women rights. The culture has such deep roots in the Nicaraguan patriarchal culture that are considered the most important barriers in achieving gender equality. Gender issues cannot be solved solely through law, but a conscientization of not only men but also women are necessary. Nevertheless, it is important to point out that some minor changes in the right direction are taking place, such as daughters inheriting land from their fathers in the case that their husband leaves them. This change might have not happened for the right reason or the best reason, but it is still a change, nonetheless.

According to the World Economic Forum, Nicaragua was able to rank on the top 10 in the Global Gender Gap report^④ ever since 2016 until 2021, when it went down to the 12th place.

④ Global Gender Gap Report 2021

Table 1 – Global Ranking 2016 (10th place)

Country	Rank	Score
Iceland	1	0.874
Finland	2	0.845
Norway	3	0.842
Sweden	4	0.815
Rwanda	5	0.800
Ireland	6	0.797
Philippines	7	0.786
Slovenia	8	0.786
New Zealand	9	0.781
Nicaragua	10	0.780

Table 2 – Global Ranking 2018 (5th place)

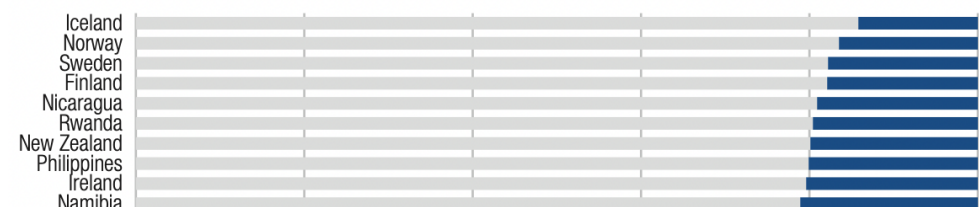


Table 3 – Global Ranking 2020 (5th place)

Rank	Country	Score
		0–1
1	Iceland	0.877
2	Norway	0.842
3	Finland	0.832
4	Sweden	0.820
5	Nicaragua	0.804
6	New Zealand	0.799
7	Ireland	0.798
8	Spain	0.795
9	Rwanda	0.791
10	Germany	0.787

Table 4 – Global Ranking 2021 (12th place)

Rank	Country	Score	
		0–1	
1	Iceland	0,892	0,892
2	Finland	0,861	0,861
3	Norway	0,849	0,849
4	New Zealand	0,840	0,840
5	Sweden	0,823	0,823
6	Namibia	0,809	0,809
7	Rwanda	0,805	0,805
8	Lithuania	0,804	0,804
9	Ireland	0,800	0,800
10	Switzerland	0,798	0,798
11	Germany	0,796	0,796
12	Nicaragua	0,796	0,796

The Global Gender Gap report is decided with the Global Gender Gap Index, which was introduced by the World Economic Forum in 2006. Countries are given a score, 0 being the lowest and 1 being the highest, which means full equality between men and women. This index is based on three main concepts that define how indicators are chosen, how the index is used and how the data is treated. First, rather than measuring actual amounts of available resources and opportunities, the index measured gender-based disparities in access to resources and opportunities in countries. Regardless of overall resource levels, countries with narrower disparities in access to these resources were rewarded. Second, rather of evaluating countries based on their inputs, the index evaluated them based on their outputs. The index does not contain inputs, which are variables connected to country-specific policies, rights, or customs. For example, the wage disparity between men and women in high-skilled positions was measured (an outcome indicator), but the length of maternity leave (a country-specific policy) was not. Third, rather than measuring women's empowerment, the score assessed countries based on their proximity to

gender equality. The score rewarded nations where women's outcomes were on par with men's, but it did not reward or penalize countries when women surpassed men. The four subindexes were marked by four different dimensions: economic participation and opportunities, health and survival, political empowerment and educational attainment.

1.2. Purpose of Research

Nicaragua is Latin America's second poorest country, yet it ranks fifth in the world when it comes to Gender Equality. The country has gone under multiple changes in law to achieve said equality between men and women. This paper aims to study the situation of women in Nicaragua, especially those living in rural areas and discover whether these women live in a gender equal environment and can enjoy the same rights that men do, as the world ranking claims. It aims to study the real situation of Nicaraguan women in rural situation and examine if what the World Economic Forum shows is in fact a reality that can be accepted by all women in Nicaragua.

Chapter 2. Generalities of the Perspective of Gender and Equality

The application of a gender perspective allows to observe and understand the impact in the different programs, projects, policies and legal norms on the people, with the objective of avoiding discrimination and exclusion, and, thus, offer a better and wider protection of rights.

Therefore, the perspective of gender must be considered as a strategy to assure that experience and worries, both men and women, constitute an integral dimension in the design, implementation, monitoring and evaluation of policies and programs in the political, economic and social spheres, so men and women can equally benefit, and inequalities can decrease.

Why is gender analysis important? Because it helps assure that both men and women participate and benefit from development. It is the systematic form of exploring roles, actual and potential responsibilities, access and control over resources and benefits of men and women. It allows the examination of the fundamental causes of inequality between gender.

2.1 Feminism

Feminism, the belief in social, economic, and political equality of the sexes. Feminism is manifested worldwide and is represented by various institutions committed to activity on behalf of women's rights and interest.^⑤ It's a movement

^⑤ Britannica Dictionary

that demands both men and women to have the same rights: granting the female gender abilities and capacities that were before reserved only for men.

It is the fight for female and male equality that is articulated on the axis of the vindications of women who ask for what is defined as generically human.

“We will understand feminism as related to all those people and groups, reflections and actions aimed at ending the subordination, inequality, and oppression of women to achieve their emancipation and the construction of a society in which discrimination of women based on sex and gender no longer have a place.” It is a diverse ideology with a single political objective: to transform the situation of women subordination around the world.^⑥

2.2 *Patriarcado* (Patriarchy)

To determine the etymological origin of the word *Patriarcado*, it is necessary to say it comes from Greek. This word is made up of two parts of that language: “patria”, that can be translated to “family or descendance” and “archo”, that it is a synonym of “command”. That being stated, *Patriarcado* is the territory of a jurisdiction of a patriarch, its dignity or the time this lasts. This term is also used to name the authority or the government of the patriarch. Patriarch is the one who, because of his age and wisdom, exercises authority in a family or community.

