



## Nicaragua

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Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. President Arnoldo Aleman was elected in a free and fair election in 1996, defeating his closest competitor, Daniel Ortega of the Sandinista National Liberation Front (FSLN). The Supreme Electoral Council is an independent fourth branch of government. A series of political accords between the governing Liberal Constitutionalist Party (PLC) and the Sandinista National Liberation Front (FSLN), though highly controversial, ceded the FSLN more power in several governmental institutions in exchange for the avoidance of the use of violent protests to achieve political ends. FSLN leaders largely refrained from using or threatening the use of violence. The Constitution provides for an independent judiciary; however, the judiciary is at times susceptible to political and financial influence.

The President is the supreme chief of the national defense and security forces. President Aleman established the first-ever civilian Defense Ministry upon his inauguration. The Ministry of Government oversees the National Police, which is charged formally with internal security. However, the police share this responsibility with the army in rural areas. The National Police recently diminished the role of voluntary police, private citizens contracted by the National Police to help fill staffing gaps, in law enforcement. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

Nicaragua is an extremely poor country, with an estimated per capita gross domestic product of less than \$480. The economy is predominantly agricultural; coffee, seafood exports, sugar, beef, and some light manufacturing are the key sectors. The economy grew at 7 percent in real terms in 1999, but the rate declined in 2000. Real GDP growth rate for 2000 is estimated at 5 percent. The estimated annual rate of inflation was 8 percent, marking the second consecutive year of single digit price increases. While the Government estimated that unemployment is less than 11 percent, some nongovernmental organizations (NGO's) calculated the rate of unemployment and underemployment as high as 40 to 50 percent. Private foreign investment continued to increase during the year; however, economic growth is hindered by unresolved property disputes and unclear land titles stemming from massive confiscations by the Sandinista government in the 1980's. The country continued to have a precarious balance of payments position and remained heavily dependent on foreign assistance and remittances from citizens living abroad.

The Government generally respected many of its citizens' human rights; however, serious problems remained in some areas. Members of the security forces committed six reported extrajudicial killings. Police continued to beat and otherwise abuse detainees. There were allegations of torture by the authorities. Prison and police holding cell conditions remain harsh, although they improved somewhat. Security forces arbitrarily arrested and detained citizens at an increased rate. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. Lengthy pretrial detention and long delays in trials remain problems; however, the judiciary has made efforts to reduce the large case backlog. The judiciary also is subject at times to political influence and corruption. The Supreme Court continued its structural reform program for the judicial system. A new Judicial Organic Law, intended to address many of these problems, came into effect in January 1999; however, the weakness of the judiciary continued to hamper prosecution of human rights abusers in some cases. The Human Rights Ombudsman made several publicized recommendations during the year that openly challenged the policies of the Aleman Administration. These led to little concrete action. Violence against women, including domestic abuse and rape, remained a problem. Discrimination against women is an ingrained problem. Violence against children is a problem and child prostitution continues. Discrimination against indigenous people is a problem. Child labor also remained a problem. There were reports of trafficking for forced labor and trafficking in women and girls for the purpose of forced prostitution.

The civil war formally concluded in June 1990 with the demobilization of the Nicaraguan Resistance (RN, or "Contras"). However, the rule of law and basic infrastructure do not extend to all rural areas. Despite the Government's disarmament campaigns, many citizens, especially in rural areas, are heavily armed. Marauding criminal gangs, some of which claimed political agendas, continued to be a problem in the mountainous regions of the north, as well as on the Atlantic Coast.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Political and Other Extrajudicial Killing

There were no reports of political killings by government officials; however, the police registered six reports of extrajudicial killings by police.

The Inspector General's office (IG) of the National Police reported 6 instances in which a member of the police killed an alleged criminal and 35 instances in which police seriously wounded criminal suspects while attempting to arrest them. The IG automatically remands to the court system for review cases in which police use deadly force; however, the cases often take considerable time to process. The police do not make a final decision on cases sent to the courts until the courts respond with a verdict. While the police await the decisions from the courts, the IG's office normally applies a mild punishment, such as suspension or confinement to precinct. Of the 48 cases the IG remanded to the courts during the year, there were no reports of case adjudication.

On August 19, in Managua, police officers Juan Ramon Velasquez and Leonel Antonio Velasquez shot and killed 20-year-old Javier de Jesus Solorzano Hernandez. Solorzano and his friend Marlon Antonio Obando Madrigal were leaving a neighborhood block party when two unknown thieves reportedly attempted to rob them. When Solorzano and Obando refused to give up their money, the four youths entered into a fight. The thieves had beaten Solorzano to the ground when the Velasquez brothers, who were patrolling the neighborhood, arrived on the scene. The thieves reportedly escaped just before the police arrived, at which time one of the two policemen approached Solorzano, believing that Solorzano and Obando were gang members. The officer hit Solorzano with his police baton until he fell down again. Obando then claimed that one of the two officers, at close range, fired two bullets into Solorzano's chest. Juan Ramon Velasquez claimed that when they arrived on the scene Solorzano was brandishing a gun. The police reported that they shot Solorzano in an act of self-defense. It remained unclear if Solorzano indeed was brandishing a revolver, and the preliminary autopsy report raised questions about the veracity of Velasquez's story. Juan Ramon Velasquez was suspended from his position and was awaiting trial at year's end.

In late October clashes between police and members of the Yatama political party led to one reported death and several injuries (See Section 5).

The police authorities treated another death involving police officers as a justified homicide in self-defense. On April 6, roadblocks on major transit arteries in the Southern Atlantic Autonomous Region (RAAS) by former members of the Nicaraguan Resistance resulted in clashes with police and the death of one of the protesters. The roadblocks were organized allegedly in response to the Government's failure to follow through on accords to settle longstanding claims for land titles and other benefits. According to a police report, the police were in the process of negotiating an end to the roadblock when five of the protesters attacked a policeman, Rafael Urbina Ortega. One of the assailants, Mauricio Mendoza, took the policeman's rifle and started shooting indiscriminately, injuring one policeman and four protesters. Mendoza, whom the police claim was inebriated, then was shot fatally by police. The local court in Rama, RAAS had yet to decide on the culpability of the police in the killing at year's end.

National Police reports indicate that the four policemen involved in the January 1999 killings of Hilario Briones Arostegui and Santos Arostegui Torres were never investigated.

There were no further developments in the May 1999 case of Pedro Gonzalez Talavera who was shot and killed by policemen in Villa Sandino, Chontales. At year's end, the case was still pending in the Appellate Court of Juigalpa.

There were no further developments in the 1997 Wamblan case in which 16-year-old Irma Lopez was killed, after allegedly being raped, by an army patrol.

There were no further developments in the 1997 La Patriota case, in which the army allegedly killed five

members of a criminal band as they slept.

In 1997 the Government negotiated the disbandment and disarmament of over 1,200 members, a majority of them former contras, of the "Northern Front 3-80" and promised them food, clothing, seeds, and small plots of land. It also disarmed 423 members of the proSandinista "Andres Castro United Front" (FUAC). Despite these successful disarmaments, armed bands, including former members of the 3-80 front and FUAC, engaged in murder, kidnapping for ransom, and armed robbery in the north and north-central regions. FUAC members have alleged that they were acting in opposition to the Aleman administration, and FSLN leaders have made positive reference to the FUAC activities in public statements. However, law enforcement groups, human rights organizations, and political analysts described the political motivations as tenuous and stated that most of these actions were purely criminal in nature. The violent criminal activities of the FUAC-related gangs received so much public attention that in June the army launched an intensive military operation to eliminate the gangs in the region (see Section 1.c.).

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law makes the use of torture a punishable crime; however, police continued to beat and otherwise abuse detainees. There were numerous credible reports that police beat or physically mistreated detainees, often to obtain confessions. During the year, the Nicaraguan Association for Human Rights (ANPDH) received 70 complaints of torture or degrading treatment by the authorities. However, according to government figures, the Ombudsman's Office for the Defense of Human Rights (PPDDH) submitted the majority of human rights cases to the police authorities; 39 of the 40 cases received by the police investigative bodies resulted from PPDDH inquiries. Police Inspector General Eva Sacasa proved willing to prosecute abusers. During the year, her office recorded 177 complaints of physical abuse by police, including those submitted by the ANPDH and others, and found 50 to have merit. The Inspector General sanctioned 131 officers in these cases.

