



The State Department web site below is a permanent electro information released prior to January 20, 2001. Please see [y](#) material released since President George W. Bush took offic This site is not updated so external links may no longer func [us](#) with any questions about finding information.

NOTE: External links to other Internet sites should not be c endorsement of the views contained therein.



U.S. Department of State

Nicaragua Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

NICARAGUA

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. The Constitution provides for an independent judiciary; however, the judiciary is at times susceptible to political influence.

The President is the supreme chief of 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. Some members of the security forces continued to commit serious human rights abuses.

Nicaragua is an extremely poor country, with an estimated per capita income of \$441. The economy is predominantly agricultural, dependent on sugar, beef, coffee, and seafood exports, with some light manufacturing. Hurricane Mitch had a devastating effect on the country, including its economic infrastructure. The economy grew an estimated 4 percent in 1998--the fifth year of growth after more than a decade of contraction. The inflation rate rose to 18 percent, reflecting hurricane damage to the agricultural sector. The unemployment rate was estimated officially at 13 percent. Private investment increased, but continues to be hindered by unresolved property disputes and unclear land titles stemming from massive confiscations by the Sandinista government of the 1980's. The country continued to have a precarious balance of payments position and remained heavily dependent on foreign assistance.

The Government's human rights record improved in a few areas, but some serious problems remained. Some members of the security forces committed extrajudicial killings. Police beat and otherwise abused detainees. There were allegations of torture by the authorities. Prison and police holding cell conditions remain harsh. The security forces arbitrarily arrested and detained citizens, although the Government effectively punished some of those who committed abuses. Long delays in trials and lengthy pretrial detention remain problems, and the judiciary suffers from a 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 Organic Law for the judiciary, intended to address many of these problems, was scheduled to enter into effect in January 1999. However, the weak judiciary continued to hamper prosecution of human rights abusers in some cases. Most of the human rights abusers cited by the Tripartite Commission in well-documented reports remain unpunished, and few of the Commission's recommendations have been followed by the Government. Discrimination against women and indigenous people is a problem. Violence against women and children, including domestic abuse and rape, remained a problem. Child prostitution increased, and child labor remained a problem.

FSLN leaders continued to threaten, in speeches and public statements, the use of violence for political ends, but unlike 1997 there were no violent confrontations between the FSLN and the security forces. However, Sandinistas were among those involved in a violent confrontation in May between striking doctors and the police.

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, there were several instances of extrajudicial killings by police attempting to arrest suspects, of suspects while in detention, and by army members during operations in rural areas.

The Inspector General's office of the National Police reported 23 instances in which police officers killed alleged criminals, usually while attempting to arrest them. Police Inspector General Eva Sacasa stated that the police themselves are often in great danger when apprehending heavily armed members of criminal gangs. Nevertheless, the authorities deemed 11 of these killings improper and sanctioned 11 officers as a result.

In February police officers shot and killed a woman and a 12-year-old girl who allegedly were stealing beans in a rural Jinotegan town. Two policemen had accompanied a farmer to a site where he said armed bandits were planning to kidnap his son. On arrival, the police spotted two figures in the dark. After firing warning shots skyward, the police lowered their sights and fired again, killing the fleeing females, whom they had mistaken for the kidnapers. A court tried the policemen and a jury found them innocent.

On December 31, 1997, in Quilali, chief detective Marvin Maradiaga Cordoba approached his wife, Saturnina Blandon Negra, as she walked home. He struck her in the head with the butt of a gun, then

dragged her to her mother's house. She arrived unconscious at the house, where she spent the night with no medical attention. The next day she was taken to a hospital, where she died 3 months later. Despite the public nature of the crime and multiple eyewitnesses, local authorities refused to apprehend or prosecute Maradiaga. Eventually, police Inspector General Sacasa expelled him from the force and issued a warrant for his arrest, but by this time Maradiaga apparently had fled the country and has not been seen since. Sacasa also demoted and transferred Quilali police chief Cairo David Lopez in connection with the case.