Taking up the notion of patriarchy, it is possible to say that for sociology, it is meant to be a primitive social organization where the main authority is a male. In other words, Patriarchy is a system in which men have all or most of the power and importance in a society or group.^⑦ Men exercise an oppression on the female

^⑥ Translation. Castells, Carmen. “Perspectivas feministas en teoría política.”

^⑦ Collins Dictionary

gender, appropriating by either peaceful or violent means of its productive and reproductive force.

2.3 *Machismo*

Machismo is the male behavior that is strong and forceful and shows very traditional ideas about how men and women should behave.^⑧ It is a set of beliefs, customs and attitudes that men hold: men are superior to women in intelligence, force and capacity. That is to say, they assign women characteristics of inferiority. Thus, men who believe in *machismo* or were educated under this influence, consider that men are the one with the power to decide and choose, the one who can control and order, conquer and propose, the one who must receive a higher economic retribution, among other beliefs. These men also believe that there are certain jobs for men and women, that is why, for example, they do not believe that men should do any kind of housework and that women should not do any kind of work that require force.

Machismo beliefs were passed on generation to generation and that is why there are still many people in different societies with different cultures and religions that still conserve these ideologies and even think of it as something normal and obvious. In some cases, *machismo* has permeated so much in the education, family and media that it is not seen as a belief but as something natural, hence, it is assumed that women are biologically weak, dependent and incapable to do certain jobs. However, many other societies have relegated *machismo* and are trying to have a more equal relation between men and women.

^⑧ Cambridge Dictionary

2.4 Concept of Gender

Gender is what each culture and society has defined as “adequate for men” and “adequate for women”. It is the cultural definition of the assigned behavior for each sex in an established society. Gender is the set of cultural roles. The concept of gender alludes not only to characteristics and behavior, but also to roles, functions and values imposed to each sex through social processes reinforced by the ideologies of patriarchal institutions.

Gender is a technical term specific to social sciences, that implies to the set of characteristics differentiated in each society that assigns to men and women. So, when referred to gender, it is remitting to a category rather than a simple classification of the subject. According to the World Health Organization, this refers to the roles socially constructed, to the behavior, activities and attributes that a society considers appropriate for men and women. Hence, as already stated, it is socially constructed and not a natural division of roles and inherent to the biological condition of the subjects.

2.4.1 Gender Role

Gender role is created with a set of norms and prescriptions that society and culture dictates about the female and male behavior. Although there are variances according to culture, social class, ethnic group and generation, it is still possible to maintain a basic sexual division that corresponds to the most primitive job: women give birth to children, hence, they take care of them, what is maternal is feminine, everything else, is masculine.

The division male-female establishes stereotypes that condition the roles and limit human potentialities of people by stimulating or repressing behaviors based on the adaptation of their gender. What the concept of gender helps understand is that many of the issues that we think as “common or natural” attributes of both men and women are in fact, socially constructed characteristics that are not determined by biology. The difference in treatment that boys and girls receive just because they belong to a sex, favors a series of different behaviors and characteristics later in life too.

This typification is anonymous and abstract but firmly established and standardized, leading to generations after generations of being stereotyped. This role contains a high degree of judgement in itself: the stereotype of female role in the society is characterized by behaviors that are appropriate to it having a low social esteem (fear, delicate, dependence, among others); whereas the stereotype of the masculine role is characterized because the appropriate attributes for him have a high esteem or social status (independence, competence, decision making, among others).

2.5 Concept of Equality

Equality can be defined as the right of different groups of people to have a similar social position, rights or responsibilities and receive the same treatment.^⑨

Equality is the equal treatment that an organization, company, state, association, individual or group offers to people without considering race, sex, social class or other circumstances plausible to differentiation. In other words, is the absence of any kind of discrimination.^⑩

^⑨ Collins Dictionary and Cambridge Dictionary

^⑩ W. G. Runciman. Journal Article. “Social” Equality.

It is known as Social Equality when people have the same rights and the same opportunities in a determined aspect or in a general level. Sex or Gender Equality refers to standardizing the existing opportunities in such a way that they can be distributed fairly among men and women.

2.6 Sex and Sexism

Sex is one's personal reproductive status as male, female or uncertain, which is generally determined by the person's internal and external genitalia. It is the set of physical and biological characteristics of the human being. Sex is defined by nature, it is a natural construction, with which one is born with.^⑪

Sexism refers to the prejudice or discrimination based on sex or gender, that brings with it vexatious and outrageous prejudice and practices especially against women and girls.^⑫

2.6.1 Difference between Sex and Gender

Sex alludes to the physical and biological differences between men and women, while gender is a socially created category and culturally, it is learned, hence, it can change and evolve.

Sex is determined by nature; a person is born either male or female. However, the genders male and female are learned, people can be educated, changed or manipulated. By gender it is understood the social and cultural creation that define the emotional, affective and intellectual characteristics that each society assigns as proper and natural to either men or women.

^⑪ Medical Dictionary

^⑫ Britannica Dictionary

Gender is the psychosocial construction of sex. The gender's main implicit function is to make patent that men and women are more different than similar, and this is the reason why human society has established the existence of these two genders, phenomenon that has a universal dimension.¹³

2.7 Concept of Gender Equality

There is no single and unique definition for gender equality. It is a concept that has been built over the past century, ever since women started to fight for their voting rights. It is a concept that has been adapted and changed to the circumstances and environment women found themselves in. It could be said that the “Suffragette Movement”¹⁴ gave birth to gender equality. In 1903, the Women's Social and Political Union was founded and their members, being of women only, were adamant about getting women the right to vote, and they worked diligently, if not brutally, to attain this goal. Since then, different movements with different names were created but they all had the same goal: to achieve women some kind of right that they should have had access to begin with.