Between January and November, 27 police officers were discharged dishonorably.

The National Police recently diminished the role of voluntary police in law enforcement. Volunteer police are private citizens who are contracted by the National Police on a volunteer basis to help fill staffing gaps in several precincts. The National Police provide them with a uniform, and in some CASES, WITH A GUN, AT THE DISCRETION OF THE POLICE CHIEF. Voluntary police do not receive a salary from the state--although they may be "subcontracted" to provide security to businesses and farms--nor do they receive any professional training. Given the sustained criticism of voluntary police for their involvement in human rights violations, on August 8, Chief of Police Franco Montealegre approved a new police statute terminating the employment of all voluntary police in Managua. Government authorities report that there still are 3,303 voluntary police located throughout the country.

While the Inspector General's office investigated allegations of abuse and sanctioned the offenders in many cases, a degree of impunity persisted. Inadequate budget support for the National Police also hampered efforts to improve police performance and resulted in a continuing shortage of officers. However, the police were provided with extensive training during the year, much of it through international assistance programs.

The Office of Civil Inspection for Professional Responsibility is responsible for monitoring allegations of illegal detention and police abuse and forwarding complaints received to the police Inspector General for follow-up action. A small budget and a small staff limited its effectiveness. Police Inspector General Sacasa received a total of 863 complaints of human rights violations by police officers during the year, including complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 177 of these cases to have merit. She sanctioned a total of 288 officers for violations of human rights. Of those sanctioned, 69 officers were discharged dishonorably, and 48 were remanded to the courts; the rest received lesser punishments, including demotion, suspension, and loss of pay.

On February 16, voluntary policeman Julio Cesar Montenegro Pacheco accompanied by Lt. Roger Perez entered the house of Jose Francisco Fernandez in Managua, allegedly without authorization, after hearing what sounded like a gunshot. When the police began to beat Fernandez, he ran out of the house and tried to climb over a fence. Montenegro then used Perez's gun to shoot Fernandez twice in the legs. Montenegro later defended his actions, claiming that he only fired in Fernandez's general direction without intending to hit him when Fernandez tried to throw a machete at the police to impede their pursuit. However, the inquiries and site investigation of the Nicaraguan Center for Human Rights (CENIDH) concluded that Montenegro used

unnecessary force and faulted Perez for allowing the voluntary policeman to use his gun. The National Police subsequently dismissed Montenegro and subjected Perez to disciplinary action.

On March 2, several members of the National Police stopped Rene de Jesus Membreno Calero, a Nicaraguan citizen who was traveling from Costa Rica to his mother's house in the department of Boaco. Captain Juan Manuel Chavez and other members of the patrol force, for unknown reasons, severely beat Mr. Membreno, causing rib fractures and other lesions. After making an investigation, the National Police concluded that the officers were innocent of all charges and closed the case.

On March 10, several police officers from San Rafael del Norte entered the home of Rafael Ubeda Castro to arrest Roger Antonio and Carmen Rafael Ubeda Castro without showing any type of arrest warrant. Roger Ubeda reported to ANPDH that when the police officers Mario Castillo and Mario Rojas took him and his brother Carmen outside the home of their father, the police officers began to beat them with a wooden stick and the handles of their pistols. The police officers took the victims to the police headquarters in Jinotega to interrogate them about possible involvement in armed gangs. Roger and Carmen remained in a holding cell for 3 days, at which time the police released them for lack of evidence and the receipt of good conduct reports by private citizens who knew the individuals (see Section 1.d.).

On March 11, police allegedly apprehended, handcuffed, and brutally beat Jesus Ramon Olivas Espinoza as he left a bar in Wiwili. The ANPDH reported that police officers Antonio Armador Ciclon, Teodoro Vanegas, and several others punched and kicked Olivas several times. The police officers reportedly carried Olivas to a freight container and continued physically abusing him in the presence of six other detainees also held in the container. Olivas claimed that for 3 days the Wiwili police transferred him and the six other detainees to the holding cells at night while during the day they were moved to the container. The container attracted so much heat from the sun that the detainees were reportedly close to dying from asphyxiation. The police apprehended Olivas because he was suspected of destroying the propaganda of political parties. On March 14, the local judge dismissed the case against Olivas for insufficient evidence. Olivas filed a complaint of mistreatment with police captain Alberto Garcia Pineda, but an investigation remained pending at year's end (see Section 1.d.).

On June 13, CENIDH reported that army soldiers Ricardo Lopez Navarrete and Jose Danilo Hernandez sexually abused Yadira Mendez Chavarria and robbed Ismael Reyes in the city of Rosita, Northern Autonomous Atlantic Region (RAAN). The soldiers were part of a military operation, carried out in June, to combat the illicit and violent activities of gangs in the region. The local judge in Rosita ruled in favor of the soldiers, but the Military Appeals Court found the soldiers guilty and sentenced them to 4 years in prison.

On August 6, police officer Allan Gonzalez and a police cadet repeatedly kicked a minor in Managua when the youth would not abandon the sidewalk in front of a private store. Spectators took photographs of the abuse, and all the major newspapers and human rights organizations criticized the event. Police Chief Franco Montealegre dismissed the officer and the cadet from the police department.

On August 23, four soldiers in civilian clothing, including Eleazar Miguel Romero, robbed a bus full of civilians in Palacaguina, Madriz, and then fired their guns at the passengers. After hijacking the bus, they fired their rifles in the air and began to rob the passengers, including in one instance shooting one, Jose Santos Cordoba Garcia, in both his legs. Once they stole everything, they stepped off the bus and allegedly began to shoot indiscriminately into the side of the bus, injuring a total of nine persons. Erling Suyapa Figueroa, a 15-year-old girl, was wounded in her left hand. The only identified assailant, Eleazar Miguel Romero, said that the soldiers committed the crime to augment their small salaries. While the military investigation remains pending, as of September, the case already was presented before the local judge in the region. In December the court found three of the four soldiers guilty, sentenced them to 16 years in prison, and acquitted the other soldier.

On August 26, Miguel Angel Toruno Orozco accused police officer Lizandro Exiles Moncada of shooting him in the chin at close range on May 22. Toruno claimed that while he and a friend named Francisco Reyes were walking home from a restaurant in the northern city of Esteli, Moncada, who was drunk and in civilian clothing, jumped out of a truck and pointed a pistol at him. Moncada threatened to kill Toruno and then, at close range, shot Toruno in the chin and left him lying in the street. While confined to a hospital bed for 2 months in critical condition, Toruno contacted local human rights organizations and the police to investigate the case. The local police allegedly closed the investigation claiming that Toruno was shot by friend, Francisco Reyes. However, Toruno flatly denied the police claim because he recognized Moncada before the incident, and Reyes does not know how to drive. The police in Esteli advised Toruno to take his case to the Office of Internal Affairs at the National Police headquarters. The office of internal affairs sent the case to a local magistrate. The police forensics team concluded that the bullet used to wound the victim did not come from the gun of the police officer. Based on that evidence, the local judge acquitted police officer Lizandro Exiles Moncada of all charges.

On April 11, three antiriot police were shot and wounded seriously when police attempted to disperse a group

of 500 to 600 former members of the Resistance. The former Resistance members had established a roadblock at Boaco, in central Nicaragua. One member of the police, Ernesto Moises Lopez, lost his right eye, while another was shot in the stomach and a third in the back. The CENIDH reported that Jose Jesus Jiron, of the former Resistance, was killed in the incident. An individual riding on a bus also was shot in the leg. Police arrested 12 to 15 former Resistance members. The protesters allegedly were armed with grenades and shotguns at the time of the incident. The police sent three of the protesters to a local court in Boaco and released the others for lack of evidence.

Prison conditions remained harsh, but improved somewhat. The Supreme Court (CSJ), the National Police, the Attorney General, the Department of Prisons, and several human rights organizations worked together during the year to significantly reduce the number of prisoners who spent 6 months or more of incarceration without a trial (see Section 1.d.). The initiative helped to alleviate overcrowded prisons. As of September, only one of the eight correctional facilities maintained prison populations significantly higher than the standards established by U. N. conventions on the treatment of prisoners; the Granada penitentiary exceeded the U.N. standards by 146 prisoners. According to government statistics, the prisons had a total inmate population of 4,903 in September, compared with 5,298 in September 1999.