On June 30, Judge Maribel Mena exonerated six army members of the May 15 killings near La Dalia of three alleged members of a pro-Sandinista armed group, ruling that the three men were armed and perished in a firefight. Family members of the dead, and the Nicaraguan Association for the Protection of Human Rights (ANPDH), asserted that the army lured the men to the scene, then tortured and murdered them. Two separate examinations--one of the bodies themselves, and one of photographs of the victims--led to conflicting conclusions concerning the circumstances surrounding the deaths. Mena based her ruling on the opinion of a forensic specialist, whose review of the photographic evidence led him to believe the army's version of events. The family members and the ANPDH believed postmortem examinations of the actual bodies by a general practitioner, which reported cigarette burns, knife wounds, and crushed testicles among the victims, indicating torture. The prosecutor appealed Mena's decision, calling for exhumation and an autopsy by a third pathologist to clarify the contradictory results of the first two examinations, but the appeal was denied. The army's cooperation with civilian authorities in this case was significantly better than in the past.

In February a judge in Managua sentenced three policemen to prison for their role in the death of detainee Roberto Jose Murillo on January 5. The policemen claimed that Murillo sustained an injury resulting in peritonitis after falling from a wall while trying to escape arrest for theft. The judge dismissed this possibility after hearing testimony from expert witnesses and attributed Murillo's injury and subsequent death to beating by police at the time of arrest, citing eyewitness testimony.

In May a soldier killed a local Miskito Indian in a one-on-one confrontation in Bismuna, 85 miles north of the Atlantic port of Puerto Cabezas. The cause of the confrontation was unexplained. Following this incident, armed Amerindian groups operating as Yatama (see Section 5) and indicating that they had taken up arms to protest government neglect and mismanagement in the Atlantic coastal area successfully assaulted the small military outpost at Bismuna. The attackers captured 7 soldiers, including the lieutenant in charge, and wounded 3 others, at the 12-man outpost. According to the local police chief, the attackers numbered more than 150. The Yatama fighters released the seven captured soldiers a week later in exchange for the government release of several of their men who had been jailed following an unrelated incident.

There were further developments in the 1997 "Wamblan case" in which 16-year-old Irma Lopez was killed, after allegedly being raped, by an army patrol. Judge Adriana Molina exonerated patrol leader Gabino Gomez, who previously had been cited by the Tripartite Commission for abuses, based on his testimony that he directed the ambush from a separate location and therefore was not present at the moment of Lopez's murder. Judge Molina then convicted, in absentia, five of the soldiers. According to army officials, the soldiers deserted and cannot be located. In September the Appeals Court denied an appeal by the defense, but by year's end the authorities still had not located the fugitive soldiers.

In February a court sentenced four policemen to prison for negligence in a November 1997 incident that led to the death of 23-year-old Jose Javier Martinez. According to press accounts, Martinez was arrested following a drunken robbery attempt, then taken to the Managua 2nd precinct headquarters and jailed. In an attempt to subdue the drunk and disorderly Martinez, police hung him by one wrist with handcuffs. They reportedly left him hanging for 16 hours despite the prisoner's pleas to be let down. Martinez

eventually died in that position. The court sentenced the officer on duty at the time of the death to 3 years in prison for negligence and sentenced two other officers to 1 year each.

To address the issue of unresolved deaths of former Contras, President Violetta Chamorro established the Tripartite Commission in 1992. The Commission was composed of representatives from the Government, the Catholic Church, and the OAS International Support and Verification Commission (CIAV). It concluded its review in October 1996 and turned 83 human rights cases involving 164 allegedly murdered former combatants, as well as 181 specific recommendations, over to the Government for followup. In 1997 the military judicial system, which is charged with investigating abuses committed in the course of the performance of official duties by soldiers and police, reported that it had complied with all but one of the 62 recommendations (from 42 cases) corresponding to its jurisdiction. However, only one soldier and five policemen cited by the Commission ever served a partial or whole sentence. Some human rights observers described the military judicial system's findings as an effort to maintain impunity of human rights abusers within the ranks of the army and police.

There were no further developments in the 1997 La Patriota case, wherein the army killed five members of a criminal band as they slept.

There were new developments in the 1996 case of Mario Amador Duarte, who was killed while in detention in Nueva Segovia. A civilian court tried Duarte's alleged killer, voluntary policeman Juan Isidro Flores, and a jury found him innocent.