Almost a century later gender equality could be roughly defined as the following:

“Gender equality means that all genders are free to pursue whatever career, lifestyle choice, and abilities they want without discrimination. Their rights, opportunities, and access to society are not different based on their gender. Gender equality does not

¹³ Translated. Martinez, Maria. Perspectiva de Género e igualdad en el derecho penal Nicaraguense

¹⁴ Started around mid 1800.

necessarily mean that everyone is treated exactly the same. Their different needs and dreams are valued equally. Gender equity is often discussed at the same time as gender equality for this reason. Since society has favored men for so long, men have many advantages. Equity fills in the gaps so everyone else can “catch up” to men. It addresses discrimination and imbalances in society so that equality can become a reality.”¹⁵

This means that equality does not imply that both women and men will become equal, but rather that women and men's rights, duties, and opportunities will not be contingent on whether they are born female or male. Gender equality means that both women and men's interests, needs, and priorities are taken into account, recognizing the diversity of diverse groups within women and men.

¹⁵ Human Rights Career

Chapter 3. Gender and Equality in Nicaraguan

Legislation

This section will analyze the different ways used in Nicaragua for the elimination of all kinds of discrimination against women to allow the equality between men and women in all aspects and the establishment of relations of respect, tolerance and equality between genders.

3.1 International Conventions

Along the years, instruments for the protection of human rights for both men and women have been created by international organizations as well as in Nicaraguan Law. With the transformation of national legislation norms, the application of law for the equality of all people, giving value to each of them, have been introduced, searching a way to establish a balance between gender. The creation of the international convention to prevent, sanction and eradicate violence against women: “Convención de Belem Do Para”, recognized that unrestricted respect for human rights has been enshrined in the American Declaration of the Rights and Duties of Men and in the Universal Declaration of Human Rights and reaffirmed in other international and regional instruments.

The acknowledgment that all people have the right to live a life free of violence, has been embodied in international norms that establish the obligation of the State to establish mechanisms of protection for the people. However, the Nicaraguan General Assembly identified the important divorce between the internationally guaranteed rights for women and their real capacity to exercise such rights. Several international instruments refer to this phenomenon: The Declaration

on the Elimination of Violence against Women¹⁶, which states that violence is a violation of human rights, and the Universal Declaration of Human Rights¹⁷, that established the principle of equality and non-discrimination on the grounds of sex.

3.1.1 Convention for the Elimination of all forms of Discrimination against Women (CEDAW 1979)

On December 18, 1979, the United Nations General Assembly approved the Convention on the Elimination of All Forms of Discrimination against Women, which entered into force as an international treaty on September 3, 1981 after its ratification by 20 countries. In 1989, the tenth anniversary of the Convention, nearly 100 nations have declared that they considered bound by their provisions. The convention was the culmination of over 30 years of work from the Commission on the Juridical and Social Condition of Women, organism created in 1946 to keep an eye on the situation of women and promote their rights. The convention on the elimination of all forms of discrimination against women is an international human rights treaty that protects the fundamental rights and freedoms of women; It contains key principles to ensure equality between men and women, it also takes many measures to eliminate all types of discrimination against women, this extends to all spheres. The States must assume responsibility and provide protection in all areas of life to women. As can be seen, the convention indicates the rights protected by it and the commitment acquired by the States. This seeks to guarantee the principle of equality with respect to the enjoyment of the rights enshrined in the International Covenants on Civil and Political Rights and of Economic, Social and Cultural Rights.

¹⁶ Proclaimed by the United Nations General Assembly in 1993.

¹⁷ Adopted and Proclaimed by the United Nations General Assembly in 1948.

In articles 7 and 8 of this convention, it is established the rights of political life; Articles 10 to 13 refer to equal rights in the sphere of education, work, health, economic and social life. In its articles 14 and 15 it also alludes about the equal rights of women in rural areas and about the equality of men and women before the law. The states must ensure that the laws and public policies of affirmative action necessary to ensure equal treatment and opportunities with men are adopted. The Convention provides a comprehensive framework to address the various forces that have created and maintained discrimination based on sex.¹⁸

3.1.2 Convention of Belén Do Pará

The Inter-American Convention to Prevent, Punish, and Eradicate Violence against Women, also known as the Convention of Belén Do Pará, was adopted on July 9, 1994 in Belén Do Pará, Brazil and ratified by Nicaragua in October 1995. This is an instrument of international order by the organization of American states for a greater representation in the fight against violence and against the impairment of human rights regarding the constitution of roles that are implemented against the female gender. In general terms, this convention condemns all types of contained violence against women since in statistical and social terms, gender violence has been virtually a dignified and necessary phenomenon that the law must regulate. This convention is enriched with all the minimum aspects that must be settled by a rule of law in favor of this problem without forgetting that the fundamental basis of a society that seeks to consolidate a state of law in one of its principles of greatest humanitarian relevance is the principle of equality. Currently

¹⁸ United Nations, Human Rights. Office of the High Commissioner

Nicaragua has legally sought the conquest in the eradication of this problem through normative instruments in the condemnation and prohibition of these acts and in the ratification of this and other international conventions.¹⁹

This convention defines violence against women in the following terms:

Article 1: "For the purposes of this Convention, violence against women must be understood as any action or conduct, based on gender, that causes death, damage or physical or sexual suffering, or psychological to the woman, both in the public and in the private sphere, even that which takes place within the family or domestic unit, or in any other interpersonal relationship, whether the aggressor shares or has shared the same address as the woman".²⁰ That is, in its classification, it will be understood that violence against women includes physical, sexual and psychological violence: a) that takes place within the family or domestic unit or in any other interpersonal relationship, whether the aggressor shares or has shared the same address as the woman, and that includes, among others, rape, mistreatment and sexual abuse; b) that takes place in the community and is perpetrated by the workplace, as well as in educational institutions, health establishments or any other place, and c) that is perpetrated or tolerated by the State or its agents, wherever it occurs.