However, the prison system remains underfunded and medical attention ranges from inadequate to nonexistent. For example, for all 8 penitentiaries and 4,903 prisoners, prison authorities only maintained a staff of 22 specialists, which include doctors, psychologists, teachers, and social workers. Prison authorities also reported that 31 percent of prisoners remained without beds, forcing prisoners to sleep on concrete beds or floors. The percentage of prisoners without beds or bed mattresses would likely be higher without the periodic inflow of privately donated mattresses.

On June 6, then-Minister of Government Rene Herrera appointed Rosario Gaitan to replace Carlos Quintana as Director of Prisons. Gaitan previously served as Deputy to Quintana, has maintained a career in the penal system since 1980, and has earned both the respect of the prison personnel and the prisoners.

Prison officials calculated that the daily expenditure per prisoner for food was about \$0.50 (6 cordobas) and reported that the annual budget for food remained constant. There was some improvement in prison food, but malnutrition remained a problem in local jails and police holding cells. Many prisoners also received additional food from visiting family and friends. Medical care available to prisoners fell far short of basic needs. Some prisons and many police holding cells were dark, poorly ventilated, and unhygienic. At the Bluefields jail, there were only 2 showers and 4 toilets for more than 102 prisoners.

Only Managua has a separate prison for women; outside the Managua area, women were housed in separate wings in prison facilities and were guarded by female custodians. As of September, females made up 2.6 percent of the prison population. The Public Defender's office assigned two full-time employees to work with the women's prison system to help ensure its proper functioning in such areas as timely release of inmates granted parole.

As of September, 3 percent of the prison population were between the ages of 15 and 18, compared with 4 percent in 1999 and 8.5 percent in 1998. All youths were housed in separate prison wings from adults. During the year the Department of Prisons completed the process of establishing separate facilities for juveniles or converting part of their existing prison space into a separate youth wing for all prisons.

Conditions in jails and holding cells remained harsh. Police station holding cells were severely overcrowded. Suspects often were left in these cells during their trials, since budgetary shortfalls often restricted the use of fuel for frequent transfers to distant courtrooms. At the Corn Island jail, six cells each holding six detainees frequently were filled to capacity. The authorities occasionally released detainees when they no longer could feed them. Several churches and national and international NGO's donate foodstuffs, beds, and medicine to the prison system to help alleviate shortfalls. The ANPDH worked with the Director of Prisons in an effort to ensure that prisoners were released in a timely fashion when their sentence had been served or they were granted parole (see Section 1.e.). Prison guards received human rights training from NGO's and the Catholic Church and generally treated prisoners well, although there were some reports of abuses.

The Government permits prison visits by independent human rights monitors.

#### d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention by the police remains a problem. The Police Functions Law requires police to obtain a warrant prior to detaining a suspect and to notify family members within 24 hours of the detainee's whereabouts. Compliance with this law increased significantly in 1999, largely because of pressure applied by

the police internal affairs office and support for compliance from Chief of Police Franco Montealegre. Detainees do not have the right to an attorney until they have been charged formally with a crime. Local human rights groups are critical of the law for providing inadequate judicial oversight of police arrests.

The 1995 constitutional reforms reduced from 72 to 48 hours the time police may hold a suspect legally before they must bring the person before a judge to decide if charges should be brought. The judge must then either order the accused released or transferred to prison. Although cumbersome, this law was observed more closely than in past years, and few prisoners were held illegally beyond the 48-hour deadline (see Section 1.c.).

An interinstitutional effort comprised of the Supreme Court (CSJ), the National Police, the Department of the Penitentiary System, and several human rights organizations significantly reduced the number of prisoners with 6 months or more of incarceration without a trial. Specifically, on February 4, the Penal Bench of the Supreme Court passed an order to all local magistrates to give priority to those cases involving pretrial prisoners with 6 months or more of incarceration. According to government statistics, only 4 percent of the 4,958 prisoners have been in jail for 6 months or longer without a trial; in 1999, 8 percent of the prison population experienced an unusually long delay before their court hearing (see Section 1.c.).

During the year, ANPDH received 155 complaints of illegal arrest and arbitrary detention. Of those cases sent to the police IG's office by ANPDH and other human rights organizations, 28 complaints were found to merit investigation. Of these, 2 were determined to be without merit and 26 remained under investigation at year's end. As in past years, incidents of arbitrary detention were most common in Managua and in the rural northern and north-central regions, where much of the civil war was fought.

Exile is not practiced. There were no reports of political violence against any citizens returning from civil war era self-imposed exile.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary is susceptible at times to corruption and political influence. The judiciary is hampered by arcane legal codes, prosecutors who play a passive role, an underfunded, and understaffed defender's office, judges and lawyers who often lack sufficient training or education, and corruption. In the past, many judges were not lawyers. Judges' political sympathies or acceptance of bribes reportedly often influenced judicial actions and findings.

The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court, and in addition to administering the judicial system, also is responsible for nominating all appellate and lower court judges. The Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. Under the Law of the Child and Family, which took effect in 1998, the Attorney General's office rather than the police investigates crimes committed by and against juveniles. The 1994 Military Code requires the civilian court system to try members of the military charged with common crimes.

A 5-year administration of justice reform program, begun in 1997, continued during the year. A Judicial Organic Law, passed by the National Assembly in 1997 to overhaul the archaic structure of the court system, finally was signed by President Aleman in 1998 and took effect in January 1999. The law contains a provision establishing minimum professional standards for judicial appointees. The Supreme Court commission supervising the revision of the country's outdated criminal codes and procedures continued its work, in coordination with the National Assembly's Judicial Commission. Reform of these codes is intended to reduce judicial delays and resulting excessive pretrial detention. By year's end, the Assembly had begun the process to approve a new draft Criminal Code. However, the Assembly still must approve each chapter of the draft Criminal Code before it can go into effect. At year's end, a special subcommission of the National Assembly Judicial Commission and the Supreme Court finalized a new draft Criminal Procedures Code. In 1999 the National Assembly approved a reform of the Public Ministry's office that streamlined the judicial process by separating the defense and the prosecution functions. President Aleman vetoed it in May but later rescinded his veto.

In July the Government opened new property tribunals to handle cases concerning seized properties (see Section 1.f.). This ends the nearly 3-year freeze in property-related lawsuits that started when the processing of such cases in district courts was suspended in December 1997.

Although the civil and criminal courts made significant progress in expediting the judicial process for those in prison without a prior court hearing, human rights and lawyers' groups in general continued to complain about the delay of justice, sometimes for years, caused by judicial inaction.

Judges appeared susceptible to corruption and political influence. The shelving of politically charged cases or ruling in favor of the politically connected party remained the most common manifestations of judicial corruption. For example, on May 26, Alejandro Carrion McDonough, the brother of Army Commander General Javier Carrion McDonough, allegedly killed Pablo Absalon Leal Aguirre, a rural farmer, in Masaya when Leal allegedly refused to provide access to the water pipeline leading to Carrion's farm. The family of Leal took the case to the police and judicial authorities, but in spite of an arrest warrant, the police never apprehended Alejandro Carrion. Several weeks after the incident, including an announcement by Leal's family that the Carrion family attempted to bribe them in exchange for dropping the charges, alternate judge Walter Solis in the Criminal Court of Managua dismissed the charges. Largely due to public pressure, the Supreme Court forced alternate judge Solis, previously suspected of official misuse of authority, to retire from the bench. The Leal family appealed the decision of Solis, but at year's end, the Court of Appeals acquitted Alejandro Carrion. The case then went to the Supreme Court where it was pending at year's end.

In an ongoing campaign to reduce incompetence and corruption in the judiciary, the Supreme Court removed an additional 10 judges during the first half of 1999, bringing the total removed since the campaign began in 1997 to 104--more than one-third of the 300 judges in the system. The Judicial Inspector's office received 238 official complaints against lawyers, judges, and judicial functionaries in the first half of 1999.