On August 8, members of a Sandinista-affiliated agricultural cooperative attacked a group of squatters at the Las Plazuelas Ranch in Chontales department, leaving three persons dead and seven wounded. The squatters included former Contras and former members of the Sandinista Popular Army. Based on witness accounts, the ANPDH alleged the involvement of a number of voluntary policemen in the attack. The police arrested 10 voluntary policemen in the killings, of whom 5 went to trial. A court found all 5 not guilty of the deaths and released them. Although the Government also issued arrest warrants for the two alleged ringleaders of the attack, both were still at large at year's end. The title situation of the land in question is complex, with the Sandinista cooperative, the squatters, the Government, and two foreign citizens all arguing that they have a claim to the ranch. The fact that the squatters who were attacked included both former Contras and former Sandinistas appeared to indicate that the incident was a land tenure dispute and not a political matter. Las Plazuelas was in the possession of the Sandinista cooperative at year's end, but the title issue was not resolved.

There was no progress in the case of former army major Frank Ibarra, who was sentenced in absentia in 1993 to 20 years' imprisonment for the November 1992 murder of Dr. Arges Sequeira Mangas, president of the Association of Nicaraguan Confiscated Property Owners. In a report released in February, the Inter-American Commission on Human Rights (IACHR) concluded that the Government violated Sequeira's human rights by denying him the rights to life and protection under the law. The IACHR recommended that the Government find and punish Ibarra and coconspirators Lieutenant Diego Espinosa and Captain German Lacayo Guerrero for their roles in the murder. It also exhorted the Government to investigate and punish members of the police who failed to execute the judiciary's orders for Ibarra's arrest. At year's end, Ibarra remained a fugitive from justice.

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 pro-Sandinista "Andres Castro United Front," or FUAC. Despite these successful disarmaments, armed bands, including former members of the 3-80 front and FUAC engaged in murder, kidnaping for ransom, and armed robbery in the north and north-central regions. The FUAC members alleged that they were acting in opposition to the Aleman

administration, and FSLN leaders made positive reference to the FUAC activities in public statements. Law enforcement groups and political analysts described the political motivations as tenuous and stated that most of these actions were purely criminal in nature.

There were no new developments related to the February 1991 killing of former Contra commander Enrique Bermudez.

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, there was one credible allegation of torture by the authorities in the La Dalia killings of three members of an armed group by the army (see Section 1.a.). There were credible reports that police beat or otherwise physically mistreated detainees, often to obtain confessions. The ANPDH received 58 complaints of torture or degrading treatment by the authorities; 52 against the National Police and 6 against the military. The ANDPH and other human rights groups forwarded complaints of human rights abuses directly to police Inspector General Sacasa, who proved willing to prosecute abusers. Her office recorded 76 complaints of physical abuse by police, including the 52 submitted by the ANPDH, and found 16 to have merit. The Inspector General sanctioned 16 officers in these cases.

The police Inspector General's office and the Ministry of Government's Office of Civil Inspection for Professional Responsibility investigated allegations of abuse and the Inspector General's office sanctioned the offenders in many cases. However, a degree of impunity persisted. Inadequate budget support for professional training, salaries and benefits, and proper equipment and supplies also hampered efforts to improve police performance. Nonetheless, the police were provided with some training during the year, and salaries were increased.

In January human rights organizations accused Captain Luciano Hurtado, the Bluefields police officer reported to have subjected 14-year-old Juan Carlos Garcia to electrical shock while in detention in 1997 on Corn Island, of an additional 17 instances of abuse, illegal detention, and physical mistreatment of detainees. Despite repeated requests and documented cases of abuse that the ANDPH presented to the police, the authorities never formally charged Hurtado with any crime or negligence.

Following the demotion of Quilali police chief Lopez (see Section 1.a.), Orlando Siles Gonzalez was named acting chief in his place. In August a drunken Siles walked to local resident Reynaldo Figueroa's house and fired four shots, hitting Figueroa three times in the arm and wounding 15-year-old bystander Jose Alejandro Ortez as well. Siles fled and remained at large. There was an outstanding warrant for his arrest at year's end.

