

Face Equality International (FEI) Research Project

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Nicaragua

No.	Question		Answer
1.	<p>a. Do people with facial disfigurements (marks, scars, etc.) have any legal protection against discrimination?</p> <p>b. Which law relates or mentions the legal protections?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>a. The relevant law (the “Law”) is Law No. 763, “Law for the Promotion of the Rights of Persons with Disabilities,” enacted in 2010. It defines discrimination as “discrimination caused by disability”, and provides the following definition (Article 3) :</p> <p><i>“ it is any disadvantage, legal, administrative or regulatory provision, act or fact that prejudices, excludes, restricts, inhibits or nullifies the recognition, enjoyment or exercise, on an equal basis, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field of life of men and women with disabilities. It includes all forms of discrimination, including the denial of reasonable accommodation, i.e. the failure to enable the full enjoyment and exercise of all rights, as well as intimidating, hostile, degrading, humiliating, cruel and offensive behaviour towards people with disabilities.”</i></p> <p>Disability is defined as: “<i>any acquired or congenital limitation or deficiency affecting a person's mental, physical or sensory functions. The degree of anatomical, physiological or histological impairment of a person's organ systems.</i>”</p> <p>It is not very clear whether facial disfigurements is included, but it would be likely to be included when it impacts the physical/sensory functions of the person.</p> <p>A relevant law would also be special Act No. 830 on support for former combatants to strengthen peace, unity and national reconciliation, adopted on 13 February 2013, which includes a complete chapter on the rights of persons with disabilities resulting from the war. Although it does not target all disabled people, people with facial disfigurement resulting from the war would fall under its protection.</p> <p>b. As above, one of the key legal frameworks in Nicaragua is <u>the Law No. 763, “Law for the Promotion of the Rights of Persons with Disabilities,”</u> enacted in 2010. This law aims to ensure the inclusion,</p>

			<p>participation, and full exercise of the rights of people with disabilities in all areas of life, including education, employment, health, transportation, and accessibility to public spaces, only available in Spanish here.</p> <p>Additionally, Nicaragua ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2008. The UNCRPD is an international treaty that sets out the rights of people with disabilities and obligates ratifying countries to take measures to ensure those rights are protected and promoted.</p> <p>Article 1 of the Law provides that it plainly recognizes and guarantees the protection of human rights contained in the Constitution of Nicaragua, and in the international laws or instruments ratified by Nicaragua and relating to the protection of the disabled.</p> <p>Therefore, this provision gives full effect to the provisions of the UNCRPD.</p>
2.	<p>a. What is this country's legal definition of disability?</p> <p>b. When do people with a facial disfigurement fit within that definition?</p> <p>c. How does being excluded from that definition affect the protection of their rights?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>a. Disability ("<i>Deficiencia</i>") is defined as: "<i>any acquired or congenital limitation or deficiency affecting a person's mental, physical or sensory functions. The degree of anatomical, physiological or histological impairment of a person's organ systems.</i>"</p> <p>It is not very clear whether facial disfigurements is included, but is likely to be when it impacts the physical / sensory functions of the person.</p> <p>Chapter IX of the Law provides for a certificate and card to be obtained for people with disabilities. Article 65 specifies that the Ministry of Health is the competent authority to declare the physical, sensory, mental and intellectual limitations of disabled people and to issue, free of charge, the corresponding certificate and card accrediting them as such. The criteria and procedures for certification are set out in the implementing regulations for this law.</p> <p>Articles 56 to 58 of the implementing regulations (Reglamento de los derechos de la personas con discapacidad) stipulate that the Ministry of Health and associations of disabled people will draw up proposals for criteria and procedures to be submitted to the National Council for the Promotion and Implementation of the Rights of Disabled People. However, the regulations specify that to begin certification, the information contained in the "Todos con Voz" (<i>Everyone with a voice</i>) program is used as a reference.</p> <p>The program classifies disabilities into 5 categories: (i) sensory disabilities; (ii) physical-motor disabilities; (iii) psychological disabilities; (iv) intellectual disabilities; and (v) mixed or multiple disabilities. In these different categories, certain type of facial disfigurements are covered, for instance:</p>

			<p>- Physico-motor disabilities include "language disorders (<i>aphasia, dysphasia, dysarthria, dyslalia, stuttering, partial or <u>total amputation of the tongue</u></i>)".</p> <p>- Sensory disabilities include the <i>loss of one or both eyes; and hearing disabilities;</i></p> <p>- Dermatological disabilities, with: "<i>third-degree burns; mucocutaneous leishmaniasis with severe facial involvement; ectodermal dysplasia; and deforming neurofibromatosis</i>".</p> <p>b. The definition provided appears to be quite broad and inclusive, encompassing both acquired and congenital limitations or deficiencies.. A facial disfigurement could certainly fit within this definition, as it typically involves an anatomical or physiological alteration that affects a person's appearance and may also impact their sensory functions, such as vision, hearing, or speech, depending on the nature and extent of the disfigurement.</p> <p>c. Being excluded from the definition has the consequence of being excluded from the law itself and considered a person without disability. Therefore, protections are the same as people without disabilities, and specific protection granted by this law will not be available.</p>
3.	<p>Are there aspects of disability and/or disfigurement law that ensure a legal right to healthcare, education or employment?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<ul style="list-style-type: none"> Article 34 (<i>Del derecho de trabajar en igualdad de condiciones</i>) provides that the State is obliged to ensure that disabled people can work on an equal footing with other people and benefit from labor rights. <p>The article further provides that "<i>in addition to complying with the provisions of the law, [the Ministry of Labor] must ensure that employers make reasonable accommodations, adapting the working environment and conditions to the needs of people with disabilities so that they can exercise their labor rights, and verify that promotions and advancement are granted on the basis of equal opportunity, taking into account abilities and performance within the company, regardless of disability-related reasons. Under no circumstances may disabled people be discriminated against when applying for a position in the civil service, and only the candidate's ability to perform the job should be assessed.</i>"</p> <p>Additionally, the Political Constitution of Nicaragua establishes in its article 80 that "<i>work is a right and a social responsibility. The work of Nicaraguans is the fundamental means of meeting the needs of society and the individual and is a source of the nation's wealth and prosperity. The State shall seek the full and productive occupation of all Nicaraguans, under conditions guaranteeing the fundamental rights of the person</i>".</p> <ul style="list-style-type: none"> Article 38 (<i>Del derecho a una educación gratuita y de calidad</i>) provides that the Ministry of Education, the National Technological Institute, the National Council of Universities and the