In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. The Judicial Organic Law provided for the establishment of a Public Defender's office to represent indigent defendants. The office in Managua maintained a staff of 13 appointed public defenders throughout the year; however, more are needed. The Court has requested funding for 26 additional public defenders to be located outside of Managua. Elsewhere in the country where public defenders have not been available, the system in effect before the passage of the new law continued in use. Under that system, the presiding judge appoints attorneys from a standard list to represent indigent defendants, but, because they are not paid by the State, many attorneys have paid a fine of about \$8.30 (100 cordobas) rather than represent such clients.

According to the ANPDH, despite difficulties in implementing fully the provisions of the new law, the number of indigent defendants who went to trial without an attorney to represent them decreased significantly. However, high-ranking officials in the Public Defender's office complained that they continued to encounter blatant judicial corruption and the willingness of several judges to sentence defendants without a public defender present.

Under the Napoleonic legal system, a trial does not consist of a public hearing. Rather, there is a desk review by a magistrate of the file of the accused. An initial hearing usually is held within the constitutionally mandated 10 days. Although very simple cases or those with high profile or outside interest may be resolved quickly, many languish for months. Due to a lack of administrative coordination between judges and the penal system, many prisoners have remained in prison after their scheduled release date. The Supreme Court tried to alleviate the problem by issuing instructions to prison authorities to release prisoners immediately upon the return of an innocent verdict. In addition, the ANPDH worked with the Director of Prisons during the year in an effort to ensure that prisoners were released in a timely manner after serving their sentence or being granted parole.

Despite improvements to the criminal law system, the country still lacks an effective civil law system. As a result, cases more properly handled in a civil proceeding often are transmuted into criminal proceedings. One party then effectively is blackmailed, being jailed due to action by the party wielding greater influence with the judge. In addition, this heavy civil-based criminal caseload claims attention from an overburdened public prosecutor's office and diverts resources that otherwise could be directed toward genuine criminal matters.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for protection against these abuses, and the Government generally respected these provisions in practice. The Constitution stipulates that all persons have the right to privacy of their family and to the inviolability of their home, correspondence, and communications; requires warrants for searches of private homes; and excludes from legal proceedings illegally seized letters, documents, and private papers.

In November 1997, the National Assembly passed a law intended to resolve longstanding property disputes that stemmed from massive confiscations by the Sandinista government in the 1980's. The legislation provided for the establishment of new property tribunals with procedures that include mediation, binding arbitration, and expedited trials. After numerous delays, the new property tribunals finally started accepting cases for filing in July. The tribunals' administrative offices are fully staffed and operational. Any lawyer interested in serving as a

judge may submit his or her resume. The Supreme Court then selects judges by lottery, after which the names of the designated judges are published in newspapers for public comment. The Supreme Court can eliminate from consideration those judges about whom they received complaints. The judges for Managua and Leon already have been selected, and the process is continuing for tribunals in other regions. As of December, the tribunals reported that almost 100 cases have been filed. A total of 35 cases were settled through mediated settlement agreements. The unsuccessfully mediated cases passed on to arbitration or expedited trials. By year's end, the tribunals had not yet issued a final determination in any case, and it was too early to judge their fairness and efficiency.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. However, several constitutional provisions potentially qualify freedom of the press. The 1987 Constitution stipulates that citizens have the right to accurate information, thereby providing an exception by which the freedom to publish information that the Government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, there is retroactive liability established by law, defined as a social responsibility, implying the potential for sanctions against irresponsibility by the press. Although the legislature did not modify these provisions in the 1995 constitutional reforms, the Government has not invoked these provisions to suppress the media.

The Inter-American Press Association (IAPA) reported that during 1999, members of the pro-Sandinista Nicaraguan Journalists Union and leaders and members of the Nicaraguan Journalists' Association attempted to revive legislation to establish a professional journalists' guild. Although in 1996 the National Assembly passed a bill that would have established such a guild, the bill never was signed into law. The journalistic community was divided sharply over whether such a law would improve the quality of journalism or merely restrict freedom of speech and of the press. The IAPA expressed concern about any attempts to revive this proposal and also about the possible effect on press freedom of a provision in the new draft criminal code approved by the Judicial Commission of the National Assembly (see Section 1.e.) that would increase the possible penalties for libel and slander.

The privately owned print media, the broadcast media, and academic circles freely and openly discussed diverse viewpoints in public discourse without government interference. In April a popular daily newspaper revealed a corruption scandal that received significant attention from the Government and the public. Over a period of several weeks the newspaper provided substantial evidence that the Director of Internal Revenues Collection (DGI) Byron Jerez misused his position and authority. The journal's coverage of the scandal forced the Government to investigate the scandal and take action; in June Byron Jerez was forced to resign from his office.

The IAPA continued to report that the Government directed a disproportionate amount of total government advertising in the print media to publications favorable to the Government and denied to a newspaper critical of the government certain tax benefits provided to other media businesses.

Media representatives also charge the Aleman Government with using other means to retaliate against critics. La Prensa, the newspaper most active in unearthing government corruption, has been in a tax dispute with the DGI that the paper claims is based purely on politics. Channel 8 is involved in a dispute over the nonpayment of social security fees for its employees, a dispute that the owner of Channel 8 also attributes to political machinations on the part of the administration for his vocal criticism of the President. The administration also proposed a bill that would set minimum wage levels for print, radio, and television journalists. The media claimed that the President had an ulterior motive in proposing the bill that would set unrealistically high minimum salaries and force media outlets to either close or drastically reduce their operations. In February the National Assembly's Commission on Education, Media, Culture, and Sports rejected the proposal.

The news medium with the largest national audience is radio, but polls show that television is the primary source of news in the cities. There are 117 chartered radio stations in the country; listeners receive a wide variety of political viewpoints, especially on the 67 stations based in Managua. There are seven Managua-based television stations, six of which carry news programming, often with noticeable partisan political content. In addition, there are 60 cable television franchises that offer services in most large and medium-sized cities.

The Government does not restrict academic freedom.

### b. Freedom of Peaceful Assembly and Association

The Constitution recognizes the right to peaceful assembly without prior permission, and the Government generally respects this right in practice. However, the Constitution also recognizes the right to public assembly, demonstration, and mobilization "in conformity with the law," and the law requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. The authorities routinely granted such permission, but many groups chose not to register because, they claimed, the process was too cumbersome. Throughout the year, several groups threatened to cause civil unrest as a result of the newly instituted constitutional and electoral reforms. In August coffee growers held small demonstrations to protest government policies and a lack of government support.

In late October clashes between police and members of the Yatama political party led to the reported death of one demonstrator and injuries to several others (see Section 5).

The Constitution provides for the right to organize or affiliate with political parties, and the Government respects this right in practice. Opposition and independent associations functioned freely without government interference or restriction. Private associations do not have legal status to conduct private fund raising or receive public financial support until they receive this authorization from the National Assembly, which it routinely confers.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the right to travel and reside anywhere in the country and to enter and exit the country freely, and the Government respects these rights in practice. In December 1998, the Government abolished a requirement that citizens and residents obtain an exit visa to leave the country. The right of citizens to return to the country is not established in the Constitution, but in practice the Government has not restricted anyone's return.

In May the Government nullified the citizenship application of former Minister of Defense Jose Antonio Alvarado. This action was portrayed widely in the media as a response by President Aleman to Alvarado's aspirations to the presidency in 2001. Alvarado, a Nicaraguan by birth, relocated abroad during the civil war in the 1980's and acquired foreign citizenship. Alvarado claimed that he returned to Nicaragua in 1990, and reacquired his Nicaraguan citizenship. Minister of Government Rene Herrera nullified Alvarado's application for "repatriation" based on allegations of fraud and other irregularities in the application. This administrative action effectively removed Alvarado's opportunity to qualify for the 2001 national elections. A new constitutional reform stipulates that elected positions can be occupied only by Nicaraguans who have maintained their citizenship for the 4 years immediately prior to the date of the general elections. In August an appeals court ruled in favor of Alvarado, thus suspending Herrera's administrative action. The Supreme Court ultimately is to decide the case.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Constitution provides for asylum, and refugees cannot be expelled to the country that persecuted them. The issue of the provision of first asylum did not arise.