The Office of Civil Inspection for Professional Responsibility, under the auspices of the Ministry of Government, is responsible for monitoring allegations of illegal detention and police abuse and forwarding complaints received to the police Inspector General for followup action. The office received 388 formal complaints during the year. Its effectiveness was limited by a small budget and a small staff. Police Inspector General Sacasa received 870 complaints of abuse by police officers during the year, including the complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 309 of these cases to have merit. She sanctioned 417 officers in connection with human rights abuse. Of those sanctioned, 43 officers were dishonorably discharged, 100 were remanded to the courts,

and 21 were jailed; the rest received lesser punishments, including demotion and loss of pay.

The police clashed with violent strikers in May; 10 persons were injured, including 7 police officers (see Sections 2.b. and 6.a.).

Prison conditions remained harsh. The prison system is overcrowded and underfunded, with medical attention virtually nonexistent and malnutrition a constant problem. According to government statistics, prisons had a total inmate population of 5,570 in September, up from 3,946 in 1997. Prison officials calculated that the daily expenditure per prisoner for food was about \$1.00 (11 cordobas) and reported that the annual budget for food remained constant in spite of the growing prison population. Average daily caloric intake remained at 750 to 800 calories, well below the 1,800 calories per day recommended by the United Nations. However, many prisoners received additional food from visiting family and friends. Medical care available to prisoners fell far short of basic needs. Lack of available medical care led prisons to release ill prisoners convicted of lesser offenses. Some prisons and many police holding cells were dark, poorly ventilated, and unhygienic. At the Bluefields prison, there were only 4 showers and 4 toilets for 97 prisoners.

As of September, 8.5 percent of the prison population was between the ages of 15 and 18, compared with 10.4 percent in 1997. Youths were housed in the same prisons as adults due to lack of juvenile detention centers, although in different wings of the prisons. 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.

Conditions in jails and holding cells also remained harsh. Police station holding cells were overcrowded by an average of 30 percent. 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 holding six detainees each often were filled to capacity. Detainees occasionally were released when the authorities no longer could feed them.

Several churches and national and international nongovernmental organizations (NGO's) donate foodstuffs, beds, and medicine to the prison system to help alleviate shortfalls, which remain severe. Prison guards received human rights training from NGO's and the Catholic Church and generally treated prisoners well.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention by the police appeared to have occurred less frequently than in the previous year. 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. However, the police rarely complied with this law. 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 him before a judge to decide if charges should be brought. The judge must then either order the accused released or transferred to prison. Due to lack of prison space, there were over 1,000 prisoners in badly overcrowded police holding cells, some of whom were being held illegally beyond the 48-hour deadline.

Lengthy pretrial detention also remained a problem. Contrary to law, more than one-third of prisoners had been jailed for 6 months or more without a trial. Many prisoners spend more than a year in jail without a trial.

The police Inspector General's office recorded 120 complaints of illegal detention and deemed 38 of these to have merit. The office sanctioned 40 officers in connection with these 38 cases. Some complaints came to the office directly, while others were made via human rights organizations such as the ANDPH and the Permanent Commission for Human Rights (CPDH). 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 still susceptible at times to political influence. The judiciary attempts to provide citizens with a fair and efficient judicial process, but is hampered in doing so by arcane legal codes, judges and lawyers who often lack sufficient training or education, and corruption. Judicial actions and findings reportedly often were influenced by judges' political sympathies or acceptance of bribes. Human rights and lawyers' groups complained about the delay of justice, sometimes for years, caused by judicial inaction. Among the most vocal critics of the judicial system were some of the judges themselves. In 1997 the Supreme Court removed 57 judges and magistrates in a campaign to reduce incompetence and corruption in the judiciary. The court removed an additional 35 judges in 1998, bringing the total removed since the campaign began to 94—nearly one-third of the 300 judges in the system. The Judicial Inspector's office received 438 official complaints against lawyers, judges and judicial functionaries, a slight decrease from the 441 complaints received in 1997.