The convention declares that violence against women is one of the manifestations of inequality between men and women, which is why it is necessary to establish equal gender relations and these manifestations constitute a violation of human rights and fundamental freedom of women against men, a phenomenon that has been experienced in history through time, and totally or partially limits the

¹⁹ Translated. Martinez, Maria. *Perspectiva de Género e Igualdad*

²⁰ Refworld. *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belem do Para")*

recognition, enjoyment and exercise of such rights and freedoms that the convention condemns and defends.

The instrument establishes specific obligations for the States, such as the adoption of Legislative and Administrative measures and programs that aim to prevent, punish and eradicate violence against women. Among the Legislative measures, the need to include criminal, civil and administrative norms, or of other nature, in the internal legislation of the States, as well as the forced modification or abolition of the laws or regulations in force that allow the persistence or tolerance of violence against women. Likewise, it points out the need to establish effective judicial and administrative mechanisms, based on fair legal procedures, so that women who have been subjected to violence make use of them and have effective access to compensation, reparation of damages or other just and effective means of compensation.

3.2 Universal Declaration of Human Rights

It is a declarative document adopted by the United Nations General Assembly in its Resolution 217 A (III), on December 10, 1948 in Paris; It contains 30 articles that are considered basic human rights, based on the San Francisco letter of 1945. It is essential to carefully analyze this declaration since it is the legal instrument that protects human rights in both men and women, seeking that their freedom, dignity, peace in the world, among other rights that are based on the intrinsic dignity and the equal and inalienable rights of all human beings are respected.

The declaration of human rights achieves a balance between men and women by protecting their rights as people, by managing to incorporate the principle of equality for all people in the world regardless of sex, gender, religion, race or beliefs. In its articles 7 and 10 it refers to the equality that all human beings have before the law, and to the same protection and treatment, referring to a fundamental principle such as the principle of equality and that its application is of the utmost importance. Non-discrimination on grounds of sex was also established. Since then, a series of instruments, conferences and conventions have been developed that commit the member States of the United Nations in the search for gender equality. It constitutes the Macro Document that regulates Legal and Social relations based on a set of universal human rights, applicable to all human beings.²¹

3.3 Declaration on the Elimination of Violence against Women

The Declaration of the Elimination of Violence against Women reinforces and complements the process of effective application of the convention on the elimination of all forms of discrimination against women, since this comes to eradicate all types of violence against women. As it is known, violence against women is all types of aggression against women, be it either physical or psychological. Violence against women is a violation of human rights and fundamental rights, this prevents equality, development and peace from being achieved, for which it was recommended to take measures to combat violence.

Historically, men and women live in a relationship of unequal power, in which women are subordinate to men, from there it is possible to observe

²¹ United Nations. Universal Declaration of Human Rights.

mechanisms that lead to violence. For this reason, women have limited opportunities to achieve legal, political, social and economic equality, which puts them at greater risk of violence. To eliminate all types of violence against women, States must assume responsibility and the international community must have a clear commitment to formulate the rights that must be applied to eliminate violence against women.

In order to have a clearer concept of violence against women, article 1 of said declaration states that it is understood as violence any kind of act based on women that has or may result in harm or damage whether it be physical, sexual or psychological, as well as threats of such acts, coercion or arbitrary deprivation of liberty, whether they occur in public or private life. Article 2 covers all acts of violence against women. Article 3 refers to the rights that women have under conditions of equality, to the enjoyment and protection of all human rights and fundamental freedoms in the political, social, cultural, civil and other spheres. In Article 4 and 6, it states that States must condemn violence against women and must apply all appropriate means to eliminate violence against women and that nothing in this will affect the disposition that may be part of the legislation of a State or of any convention, treaty or international instrument in force in that State.

This convention urges that every effort be made to make it universally known and respected.

3.4 Gender and Nicaraguan Penal Code

Over the years, legislators have taken the initiative to integrate the gender issue into Nicaraguan penal code. In the country's criminal legislation, a great

transformation has been carried out, including issues related to gender. Furthermore, over the years a change has been made about the crimes contained in the criminal code, seeking the protection of the victims, whether they are men or women.

With the 2008 reform, the crimes of Domestic and Intrafamily Violence were introduced, it introduced some new protection measures and broadened other already existing ones, it broadened the range of protection in crimes against freedom and sexual integrity by regulating and punishing crimes of sexual exploitation, pornography, sexual act with an adolescent through payment, sexual tourism and human trafficking for the purposes of sexual exploitation, slavery and illegitimate adoption. Criminal law must recognize that "being a man and being a woman in this patriarchal society poses an asymmetric starting point" that must be considered in the approval of laws and the procedures to apply them.²² Despite the progress that legislators have made in incorporating this range of crimes into criminal law, much is still needed in order to establish a gender perspective in the application of criminal laws and to be able to establish gender equality, thus protecting both female and male victims at the time any of these suffer damages that violate their human dignity, which is a fundamental principle of Nicaragua's Magna Carta and is protected and preserved by it. Since nowadays not only women suffer these crimes, but also men, boys, girls and adolescents are turned into victims of domestic violence or any other crime against any gender.

3.5 Special Laws

²² Nicaraguan Penal Code. Law 641. 2008.