There were no reports of the forced return of persons to a country where they feared persecution.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens exercised their right peacefully to change their government in free and fair national elections in 1996 held under the auspices of the Supreme Electoral Council (CSE), an independent branch of government. Over 90 percent of eligible voters registered, and 76 percent of eligible voters voted in 1996. Over 3,000 national and international observers declared the elections free and fair, despite some logistical and organizational problems.

The 1995 reforms to the 1987 Constitution established a more equal distribution of power and authority among the four coequal branches of government. The President heads the executive branch and a cabinet appointed by the President, who is both head of state and head of government, as well as supreme chief of the defense and security forces. The Vice President has no constitutionally mandated duties or powers. Both the President and Vice President are elected to 5-year terms by direct popular vote, with the possibility of a runoff election between the top two candidates if one does not obtain at least 35 percent of the vote on the first ballot. The Constitution does not permit the President to hold consecutive terms in office.

A single-chamber National Assembly exercises legislative power. In October 1996, voters chose 93 members, including 20 deputies from nationwide lists, 70 from lists presented in each of the 15 departments and the 2 autonomous regions, and 3 defeated presidential candidates who obtained a minimum percentage of the national vote. Members elected concurrently with the President and Vice President in 1996 are to serve 5-year terms. The ruling PLC holds the highest number of deputy seats with 36; the FSLN has 35; a dissident liberal caucus has 8; the Conservatives have 5; and a conglomeration of minor parties make up the remaining 9 seats.

On January 20, the National Assembly approved a package of proposed constitutional amendments supported by the leadership of both the governing PLC and the opposition FSLN. Key elements of the legislation included a change in the requirements that a presidential candidate must meet to avoid a second-round runoff election; expansion of the Supreme Court from 12 to 16 judges; expansion of the CSE from 5 to 7 magistrates; an automatic assembly seat for the outgoing President and Vice President; a requirement for a two-thirds majority vote in the Assembly, rather than the previous qualified majority vote, to remove presidential immunity from prosecution; and the replacement of a single Controller General with the current 5-person collegial body charged with investigating allegations of wrongdoing or financial malfeasance by Government officials. The legislation provided for election of the President and the Vice President in the first round of voting if one political party wins at least 40 percent of the vote, or if one party wins at least 35 percent of the vote and the party in second place is more than 5 percentage points behind the front-runner. In addition, a party will lose its legal status if it obtains less than 4 percent of the vote in a general election. The latter provision is expected greatly to reduce the number of parties eligible to field candidates in general elections; over 20 parties ran candidates in the 1996 elections.

There are no restrictions in law or practice against women, indigenous groups, or other minorities voting or participating in politics; however, they are underrepresented in government and politics. Women served as President and Vice President until January 1997, and a woman served as president of the CSE until January. Additionally, 2 of 16 Supreme Court justices are women; women hold ministerial, vice ministerial, and other senior positions in government; and voters elected 10 women to the National Assembly in October 1996. Two members of the National Assembly claim indigenous heritage.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

With some exceptions, human rights groups operated without government interference. Major organizations included the Permanent Commission for Human Rights (CPDH), the (ANPDH), and the Nicaraguan Center for Human Rights (CENIDH). The ANPDH, the CENIDH, the CPDH, and the Catholic Relief Services continued to conduct human rights workshops at the police training academy, at various police headquarters, and with army units throughout the country. Some military officers received internationally sponsored human rights training.

On March 29, Amnesty International (AI) reported that the Government accused Vilma Nunez de Excorcia, President of CENIDH, of obstructing police. On June 2, AI reported that she had received telephonic threats to her life. Nunez alleges that the death threats are because she spoke out against Government complicity in alleged army-ordered assassinations of FUAC leaders. When she asked the police to investigate, they concluded that her charges were unfounded and closed the case.

The Human Rights Ombudsman's Office (PPDDH), the only autonomous government-financed human rights office, continued to focus on filling staffing gaps and organizing its scope and activities. In 1995 the National Assembly passed a law creating a Human Rights Ombudsman's office, with the Ombudsman to be elected by the Assembly. In June, after a delay of nearly 5 years, the National Assembly elected Benjamin Perez, formerly the head of the Assembly's Human Rights Commission, as the country's first Ombudsman and Julian Corrales as Deputy Ombudsman. Perez relied on the participation of most local human rights organizations to select the Special Ombudsmen for Children's Issues and for Women Issues, Carlos Emilio Lopez and Patricia Obregon, respectively. In December he selected the Special Ombudsman for Indigenous Affairs, Rev. Norman Bent. The PPDDH also began to investigate actively human rights violations during the year. Perez began demonstrating the effective independence of his office from the Aleman Administration when he publicly criticized the Government for violating the constitutional rights of former Defense Minister Jose Antonio Alvarado by nullifying his repatriation application (see Section 2.d.). However, he has been reluctant to exercise the full powers of his office.

In July 1997, the Organization of American States' (OAS) Technical Cooperation Mission (TCM), opened at the request of the Government and continues to operate. The TCM is a small successor organization to the OAS International Support and Verification Commission. The TCM focuses on the 13 municipalities that were affected most adversely by the decade-long civil war, where the TCM works on conflict resolution, reconciliation, improving local government, and extending legal infrastructure. The TCM and Catholic Relief Services help maintain more than 200 peace commissions in the northern and central parts of the country,

intended to give inhabitants of the area a means of dispute resolution, a means of monitoring human rights abuses, and a vehicle for expressing their concerns to government authorities. Many of the commissions operate in areas that are without any governmental presence, and serve as surrogates for absent police and courts. The Government granted legal standing to additional such grassroots organizations during the year. Some peace commission members initially reported that soldiers, rural police, and local residents sometimes misunderstood their efforts at advocacy on behalf of jailed criminals, interpreting them as challenges to law enforcement officials' authority. However, during the year, the commissions continued to report increased support from all elements of the societies they serve, including law enforcement.

#### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of birth, nationality, political belief, race, gender, language, religion, opinion, national origin, economic condition, or social condition; however, in practice the Government made little or no effort to combat discrimination. Few, if any, discrimination suits or formal complaints were filed with government officials.

#### Women

The most prevalent violations of women's rights involved domestic and sexual violence, which were widespread and underreported. The National Police reported that of 20,905 reports filed by women between January and August, more than 11,086 concerned physical or sexual abuse.

The Criminal Code provides punishment for sexual abuse, and stipulates that any person convicted of physically abusing or raping another person will face from 9 months to 4 years in prison. The National Police, as well as local human rights groups, have confirmed that while police sometimes intervene to prevent domestic violence, they rarely prosecute perpetrators because victims often refuse to press charges. Those cases that actually reached the courts usually resulted in a not guilty verdict due to judicial inexperience with, and lack of legal training related to, proper judicial handling of such violence.

The 1996 Law against Aggression against Women reformed the Criminal Code to make domestic violence a crime and to provide up to 6 years' imprisonment for those found guilty of such violence. The law also provided for the issuance of restraining orders in cases in which women fear for their safety.

According to statistics from the National Police, the police received 1,181 rape complaints during the year. In 1999 there were 1,367 reported instances of rape. Many women are reluctant to report abuse or file charges due to social stigmas attached to victims of rape.

The police manage 18 women's commissariats in 14 cities. Each commissariat is located adjacent to a police station and is staffed by six police officers, two social workers, one psychologist, and one lawyer. However, due to a lack of funding, the staff size is often limited to a far smaller number. The commissariats provide both social and legal help to women and mediate spousal conflicts.

In October 1999, with the help of the CENIDH, Zoilamerica Narvaez filed a complaint with the IACHR against her stepfather, FSLN leader, National Assembly Deputy, and former President Daniel Ortega. Narvaez asserted that Ortega sexually molested and harassed her from the time she was 11 years old until she filed charges against him in 1997. The case publicized the problems of incest, rape, and women's rights and also highlighted the issue of immunity from prosecution for parliamentary deputies. In 1998, Narvaez championed an effort to persuade the National Assembly to withdraw Ortega's immunity so that she could bring a lawsuit against him; however, the Assembly did not take up the issue of Ortega's immunity by year's end. In November 1999, the IACHR officially opened a case in response to Narvaez's complaint and advised the Government that it would be required to respond to the charges. On September 27, the Government responded that the claims made by Narvaez were unfounded and merited no further investigation. The Government argued that the State did not violate her constitutional rights because the legislative and judicial branches gave her case due consideration. The IACHR has not responded to the Government.