The judicial system comprises both civil and military courts. The 12-member Supreme Court is the system's highest court, and in addition to administering the judicial system, is also 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 November, crimes committed by and against juveniles are investigated by the Attorney General's office rather than the police. The 1994 Military Code requires the civilian court system to try members of the military charged with common crimes.

A multiyear administration of justice reform program began in 1997. A new 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 May and was to take effect in January 1999. The new law contains a provision meant to establish 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. Reform of these codes is intended to reduce judicial delays and resulting excessive pretrial detention. An important reform of the Attorney General's office and functions was simultaneously under way during the year.

In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. 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 \$10.00 (100 cordobas) rather than represent such clients. This is no longer an option under the new Judicial

Organic Law. The new law includes provisions for the country's first public defender's office, which was expected to be operational in Managua in 1999.

According to the ANPDH, approximately 90 percent of indigent defendants go to trial without an attorney to represent them. This contributes greatly to the slow pace of justice. Individuals without the means to contract private counsel are often forced to turn to law students or have no counsel at all. 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 accused's file. 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 remained in prison after their release date.

The country 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 is then effectively 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 could be directed toward genuine criminal matters.

There were no known political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution provides that all persons have the right to privacy of their family and to the inviolability of their home, correspondence, and communications. It also requires warrants for searches of private homes and excludes from legal proceedings illegally seized letters, documents, and private papers. The Government generally respected these rights in practice, although in September both the Vice President and the Controller General charged that their telephones were tapped.

In November 1997, the National Assembly passed a law intended to resolve longstanding property disputes that stemmed from massive confiscations by the Sandinista government of the 1980's. The law's purpose is to implement President Aleman's 1996 campaign promise that the poor would receive titles to properties received during Sandinista-era land redistributions, and that wealthier beneficiaries either would have to pay for such properties or return them. The law suspended judicial actions on property claims until new property courts offering mediation and arbitration procedures are established to expedite settlement of property disputes. However, the new property courts had not been created by year's end, and property claims that were pending for over 1½ years remained suspended.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and a free press, and the Government respects these rights in practice. The privately owned print media, the broadcast media, and academic circles freely and openly discussed diverse viewpoints in public discourse without government interference.

The news medium with the largest national audience is radio, but polls show that television is the primary source of news in the cities. Listeners receive a wide variety of political viewpoints, especially on Managua's 65 radio stations. There are six television stations, two of which carry news programming with noticeable partisan political content. There is no official state censorship, nor is self-censorship practiced.

However, freedom of the press is potentially qualified by several constitutional provisions. 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, neither has the Government invoked these provisions to suppress the media.

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.

Police clashed with striking public sector doctors and their supporters in street demonstrations in April and May. On May 11, violence broke out after the police, acting on the Government's instruction, moved to open roads the strikers had blocked. President Aleman met with strikers later the same day and ordered charges dropped against the 31 demonstrators arrested on public disorderliness and related charges. However, violence erupted again on May 12 when medical students and Sandinista activists blocked the road to the airport. When police attempted to reopen the road, a confrontation with protesters ensued in which 10 persons, including 7 police officers, were wounded, and 24 persons were arrested. The pro-Sandinista press claimed that the police had forcibly repressed the strikers, and the centrist press emphasized that some demonstrators had attacked police (also see Section 6.a.).

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. The law requires citizens and residents to obtain an exit visa to leave the country, but immigration authorities routinely granted these for a small fee. The right of citizens to return to Nicaragua is not established in the Constitution, but, in practice, the Government has not restricted anyone's return.

The Government cooperates with the office of the United Nations 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 even distribution of power and authority among the four coequal branches of government. The executive branch is headed by the President 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 between the top two candidates if one does not obtain at least 45 percent of the vote on the first ballot. The Constitution does not permit reelection of the President.

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.

There are no restrictions in law or practice against women, indigenous groups, or other minorities voting or participating in politics. Women served as president and vice president until January 1997, and a woman serves as president of the CSE. Additionally, 3 of 12 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 the exception of some peace commissions, human rights groups operated without government interference. Major organizations included the Permanent Commission for Human Rights (CPDH), the Nicaraguan Association for Human Rights (ANPDH), and the Nicaraguan Center for Human Rights (CENIDH). The CENIDH continued to take political positions reflecting strong Sandinista influence, limiting the objectivity and impact of its reports. In July 1997, a small successor organization to OAS/CIAV, the OAS Technical Cooperation Mission (TCM), opened at the request of the Government and continues to operate. The TCM's presence was focused on the 13 municipalities that were most adversely affected by the decade-long civil war, where the TCM worked on conflict resolution, reconciliation, improving local government, and extending legal infrastructure.