			<p>National Council of Evaluation and Accreditation, in their respective competencies, <u>shall guarantee persons with disabilities the exercise of the right to free and quality education in an inclusive system at all educational levels and throughout life</u>; all with the purpose of promoting respect for human rights, equity between men and women, human diversity, the environment, developing human potential, self-esteem, personality, talents, creativity of people, mental and physical aptitudes.</p> <p>The article further provides that : <i>“Persons with disabilities shall be enrolled in the general education system, receiving, as the case may be, the necessary support programs and resources.”</i> However, there is one exception : “[...] <u>children and adolescents with severe disabilities, who cannot benefit from the general education system and in accordance with the provisions of this Law and its Regulations, shall be enrolled in special education schools, either temporarily or permanently.</u>”</p> <ul style="list-style-type: none"> • Article 47 (<i>Del derecho a la salud gratuita, especializada y de calidad</i>) provides that <i>“Persons with disabilities have the right to enjoy the highest possible level of health. The State, through the Ministry of Health and other public institutions, is obliged to ensure the exercise of the right to free, quality, human warmth, affordable, specialized and relevant health care according to the type of disability in order to provide them with the best assistance in health services. [...]”</i>
4.	<p>a. How effective are the legal protections? Please describe evidence available of the effect of the legal protections.</p> <p>b. What are deficiencies or areas for improvement in these legal protection measures as they apply and affect people with facial disfigurement?</p> <p>c. What evidence exists to prove that the information and resources guaranteed</p>		<p>Some reports from committees, NGOs and the United Nations have been published recently and seem to suggest that the legal protections put in place are not as efficient as hoped. They also show deficiencies or areas for improvement.</p> <ul style="list-style-type: none"> ➤ According to the third periodic report submitted by Nicaragua under article 35 of the Convention, due in 2017: Convention on the Rights of Persons with Disabilities: <ul style="list-style-type: none"> • From 2007 to 2018, legislative measures were taken to recognize, include and integrate persons with disabilities in the country or under the jurisdiction of the State into the various spheres of society so that they can fully enjoy the rights recognized in the Convention; • Law 763 has enabled persons with disabilities to have a presence, to participate and play a role in the community, with a level of choice and self determination that allows them to lead an autonomous life where they can function in society on an equal footing; • But <i>“stronger policies and initiatives are needed to ensure that persons with disabilities, especially women and indigenous peoples, have equal access to technology and information so that they can further their potential and continue to generate local initiatives. It is important to draw attention to the challenges that persons with disabilities face in society, to</i>

	<p>by law are actually available to disabled persons?</p>		<p><i>deepen awareness and to align efforts in order to achieve results that have a greater impact on the population.”</i></p> <ul style="list-style-type: none"> ➤ The Committee also published findings on Azerbaijan, Bahrain, Costa Rica, Kazakhstan, Nicaragua, Sweden and Zambia on 27 March 2024. In this report, the Committee expressed concern about the forced closure in Nicaragua of at least 212 civil society organizations working for women’s rights, including women with disabilities, between 2018 and 2022. It also reflected concerns about at least 7,000 cases of attacks against women human rights defenders, including women with disabilities, who are considered to act against the State party. It urged Nicaragua to restore legal personality to human rights defenders’ organisations, repeal any legislation that discriminates based on political opinions, and take action to protect human rights defenders, including those with disabilities, and ensure that they have access to effective remedies. <p>It also asked Nicaragua to establish a monitoring mechanism to prevent aggressions and sexual violence in detention centres and strengthen measures to combat violence against children and women with disabilities, particularly in the home, both in urban and rural areas.</p> <ul style="list-style-type: none"> ➤ The Human Rights Watch recently stated in a 2023 report that “Discrimination against people with disabilities in Nicaragua is widespread. People with disabilities face severe problems in accessing schools, public health facilities, and other institutions. Under Nicaraguan law, 2 percent of public officials should be people with disabilities, but the quota is not respected, and there are few employment opportunities for people with disabilities.” ➤ The United Nations have further reported, in relation to children with disabilities, in 2022, that “Over the years, efforts have been made to integrate both classrooms and schools; teachers have been provided with basic knowledge and tools; and some good practices have been developed. However, these efforts have been sporadic and there is a mindset within the school community that for children with disabilities to be academically successful, they should be part of a segregated education system. <p>In 2020, in partnership with UNICEF and with the financial support of the India-UN Development Partnership Fund, the ministry rolled out the country’s first master’s degree in disability with an emphasis on inclusive education. The first cohort of the two-year programme includes 37 teachers, school directors and pedagogical advisers from 15 schools who are acquiring the tools needed to apply the inclusive educational model, which recognizes the different needs of each child. This is a major step forward. However, it will take years for this</p>
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