Prostitution is common, and there were credible reports that some women were trafficked and forced into prostitution (see Sections 6.c. and 6.f.). In Managua most prostitutes work on the streets, clandestinely in nightclubs and bars, or offer sexual services in massage parlors. In towns along the Pan American Highway, women and girls sell sexual services to truck drivers and other travelers, often foreigners driving north from Costa Rica. In port cities such as Corinto, the primary clientele are sailors. Corinto is unusual in that prostitutes receive medical examinations, and a card certifying their health if they are free of disease. In addition, prostitutes in Corinto reportedly often work together to maintain a rudimentary price-setting structure that enabled them to earn much more than they would in other areas. However, in most areas, prostitutes do not

have access to medical screening or treatment.

Although the Constitution provides for equality between the sexes, reports of discrimination against women are persistent and credible. According to a poll released on April 16, women comprise about 61 percent of the public labor force, a number much larger than that in the private sector. It also showed that even with comparable educational backgrounds, salaries for male and female workers differ significantly, with men making sometimes twice as much as women in the same positions. Even with similar qualifications, men advance more quickly than women do. Women constitute the majority of workers in the traditionally low-paid education and health service sectors. According to a 1998 report, women have equal or somewhat better access to education than men, especially in urban areas.

There are many NGO and government programs that target discrimination against women, mostly by analyzing the current status of women in the workplace. The Program for Reform and Modernization of the Public Sector, directed by the Vice President, collects statistics on salary differences and hiring techniques in the public sector, thereby publicizing the issue of discrimination. However, it is unclear what measures have been taken to actually counteract such discrimination in practice.

### Children

The Government expresses its commitment to children's human rights and welfare publicly, but does not commit adequate funding levels for children's programs or primary education. A constitutional provision known as the "6 Percent Rule" automatically allots 6 percent of the annual budget to a higher education consortium, often at the expense of funding for primary and secondary education programs. Children 18 years of age and younger made up approximately 53 percent of the population. A 1995 study showed that as many as 40 percent of all children are not registered officially. Education is compulsory through the sixth grade, but this provision is not enforced. The study also indicated that 45 percent of children do not attend school. Primary school enrollment rates for boys and girls are estimated at 73 and 75 percent, respectively; secondary school enrollment rates are 39 and 47 percent.

Children increasingly were involved in crime both as victims and as perpetrators. From 1993 to 1997, offenders under the age of 17 increased from approximately 1.5 percent to approximately 15 percent. From January to August, 29 minors died as a result of violent crime. During the same period, victims of rape included 222 children under the age of 13, and 351 between the ages of 13 and 17. Children, especially boys in street gangs, contributed to an ongoing rise in the crime rate, which resulted in a police crackdown on youth gangs in August that involved over 500 juvenile arrests. During the year, there were about 3,500 reported cases of child abandonment and abuse, 1,506 cases of children who were hospitalized for severe burns, and 105 children who disappeared. It is estimated that about 63 percent of sexual abuse victims are under the age of 18, and that 36 percent are younger than 13. Over 676,000 children are at-risk and exposed daily to violence, abuse, exploitation, and neglect. According to UNICEF, this number is expected to increase because the population of children under 5 years, living on the streets, is increasing.

As a result of the Child and Family Law, which took effect in late 1998, juvenile prisoners could no longer be held in adult facilities, or for more than 24 hours without being charged. However, implementation of the new law proved problematic. In August 1999, 17-year-old Modesto Perez ambushed and killed his former employer, National Assembly deputy Jose Cuadra, after Cuadra fired Perez. Public outrage at the inability of the system to punish Perez effectively was directed primarily at the new law, in particular the provision that minors charged with crimes be prosecuted in new juvenile courts, where the possible penalties for serious crimes are less than those imposed on adults. In addition, the juvenile courts were operational only in Managua and Ciudad Dario; consequently, minors charged with crimes elsewhere in the country often avoided prosecution entirely. The National Assembly, the Catholic Church, and other organizations spoke out in favor of reforming the law to allow the prosecution of minors who commit serious crimes as adults. In September a jury found Perez guilty of murder, and he was sentenced to 30 years in prison.

Child labor is a problem (see Section 6.d.).

The First Lady has established several commissions on children's issues. Mrs. Aleman headed the National Council for the Protection of Children and the National Council for the Eradication of Child Labor.

According to local media and the Ministry of the Family, the incidence of child prostitution increased, especially in Managua, and near border cities and ports. According to press reports, UNICEF noted significant growth in prostitution among children between the ages of 12 and 16 in towns where taxi drivers were said to serve as middlemen. OAS personnel in the country also noted growth in prostitution among girls as young as 10 years of age; in rural areas, their clients are often truck drivers and other travelers, including foreigners, who patronize prostitutes in towns along the Pan American Highway. From December 1998 to May 1999, the

Ministry of the Family sponsored an investigation into child prostitution in five municipalities. Of the more than 300 children surveyed, 82 percent reported that they had started engaging in prostitution within the past year. Many of those surveyed said that they engaged in prostitution to buy basic necessities such as food and clothing, or to support a drug habit. A 1999 survey by the NGO Casa Alianza reported that of 520 children, 504 admitted to consuming drugs, usually glue. There have been cases of adults who exchange sexual favors with street children in return for glue. There were cases of trafficking in children for the purpose of forced prostitution (see Section 6.f.). In 1999 a National Forum against the Sexual and Commercial Exploitation of Children and Adolescents was created to fight for children's rights and bring this issue to the public attention; however, it failed to take any actions during the year.

#### People with Disabilities

In 1998 the Ministry of Health created a National Council for Rehabilitation to address the needs of the 600,000 citizens with some type of disability, only 3 percent of whom receive medical treatment. Through its clinics and hospitals, the Government provides care to war veterans and other disabled persons, but the quality of care is generally poor. However, with assistance from international NGO's, foreign governments, and the public health care system, the Government has procured thousands of prostheses and other medical equipment for veterans and former resistance members.

Despite some efforts, the Government's past role in helping the disabled is minimal and often has been criticized. It has not legislated or otherwise mandated accessibility to buildings for the disabled. In the spring, the Ministry of the Family announced that it would cut a considerable amount of financial support for the Blue Bird Protection Association that shelters about 100 disabled persons, aged from 10 months to 40 years old, who are considered unable to care for themselves. Although the Ministry agreed to cover a significant percent of the Association's budget, its failure to do so forced the Association's employees to go without pay, and a significant decrease in medicinal, clothing, and food supplies. Many organizations centered on helping the disabled called for the Government to focus more attention on the needs and interests of the disabled.

#### Indigenous People

Indigenous people constitute about 5 percent of the country's population and live primarily in the Northern Autonomous Atlantic Region (RAAN) and Southern Autonomous Atlantic Region (RAAS). The RAAN and the RAAS, which were created in 1987 out of the former department of Zelaya and which border the Caribbean Sea, constitute 47 percent of the national territory. Based on 1998 information from the Center for Investigation and Documentation of the Atlantic Coast and other sources, the four major identifiable tribes are the Miskito (with approximately 100,000 members), the Sumo (10,000), the Garifuna (3,000), and the Rama (1,000).

In an effort to encourage indigenous participation in Atlantic coast regional elections held in 1998, the CSE distributed electoral and civic education materials in four languages, including Miskito and Sumo. The indigenous people of the RAAN, primarily the Miskito and the Sumo, have a political organization known as Yatama, which has representation in regional and municipal councils. There is also an armed faction of the same name; the extent to which the two groups are linked is not clear. Like many armed groups operating since the end of the civil war, the Yatama groups mix banditry with a genuine desire to force the Government to devote more resources to their underdeveloped region. However, two factors differentiate the armed groups in the RAAN from those that have operated elsewhere in the country. First, most participants in these groups are Amerindians who long have seen themselves as having a separate culture. Second, drug trafficking and drug money on the Atlantic coast have become far more pervasive than elsewhere in the country. The total strength of Yatama armed groups was estimated at 210 men.