In February 2008, Law 648 (Law of Equal Rights and Opportunities) was approved, ratified by the President of the Republic in March of the same year. This law contemplates in its *raison d'être* that in the design and execution of public policies for sustainable human development it is necessary to incorporate an approach of equal rights between women and men, as well as opportunities and participation in decision-making. Another advance in legal matters is related to the approval of Law 779, (Comprehensive law against violence against women) approved unanimously in the National Assembly on June 22, 2012. It came into effect a month later. It was reformed, also almost unanimously, to include, among other things, the figure of mediation, on September 25, 2013, one year and three months after its approval. Following the latest event in this matter, the most recent Regulation to Law 779 that reforms Law 641 “Penal Code” that proclaims in its general provisions that the purpose of this law is to establish the provisions for the application of Law 779.²³

3.5.1 Law 648²⁴

The fundamental objective of the Law of Equal Rights and Opportunities is to make sure the State guarantees the protection of the safe and essentially equal enjoyment of human, civil, political, economic, social and cultural rights between men and women as well as in their development with the same rights, opportunities, justice, equity, non-discrimination, non-violence, etc. It adds the recommendations contained in the Program of Action signed in Vienna (1993), in the framework of the

²³ Translated. Martinez, Maria. *Perspectiva de Genero e Igualdad en el Derecho Penal Nicaraguense*.

²⁴ International Labor Organization.

World Conference on Human Rights, in the Beijing Conference (1995) and the Human rights concerning girls and boys. It establishes that, despite not being binding, the State has the obligation to promote, implement and monitor them.

The Law is based on the principles of equality and the right to life as a right for both men and women. It defines the concept of violence against women as any action or omission, based on its Gender, defines physical and psychological violence and recognizes that it occurs in the public and private spheres. Due to the existence of a series of incidents that arise around the female gender, the law takes these concepts into account in order to clarify that any of these acts should be condemned. Recognizes that gender inequalities prevent women from fully exercising their fundamental rights and that the human rights of men and women are integral and indivisible in an egalitarian way in a real and comprehensive manner. It is a very successful law in the context that explicitly expresses the eradication of inequalities between men and women.

The Opportunities Law gives the knowledge base of the State's public policies for the promotion and guarantee of equality between women and men, in the political, economic, social, cultural and environmental spheres. It also informs of the sanctions that will be imposed on public officials, authorities and employees that allow acts of distinction, exclusion or restriction to be carried out based on sex or any other condition of the woman that hinders or deprives the exercise, enjoyment or recognition of their human rights in any sphere of their life and fail to comply with public policies in favor of women in the political, economic, social, cultural and environmental spheres, said sanction will be imposed and enforced by the Nicaraguan Institute for Women.

The Nicaraguan Institute for Women is the governing body for the application and monitoring of public policies with a gender perspective in order that all public and private institutions must ensure compliance with the same since the state has the obligation to protect and guarantee in the exercise of this law as it expresses in its name equal rights and opportunities.²⁵

3.5.2 Law 779²⁶

Law 779, comprehensive law against violence towards women, aims to act against violence against women, protect their rights and guarantee a life free of violence, both in the public and private spheres. It also seeks to establish comprehensive protection measures to prevent, punish, eradicate violence and aid female victims of violence. The State of Nicaragua intends to guarantee to all women the effective exercise of their rights, to strengthen and promote campaigns in the different media that make it possible to raise awareness and sensitize the population on the issue of violence against women. In the same way, it is intended to improve public policies for the prevention of violence and eradicate gender discrimination.

The new crimes that this law contains are among the following: physical and psychological violence, patrimonial violence, intimidation or threat against women, abduction of sons or daughters, femicide, workplace violence, violence in the exercise of public function against women, omission to report and the obligation to report any kind of sexual harassment.²⁷

²⁵ United Nations. Press release.

²⁶ Nicaraguan Penal Code.

²⁷ Law 779, article 8.

The purpose of the law is to act against violence against women, in order to protect the human rights of women and guarantee them a life free from violence, which favors their development and well-being in accordance with the principles of equality and non-discrimination, establish comprehensive protection measures to prevent, punish and eradicate violence and provide assistance to female victims of violence, promoting changes in the sociocultural and patriarchal patterns that sustain power relations.

Chapter 4. Situation of Rural Women

This section will analyze the situation of rural women. Their situation was a constant worry for multiple activist groups for decades. However, despite the number of case studies taken, research and NGO interventions, little progress has been made to close the existing gaps between the rural and urban world.

Often, the work that women do at home is not valued and is confused with that done on the farm. In this way, the contribution they make to agriculture and to family food security is underestimated. The time they dedicate to productive and reproductive work, whether paid or unpaid, is not valued either.

4.1 Rural Context and Gender Neutrality

Economic growth, economic reforms and liberalization policies have not guaranteed the improvement of the population's living conditions, nor the overcoming of social and gender inequality. The balance for Nicaragua makes it clear that economic growth does not by itself create new rules to distribute possibilities and benefits among the population. On the contrary, the gaps have widened.

Like the peasantry, women continue to be seen only as poor. In the new context of increasing globalization and liberalization, women continue to be perceived as beneficiaries of compensation projects, and not as actors, mobilizers of endogenous factors at the territorial level, nor as dynamizers of the rural economy.

Despite the empirical evidence and the different analyzes carried out in recent decades, rural development policies are reluctant to understand that the economic rationality of rural women is not limited only to the logic of subsistence. Quite the contrary, they have been generating their own assets, energizing the local

economy based on knowledge and wisdom accumulated silently, in a context of structural exclusion imposed by the economic model in the agricultural and rural areas, based on a gender order that sustains and feeds it.

Rural women emerge as an entrepreneurial force in both the agricultural and non-agricultural sectors, articulating with the most populated centers and inserting themselves in local and transnational markets. While productive resources, both in their property and in their access, continue to be considered a male right and while the scenarios and instances where strategies and development plans are debated continue to be considered male territory, they innovate products and technologies, developing processes upgrading at the levels of the production and value chains.

However, women are still considered, for the most part, as an economically inactive population. The legal and institutional framework referring to women's access to land, promoting the organization of rural women in different associative forms, ensuring management for business development and marketing of products, remain without effectively recognizing them as actors, or dynamic agents of the rural economy.

Breaking the vicious and perverse circle of exclusion that weighs on rural women, which starts from their own invisibility as actors of development, is a main challenge for the development of the country.