In September 1999, President Aleman signed a disarmament agreement with representatives of the Yatama armed groups. In return, the Government made a number of promises to the Miskitos including land to fighters who turned in their arms, support for housing for Yatama-affiliated families, agricultural credits, protection of traditional Amerindian fishing rights, and resolution of long-standing disputes about the boundaries of communal Miskito land. However, these provisions had not been implemented at year's end which has caused recent threats of remobilization by the Yatama groups.

The Supreme Electoral Council (CSE) ruled in August that the Yatama political party did not meet the qualifications to participate in the November 5 municipal elections. The party attempted to enter into a political alliance with two other Atlantic-coast parties, but the CSE determined that the alliance failed to meet the electoral eligibility requirements for the municipal elections, thus eliminating Yatama's participation in the November elections. Yatama leader Brooklyn Rivera led protests against the party's exclusion in Puerto Cabezas and other areas of the RAAN. In subsequent clashes between October 26-29 between police and Rivera's followers, several followers were injured and scores were arrested. One person was killed; however, it was unclear whether his death resulted from the disturbance. There were high levels of abstention on election

day mainly due to dissatisfaction with the CSE ruling. Consequently, the PLC and the FSLN won all the contested offices in the RAAN. Since the electoral body ruled late in the year on the eligibility of the alliance, it granted Yatama automatic qualification for the 2001 national elections.

The 1987 Autonomy Law requires the Government to consult indigenous people regarding the exploitation of their areas' resources. Indigenous people claim that the central Government often made decisions without adequate community consultation. As in previous years, some indigenous groups complained that central government authorities excluded the indigenous people of the Atlantic coast from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Government health care exists in the Atlantic towns of Puerto Cabezas, Siuna, and Bluefields, but a majority of indigenous people in rural areas have no access to modern health care. Critics of government policy cited extremely high unemployment rates, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic coast is engaged in subsistence fishing, farming, and mining.

#### National/Racial/Ethnic Minorities

Most citizens are of mixed background, and ethnicity is not a barrier to political or economic success. However, various indigenous groups from both the RAAN and the RAAS sometimes linked the Government's failure to expend resources in support of the Atlantic coast population to the existence of ethnic, racial, and religious (principally members of the Moravian church) minorities that predominate in that region.

#### Section 6 Worker Rights

##### a. The Right of Association

The Constitution provides for the right of workers to organize voluntarily in unions, and this right was reaffirmed in the new Labor Code that entered into effect in 1996 and replaced the antiquated 1944 code. All public and private sector workers, except those in the military and the police, may form and join unions of their own choosing, and they exercise this right extensively. The Labor Code permits the existence of more than one union, representing the same group of workers, at any place of employment. To become a union, a group of at least 20 persons must petition the Ministry of Labor for legal status and the right to engage in collective bargaining. The new code legally recognizes cooperatives, into which many transportation and agricultural workers are organized. Less than half of the formal sector work force, including agricultural workers, is unionized, according to labor leaders. Union membership continued to fall during the year. The unions are independent of the Government, although many are affiliated with political parties.

The Constitution recognizes the right to strike. The Labor Code requires a majority vote of all the workers in an enterprise to call a strike. The Labor Code requires that before a union may strike, it must first receive approval from the Labor Ministry. To obtain approval, the union must go through a process that requires good faith negotiation with management.

The Labor Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. In 1999 the national construction workers' union was about to begin a legal strike after having spent 2 years following all the necessary measures. The Ministry of Labor would have declared the strike legal, but the strike was avoided when the construction branch of the Private Enterprise Council finally agreed to negotiate with the union. Legal strikes are rare, and there was only one during the year. The Labor Ministry asserts that it would take approximately 6 months for a union to go through the entire process to be permitted to have a legal strike. Observers contend that the process is inappropriately lengthy and so complex that there has been only one legal strike since the 1996 Labor Code came into effect.

The Labor Code provides protected status to union leaders, requiring that companies receive permission from the Ministry of Labor after having shown just cause to fire union executive board members. Such protection is limited to nine individuals per union. However, the Labor Code allows businesses to fire any employee, including union organizers, provided the business pays the employee double the normal severance pay. This practice is used sometimes by business leaders to stymie unionization attempts.

Unions freely form or join federations or confederations and affiliate with and participate in international bodies.

##### b. The Right to Organize and Bargain Collectively

The Constitution provides for the right to bargain collectively, and this right was reaffirmed in the 1996 Labor Code. The Government generally sought to foster resolution of pressing labor conflicts (usually in the public

sector) through informal negotiations rather than through formal administrative or judicial processes. According to the reformed Code, companies engaged in disputes with employees must negotiate with the employees' union if the employees have thus organized themselves. However, the possible existence of more than one union at any place of employment means that several unions, each with different demands, can coexist at any one enterprise. Similarly, management may sign collective bargaining agreements with each union.

There are 29 enterprises operating in the government-run free trade zones (FTZ), employing approximately 24,000 workers. In addition, there are 4 authorized private FTZ's; the 9 enterprises in these zones employ some 2,000 workers.

Approximately half the workers in the government-run FTZ are represented by a union organization; however, only about 10 percent of them are actual union members. While some of these unions have real collective bargaining power, others are primarily symbolic.

There have been several allegations of violations of the right to organize, primarily at the Las Mercedes FTZ, the largest in Managua, with 15 enterprises and approximately 19,000 workers. The Ministry of Labor has investigated these allegations and has concluded that employers have acted within the law. Notwithstanding the legality of employer actions, the result has been to weaken significantly an important union in the FTZ, the Sandinista Workers Central (CST). The CST has declared several strikes without first exhausting the very lengthy and complex administrative process of getting the required majority of the workers. Consequently, the Ministry of Labor consistently has ruled the strikes illegal. Employers then fire the striking workers based on the Ministry's ruling.

In essence, employers have taken advantage of the extensive administrative requirements required to declare a strike legal and the CST's failure to follow the prescribed rules.

In April Chentex, a Taiwanese-owned textile factory, tried and failed to negotiate a new collective bargaining agreement with an independent union, the Nicaraguan Workers Central (CTN), and the CST. Negotiations broke down because the CST demanded an increase in the factory minimum salary from \$62-115 (800 to 1,500 cordobas) per month. Although management considered this an inordinate increase, 1,500 cordobas falls below the Government's estimate of 1,600 cordobas per month for a basic basket of goods. After 50 CST workers participated in a work stoppage, management requested and received permission to fire 11 of the 13 CST board members based on participation in an illegal strike. All dismissed members filed an appeal before the labor court, which subsequently found that the workers had been fired properly. The CST appealed that finding to an appellate court, which had not issued a decision by year's end. In addition, scores of workers were fired while many others resigned to show their support for the fired board members.

Meanwhile the CST organized a series of work stoppages leading to the occupation of the factory on May 2. Chentex then filed criminal charges against the 9 board members for damaging property, kidnapping management personnel, and injuring security persons during the takeover. Chentex also later filed a petition to have the CST's legal status dropped because after the firings and resignations, they failed to meet the legal minimum of members. There are ongoing negotiations between the union and Chentex to resolve these issues; however, these negotiations were stalled at year's end.

On January 6, Mil Colores, a textile factory, asked the Ministry of Labor for permission to fire 50 workers as a money-saving measure, included were 26 of the 34 workers who petitioned, on January 11, to recertify the CST union. Another union—the Mil Colores Workers Union (MCWU)—had been certified earlier in the month. The Ministry denied the CST's request because it claimed that CST failed to meet the 20-member minimum requirement for certification. The CST alleged collusion between the Ministry and the company, specifically that the Mil Colores request to fire workers was backdated to precede the attempt to form a union. On January 27, during a CST-organized protest protesters broke through the factory doors, leading to the hospitalization of over 30 persons and the arrest of another 5. Shortly thereafter the company filed criminal charges against 68 workers for involvement in the incident. The president of Mil Colores subsequently dropped all charges and came to an agreement with the CST to rehire dismissed workers on a case by case basis.

In October 1999, JEM III, an American-owned company, laid off over 100 workers, reportedly because of the seasonal nature of their product—flannel shirts. The company began negotiations with the CST over these and future layoffs. In December 1999, after failure to reach an agreement, the CST workers went on strike. The company immediately petitioned the Ministry of Labor to declare the strike illegal, which would allow the company eventually to fire the strikers. However, the Ministry declared the strike legal, and the workers went back to work after obtaining minimum concessions. The JEM III strike is the only strike at the FTZ ever to be found legal by the Ministry of Labor. However, in January, another 70 workers were fired, including most CST board members. Because of various internal problems, the CST did not grieve the firings and the Ministry had no further involvement. However, the net effect was that the CST disappeared from JEMIII.