4.2 Rural Nicaragua: Structure and Population dynamic

This section examines the current dynamics and structure of the Nicaraguan population by sex, age and area of residence, in order to be able to

measure the importance of rural Nicaragua and the sociodemographic profile of rural women in this new time.²⁸ The following positive and negative facts were found:

- The good news is that the reduction and stabilization of child population has begun. Those under 15 years of age did not increase, but rather decreased. In the group of children under 5 years of age, the decrease is more pronounced: the group of 5-9 years is holding back its growth and will soon start to decline as well, having only grown very little in the last ten years. This process is a reality that will continue to deepen, so it must be considered by the institutions responsible for the social services systems.
- The second positive fact is that the working-age population (15-64 years) is growing rapidly.
- The third is that demographic dependency is shrinking rapidly, which means less pressure for women and better use of their time.

These favorable demographic changes may favor the redirection of resources from the health and education sectors towards expanding coverage and improving the quality of their services. At the family level, less parenting pressure could allow parents to devote more attention and resources to their children. For women, less parenting pressure opens up new options and can facilitate their entry into the job market. The economy and the fight against poverty could benefit both from the increase in households where men and women work as well as from the increase in production and the broadening of the taxpayer base as a result of the massive incorporation of young people to the labor market.

²⁸ Resumen Censal, Inec, Nicaragua.

There are, however, potential bad news. The demographic opportunity that is opening is a one-time situation with a time limit. Its use requires sufficient and well-directed investment flows and adequate public policies to guarantee that young people enter the labor markets and do so with a good level of education, training and health.

The second bad news is that rural Nicaragua has lagged in these changes.

4.2.1 Lag in Rural Nicaragua

Nicaragua has been experiencing in recent decades a series of demographic changes that are part of the demographic transition process. The decline in mortality, particularly in infants, marked the beginning of the slowdown in the rate of population growth, deepening since the mid-1990s, with the sustained decline in the global fertility rate.

Nicaragua is in the stage of moderate demographic transition, as they still show high rates of birth, mortality, and population growth. However, rural Nicaragua, due to its relatively higher levels of birth and mortality, is still in the incipient transition stage. This lag expresses the coexistence of differentiated sociodemographic patterns within the country, which are nothing more than the result of the acute social inequalities and economic and political disadvantages that affect rural areas and those where the bulk of the poor peasantry population is concentrated.

Rural Nicaragua presents a situation of structural vulnerability, precisely due to the high fertility rates that rural women continue to maintain and the high proportion of dependents under 15 years of age that characterizes poor rural

households, due to low schooling, in addition to historical deficit in terms of health care access and attention.

4.3 Rural Women, Families and Home

In order to determine the specific situation of rural women in households and families in rural Nicaragua, it is necessary to establish the difference between households and families. This will serve to account for the dynamics of relationships within them, especially about legitimized gender patterns regarding the constitution and functioning of rural families, in their complex character as units of biological reproduction, socialization, residence, units of consumption, production and instances of power.

The system of national statistics provides information only for households, defined as person or group of people, related or not, who habitually reside in the same private dwelling, occupying it totally or partially and who share their food in common²⁹, and not for families.

4.3.1 “Ideal” Family

Precisely starting from the importance that the State gives to the family, as the fundamental nucleus of society, the issue of rural families is approached from the premise that they cannot be analyzed in the singular or as a univocal and immutable instance that constitutes the "ideal family". Until now, this has been the trend from the essentialist approach that has predominated in the country and the region. However, this essentialist vision continues to be the benchmark at the

²⁹ Inec, 2006.

institutional level, despite the legal changes that have occurred. The worrying thing is that this "ideal type" of family, from which policies are established and defined, reinforces the patriarchal vision, which continues to think of the family as a monogamous, biparental instance, based on marriage, nuclear, where the man is the head of the family and provider and the woman is a mother, wife and housewife, as well as the one responsible for ensuring the raising of children.

The "ideal type" in Nicaragua is a myth that does not withstand the minimum test of confrontation with most aspects of concrete reality. In practice, the men and women of rural Nicaragua have been validating and legitimizing a series of patterns based on the patriarchal gender order that governs the agrarian and rural world, which differs from those characteristics with the aggravation that it places women in a situation of subordination and inequality, from the very beginning of their match.

Since the mid-1990s, heterogeneity itself, increasing inequality, the agrarian crisis, and unemployment have been the main triggers in the process of restructuring the reproduction and accumulation strategies that rural families have undertaken. In this process, women emerge as managers of 'scavenging' strategies to face poverty. Adolescent sons and daughters, earlier than had been the historical norm, go to the head of the migratory wave, assuming the responsibility of sending remittances to ensure or complete the family income thanks to their work either in the rural textile industry, which is supplied by the adolescent labor force in the new geography that characterizes its expansion, or in seasonal work in the new poles of cross-border agro-industrial development, which is fed especially by Nicaraguan migrants.

4.3.2 Conjugalitv in Rural Nicaragua

In present-day rural Nicaragua, the population in a conjugal union (legal or de facto) represents a 60%.³⁰ Contrary to what the ideal model assumes, Nicaraguan men and women in rural areas have historically privileged 'de facto union' as a way of establishing families over legal marriage. The explanation could lie in the very nature of the agrarian structure derived from the seasonality of traditional crops. The current figures for the rural area continue to show a predominance of 'de facto' unions over legal marriages. The weight of the 'de facto union' modality in the total 'married' and 'united' population is greater in rural areas than in urban areas. The 'de facto union' is the legitimated figure at the rural level in the constitution of families.

When examining the behavior of conjugalitv in the rural female population (over 15 years of age), it is found that rural women have historically privileged the conjugal union over singleness. Comparing with the behavior of male conjugalitv, it is possible to observe that the proportion of rural men married or united has historically been lower than that of women. Although the proportion of "singles" is growing on average, the proportion of married women in rural Nicaragua today is still higher than that of married people. These differences in the behavior of male and female conjugalitv in rural areas are linked not only to the lower level of education, but fundamentally to the gender order that governs sexuality, reproduction and functioning of the rural world. Families as units of production. The conjugal union in the patriarchal regime, predominant in the countryside, represents for

³⁰ Resumen Censal, Nicaragua.

women and thus is legitimized, the only way to be recognized as such and to fulfill the key function assigned to them in the economic reproduction of the peasant family.

Social legitimation of feminine and masculine identities in rural Nicaraguan society requires tangible proof and that is the “pregnancy”, it is the “woman's belly”, the only proof so far admitted of recognition of the “virility” of the man (it is the proof of having made a woman his own) and of the woman's fertility (of having surrendered).

The early conjugal union of rural women and the conditions in which they establish the union places them from the beginning in a situation of subordination and inequality. In the first place, because the early female pairing pattern is linked to a later age for men and to non-consensual union figures, which are not fully recognized at the institutional level.

Although the Constitution of Nicaragua indicates that “Family relations rest on respect, solidarity and absolute equality of rights and responsibilities between men and women”³¹, this does not happen. Studies carried out in rural communities show the predominance of a female mating pattern at an early age and an older male pattern. Rural women begin their life as a couple at an early age (13-15 years) with men over 20 years of age. The fact that women establish their first mating sexual relations with older men who come from other unions (experienced men) is another factor that places them, from the beginning of the relationship, in a condition of inequality.

Early pairing has been associated with the custom of ‘flight’ or ‘kidnapping’, which is still in force. Although the ‘flight’ is generally planned in

³¹ Article 73

consensus by the couple, the fact that the man is older does not ensure a relationship of equality. In the case of ‘robbery’ or ‘kidnapping’, it is carried out without the consent of the adolescent: it is the man (an experienced adult) who makes the decision, under a situation of violence. These practices have become naturalized in rural Nicaragua, as they are not sanctioned socially or judicially, although many ends with the formalization of the conjugal bond, demanded by the parents of the adolescent.

4.4 Job and Economic Participation

In this section, the condition of activity and participation of women in the labor market is going to be analyzed. In Nicaragua, the labor market not only shows little development but also clear signs of deterioration, which particularly affect the rural labor force and women.

Over the years, the economic participation of females has increased while those of men have decreased. However, the gap between male and females enlarges greatly in rural areas. Despite the efforts made to decrease the difference, difficulties persist. The system fails to record housework, reporting a huge number of women as ‘inactive’.

Furthermore, female non-agricultural employment is focused in low productivity activities, which tend to have lower salaries. However, rural agricultural related jobs are believed to be a man’s work that is difficult for women to enter this industry.

Moreover, from agricultural and livestock production, the contribution of women to the economy is not limited to the production of basic grains, but is

involved in raising large and small livestock, as well as other agro-export crops. In this way, rural women contribute to guaranteeing food security for their families and, in addition, to generating income for their homes but these activities are not listed anywhere.

4.5 Rights and Access to Productive Resources

The inequality in access to productive resources that affects women, and particularly rural women, has a structural character derived from the prevailing gender order in the rural and agrarian world, where men are considered by nature the producer, who has the right to own land, livestock, equipment, machinery and agricultural implements. Hence the difficulties of recording by sex in agricultural statistics and in those referring to the rural economy, precisely because the tacit premise that rural women are basically housewives and/or family helpers prevails.

Within the rural population, while 75.8% of rural men are registered, only 46% of the rural female population is registered. The same happens at the level of the unregistered: only 24% of men are not registered. While on the other hand, among rural women the figure rises to 54%, which means that they are not registered as citizens in the Supreme Electoral Council and that they lack an identity card. Therefore, rural women face a severe situation of inequality to exercise the right to citizenship, both with respect to rural men and the rest of women, which in turn limits access to basic health, education health services, among others.

4.5.1 Access to Properties

The evolution of land tenure in Nicaragua has undergone significant changes. In 1978, it was concentrated in the private sector with 96%; while the reform barely reached 4%, corresponding to the initiatives for assigning land through titling and agricultural colonies promoted by the Nicaraguan Agrarian Institute (IAN).

In 1989, after a decade of agrarian reform and as a result of the massive distribution of land to peasants, a radical change had occurred in the structure of land tenure: the private sector controlled only 54.4% and the reformed, 39.8%, that is, ten times more than it had in 1978. However, with the change of government in 1990 and the privatization process, the private sector once again increased its surface, reaching 69 %, which reduced the reformed sector to 31%.³²

Upon reaching 2002, as recorded in the 2001 Agricultural Census, the concentration of land returned to take the profile prior to the Agrarian reform: the private sector has 84% of the national surface and the reformed with 10%. This high degree of concentration is one of the central problems, due to the implications it generates: it limits the process of primary activities, causes greater migration from the countryside to the city, postpones the development of the country and complicates the efforts of policies against the fight against poverty, especially in rural areas, which, it is estimated, affects more than 60% of rural inhabitants.³³

Even though in the 1980s and in the framework of the revolutionary regime there was a profound agrarian reform, women were not explicitly recognized

³² Resumen Censal, Nicaragua

³³ FAO. Situacion de las Mujeres Rurales. Nicaragua

as direct beneficiaries. The assigned lands were given en masse to men, with only 10% of women benefiting from it.

Furthermore, taking into account that a large part of the activities that stimulate the rural economy that women carry out occurs in the home itself, the home becomes a place of production (home agribusiness, handicrafts, among others). But the unequal access to home ownership, especially at the rural level, reveals the structural limitation faced by rural women in carrying out their productive activity, as well as the dependency relationship in which they are situated with respect to their partners, which in the face of any conflict places them before the threat of being expelled from the house in which they live and work.

Chapter 5. Differences between Rural and Urban Women

This section will discuss the differences that Rural women and Urban Women face in regards to income generation, employment and decision making.