In response to longstanding complaints by union representatives that the Ministry of Labor did a poor job of enforcing the Labor Code in the FTZ's, in 1997 the Ministry opened an office in the Managua FTZ to ensure that the code was being enforced. FTZ officials claim that, due to memories of the corrupt and ineffective unions of the 1980's, many workers in the FTZ enterprises simply have no interest in unionizing. They also claim that wages and working conditions in FTZ enterprises are better than the national average. For example, some FTZ enterprises assert that they pay wages that average over \$192 (2,400 cordobas) per month, three times the minimum wage.

#### c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor but does not specifically address forced or bonded labor by children, and such practices occur. The Ministry of Labor continues to report that some children were forced to beg by their parents, and that some were rented by their parents to organizers of child beggars (see Sections 6.d. and 6.f.). There have been reports this year of trafficking in persons for forced labor or of trafficking in women and girls for the purpose of forced prostitution (see Section 6.f.).

In July the Labor Ministry investigated charges of forced labor at a textile factory located outside the FTZ, but which operates under the same rules and enjoys the same tax incentives as FTZ companies. The inspector verified that some 34 workers had begun work at 7:00 a.m. the previous day and were still working at 10:00 a.m. the next day when the inspector arrived--a total of 27 hours. The company produced signed documents from the workers stating that they had agreed voluntarily to work extra hours. Privately, the workers stated that they had signed the document for fear that they would be fired if they refused. Moreover, they understood that they would work only 2 extra hours. Although there is no evidence that the company made any threats, the fact that all 34 workers who were requested to work overtime agreed to do so indicates that the workers believed they would be fired if they refused. The workers were only provided a piece of bread and a bottle of soda during the night that they spent at the factory. The human resources manager who allowed the inspector into the factory subsequently was fired. The Ministry of Labor issued the company a warning and threatened heavy fines and possible closure if the problem reoccurred.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution provides for the protection of children's rights and prohibits child labor that can affect normal childhood development or interfere with the obligatory school year. The country has comprehensive labor legislation to protect children up to age 18. The Constitution also provides protection from any type of economic or social exploitation. The 1996 Labor Code raised the age at which children may begin working with parental permission from 12 to 14 years. Parental permission to work also is required for 15- and 16-year-olds. The law limits the workday for such children to 6 hours and prohibits night work. However, because of the economic needs of many families, a cultural legacy of child work among peasants, and lack of effective government enforcement mechanisms, child labor rules rarely are enforced except in the small formal sector of the economy.

In mid-September, the Government ratified ILO Convention 182 regarding the worst forms of child labor; most of its provisions already were incorporated in the Labor Code.

There are no reliable figures regarding the number of working children, but the Government reports that child labor occurs in both urban and rural areas. The latest official figures estimate that approximately 161,000 children between 10 and 19 are employed while CENIDH estimates that there are approximately 322,000 working children.

Over 140,000 children are employed in rural areas at coffee, tobacco, rice, and banana plantations. In Managua over 6,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging.

According to a 1998 UNICEF report, approximately 42 percent of children between the ages of 6 and 9 work. A study published in 1996 by the National Commission against Child Labor concluded that over 161,000 children between 10 and 19 years of age work, including approximately 109,000 employed in rural areas such as coffee, tobacco, rice, and banana plantations. The study found that 6,219 children work in urban areas as beggars, or self-employed car washers or parking attendants. Comprehensive labor legislation, intended to protect children up to 18, prohibits child labor in areas such as mines and garbage dumps, and imposes heavy fines for illegal employment. The Ministry of Labor established an inspection unit to monitor occupational safety and health in the agricultural sector, signed agreements with nightclubs and restaurant owners who pledged to comply with labor laws, and issued a resolution in 1999 prohibiting employment of minors specifically in the free trade zones. However, there have been some exceptions due to most families' need of extra income. The 1996 Labor Code authorizes children to work under certain circumstances, provided they are no younger than

14 years of age and have parental permission.

Child prostitution is a serious problem. Although national figures are not available, a study conducted in Managua in 1998 found that 40 percent of the 1,200 prostitutes in the city were under the age of 18. No numbers were available for other cities, but in 1998 UNICEF reported that teenage sexual exploitation had increased in recent years in rural areas, border cities, ports, and in Managua.

The Ministry of Labor has begun to take steps to combat child labor (See Section 5). It has signed agreements with nightclubs and restaurant owners whereby these establishments pledged to comply with child labor laws. In 1999 it issued a resolution specifically prohibiting the employment of minors in the FTZ's.

The Ministry of Family sponsors several programs that target working minors. These programs, which cover up to 10,000 children nationwide, include childcare services, return-to-school programs, and technical and vocational training. The programs also include training for parents and teachers. The Ministry of the Family, in conjunction with the Ministry of Education, established a program to keep 647 children off city intersections where they wash windshields. The program provides housing for the 75 percent of these children who are homeless and schooling for the 60 percent who are school dropouts.

Despite comprehensive legislation prohibiting child labor, structural economic problems have prevented its eradication. The Government has been able to make progress in combating child labor in the "formal sector"; i.e., that sector of the economy which is regulated by the Government, such as factories, construction, restaurants, and nightclubs. Most of the problems exist in the "informal sector," which is not regulated by the Government. Workers in this sector, which is characterized by a lack of an obvious employer, include street vendors, windshield washers, parking lot attendants, garbage dump scavengers, beggars, prostitutes, and agricultural workers.

#### e. Acceptable Conditions of Work

The minimum wage is set through tripartite (business, government, and labor) negotiations, and must be approved by the Legislative Assembly. A new minimum wage scale took effect in August 1999 and, although by law it was to be revisited 6 months later, has not been adjusted since. In November the Ministry of Labor called for new negotiations on the minimum wage. The various groups met sporadically, but no new minimum wage had been set by the year's end. Minimum wages vary by sector; monthly rates are as follows: Agriculture, \$36 (450 cordobas plus food); fisheries, \$56 (700 cordobas); mining, \$68 (850 cordobas); industrial manufacture, \$48 (600 cordobas); electric, gas, and water utilities, \$72 (900 cordobas); construction, \$96 (1,200 cordobas); restaurants and hotels, \$72 (900 cordobas); transportation, \$72 (900 cordobas); banking, \$80 (1,000 cordobas); community and social services, \$56 (700 cordobas); central and municipal government (includes health and education employees), \$44 (550 cordobas); and FTZ \$64 (800 cordobas). The minimum wage does not provide a decent standard of living for a worker and family. It falls below the Government estimate of what an urban family must spend each month for a basic basket of goods (\$128, or 1,600 cordobas). The majority of urban workers earn well above the minimum rates.

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly. The 1996 code established severance pay at from 1 to 5 months, depending on the duration of employment and the circumstances of firing. However, persons fired for cause may be denied severance pay through a process that requires employers to demonstrate proof of worker misconduct. The Code also established an employer's obligation to provide housing to employees who are assigned temporarily to areas beyond commuting distance.

The Labor Code seeks to bring the country into compliance with international standards and norms of workplace hygiene and safety, but the Ministry of Labor's Office of Hygiene and Occupational Security lacks adequate staff and resources to enforce these provisions. The Code gives workers the right to remove themselves from dangerous workplace situations without jeopardy to continued employment.

#### f. Trafficking in Persons

The law prohibits trafficking in persons; however, the Government does not enforce the law adequately. There are reports that the country was a source for the trafficking in women and children for purposes of prostitution in Mexico. According to the reports, procurers from Mexico induce young people to travel there on the promise of legitimate employment. Upon their arrival, they are sold to the owners of brothels and then forced to work as prostitutes to repay their debts. Children are trafficked in Guatemala by organized crime rings for the purposes of prostitution. In July 1999, the media reported that Nicaraguan girls had been lured to Guatemalan clubs to work as dancers and waitresses but upon arrival were forced into prostitution.

[End.]