5.1 Income Generation

It is no surprise that urban women are more active when it comes to income generation than rural areas and it can be explained by the fact that they have greater opportunities open to them in the cities. Nonetheless, this does not mean that urban women have the same opportunities as men do. Some urban women do not work even if they want to and some of the reasons why are because they either have to take care of their household or because they do not have access to free childcare services. On the other hand, rural women do not only have less work opportunities than urban women, but also, the women that are able to work, do not receive the acknowledgment they deserve and instead their work is believed to be necessary to help men rather than for their own benefit. Furthermore, the main reason rural women are not able to work is because there is a strong belief that a working woman neglects her home and that women's main role is to serve men. This suggests that while urban women do not work because of financial reasons, rural women are not able to work because of social norms. In other words, urban women see income generation as economic independence but do not have the means to achieve it, while rural women just cannot work because it is strongly believed that women are beings that belong to the house, have to take care of their family and have to obey and be solely in the service of men. Another key difference between urban and rural women is how they see work. As stated earlier,

while urban women see income generation as economic independence, they also perceive work as an opportunity for self-development. However, for rural women there is no advantage or convenience of their own. Working is just another means of serving their spouse.

5.2 Employment

As expected, women in urban areas are more active in the work environment than rural women. Urban women agree that women should earn the same income as men, but rural women do not. However, a counter-intuitive argument is that rural women define work differently from urban women. While urban women claim that housework is also a type of work, rural women do not. Furthermore, rural women, who not only take care of their household but also collect water, gather firewood, tend the land if cultivated, and may also care for small livestock, do not see these activities as work but rather part of their identity as women. The mentioned activities are part of their routine and their responsibility as a married woman. Rural women define work as activities that offer payment. They do not identify themselves as “working” unless it is paid work. Moreover, in some cases, even if rural women do get paid for certain work, they do not identify themselves as workers but rather a means of helping their husband. On the other hand, urban women are not only more likely to generate income but have a better perception of what they do and expect to them to be acknowledge accordingly.

Another difference between rural women and urban women when it comes to employment is how others perceive them. While urban men agree that women should work if necessary and think of their working wives as workers, rural

men do not believe their wives as workers even if they get paid but identify them as housewives, ignoring any economic contribution women make. Hence, even if rural women were to change their point of views, they would still be stuck under the general mindset of rural men. These ideologies need to change in order to achieve gender equality in rural areas.

5.3 Decision-making

When decisions are broken down into essential sections, it becomes clear that money generating is vital in some circumstances. When decisions about a number of issues, including food purchases and children's clothing, as well as who should reprimand a child, whether a woman should see friends or not, and contraception and sex difficulties, generally women not active economically do not have a say and follow whatever decision man made. Where men view their partner was a housewife, they are more likely to believe that the man alone should make decisions, especially on "feminine" items like food too. This is the case for both rural women and urban women. However, urban women who earn a living, on the other hand, are more likely to make all of the decisions. While rural women who work do not. Whatever amount of money they are able to bring in, its usage is decided by men.

Chapter 6. Conclusion

The gender perspective is an aspect of great importance that is being incorporated with the modernization of criminal law, fundamentally it must be present throughout the legal system of a country because a society or a state is made up of individuals of both sexes who are defined or identified by a division of roles imposed by society to which the legal system must correspond to the establishment of norms based on the principle of equality, achieving the guarantee of an egalitarian treatment, process, etc.

The principle of equality, as pointed out in earlier, is not found explicitly in the codification that regulates crimes and criminal norms in Nicaragua, however their Magna Carta proclaims it in its article 27, expressing that all are equal before the law, in correspondence with the universal declaration of human rights and the different conventions signed by Nicaragua that aim to protect an equitable system.

It is important to conclude that Nicaraguan legislation has evolved with regard to the protection of the female sex in view of the fact that this has been the most vulnerable in society, however, no legal norm can be established that violates the principles of the Constitutional laws such as the principle of equality that is the subject of this paper. Law 779 is introduced into excess aspects that do not allow an egalitarian process; therefore, it distorts the gender perspective in Nicaraguan criminal law.

The institutions involved in materializing these legal norms have a belligerent participation in the legal circle that determines that the re-victimization factor does not exist or that illegal events occur or not on the part of public officials,

that is, the scope established by the special laws must be properly regulated in such a way as to avoid situations that violate the principle of equality as a priority.

The State of Nicaragua has applied public policies regarding the issue of the genre that have become a little more established in recent times, which is demonstrated by law 648, "law of equal rights and opportunities", and its regulations, which guarantee compliance with it. Which has produced an evolution aimed at divided participation in public institutions.

However, it is clear that all these efforts taken and made by the Nicaraguan government are not enough to make a difference for the women, and especially those living in rural areas. Some social laws, that undermine women, were imprinted on the society for generation after generations that they are learned since children and believed to be the only option or even as natural events. This shows that no matter how hard the government tries to change laws and create a more egalitarian environment for men and women, it is not enough to change social norms.

There are still too many women that, as stated earlier, do not have a say in their homes, no power to choose, no access to owning their own lands or any kind of properties and even no access to basic rights like health care and education and this phenomenon becomes even more notorious for rural women. In the case of the latter, some have such poor rights that do not even own an identification card, making them invisible humans to the government and law.

Hence, even though Nicaragua has become the fifth most egalitarian country for men and women in the world, it is hard to say that women living there feel the same way. When it comes to numbers, research and data, Nicaragua might meet the standards but women, mainly those living in rural area, cannot say that their country see them as equals to men.

Nicaragua has a long way to go in order to reach gender equality. It should first focus on giving all women basic rights and access to what they deserve as human beings before even trying to compare them to men.

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Abstract in Korean

니카라과는 라틴아메리카에서 빈곤율 2위의 국가이지만 양성평등에 관해서는 세계 5위를 차지하고 있다. 본 국가는 현 남녀평등 지수에 도달하기 위해 여러 번의 법안 개정을 거친 경험이 있다. 본 연구는 농촌 지역에 거주하는 니카라과 여성들의 상황을 연구하고 이를 통해 연구하고자 하는 여성들이 남녀 평등한 환경에서 살고 남성과 동일한 권리를 누릴 수 있는지를 알아내고자 한다.