The OAS/CIAV and Catholic Relief Services helped 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

many of these 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 reported increased support from all elements of the societies they serve, including law enforcement.

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. However, the ANPDH and the Esteli peace commission complained that police often do not follow up on their accusations of abusive police behavior. Some military officers received internationally sponsored human rights training.

In 1995, the National Assembly passed a law creating a human rights ombudsman's office, with the Ombudsman to be elected by the Assembly. The Aleman administration publicly supported filling the position, and the Assembly considered a list of a dozen candidates in 1997, but the process to elect an ombudsman has stalled because no candidate could obtain the 56 votes required for election.

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. In practice, the Government made little or no effort to combat discrimination. However, 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 under-reported. The Nicaraguan Demography and Census office reported that in a poll of 13,600 women, more than 3,900 women stated that they had been physically or sexually abused by their husbands or boyfriends; 1,400 stated that they were abused while pregnant, and 2,800 reported that they had suffered severe physical abuse during the past year.

The National Police confirmed local human rights groups' charges that while police sometimes intervene to prevent injury in cases of 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 National Police reported 1,249 instances of rape during 1997, up from 1,095 in 1996. Many women are reluctant to report abuse or file charges due to social stigmas attached to victims of rape. However, police stated that the apparent rise in rape cases from previous years is at least partially due to the increased willingness of rape victims to report the crime.

Violence against women received widespread coverage in all media, which was enhanced by the high-profile case of Zoilamerica Narvaez, stepdaughter of FSLN leader and National Assembly Deputy Daniel Ortega. She asserted that her stepfather 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 for parliamentary deputies. Narvaez championed an effort to persuade the National Assembly to withdraw Ortega's immunity from prosecution so she could bring a lawsuit against him; however, the Assembly did not take up the issue of

Ortega's immunity during the year.

The police manage 14 "women's commissariats" in 11 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. The commissariats provide both social and legal help to women and mediate spousal conflicts. A 1996 Law against Aggression against Women reformed the Criminal Code to make domestic violence a crime and to provide for 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.

Although the Constitution provides for equality between the sexes, reports of discrimination against women are persistent and widely believed. An April poll on women and discrimination showed that 70 percent of women believe that they suffer from discrimination and showed the most prevalent form of discrimination to be lower pay for similar work. Women are well represented in the public sector, more so than in the private sector, but women's groups claim that they are losing ground in both. Women are underrepresented in management positions in the private sector. Women constitute the majority of workers in the traditionally low-paid education, textile, and health service sectors. Women have equal or somewhat better access to education than men, especially in urban areas. 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

Children 18 years of age and younger make up approximately 53 percent of the population. Education is compulsory through the sixth grade, but this provision is not enforced. 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 were increasingly involved in crime, both as victims and as perpetrators. From January to July, 56 minors (younger than age 17) died as a result of violent crime. During the same period, victims of rape included 167 children under the age of 13, and 261 between the ages of 13 and 17. Children, especially boys in street gangs, contributed to the 6 percent rise in the crime rate. As a result of the Child and Family Law, which took effect in late November, juvenile prisoners could no longer be held in adult facilities, nor could they be held for more than 24 hours without being charged. However, implementation of the new law proved difficult by year's end.

The United Nations Children's Fund reported that 65 percent of children are literate, and that 20 percent of children from 6 to 9 years of age work. A study published in September by the National Commission Against Child Labor concluded that over 160,000 children under 17 years of age work, including approximately 140,000 employed in rural activities such as the annual harvests. Others are forced by their parents to work in the streets of Managua as vendors or beggars (see Section 6.d.). The incidence of child prostitution increased, especially in towns along the Pan American highway.

People With Disabilities

The Government has not legislated or otherwise mandated accessibility to buildings for the disabled. In July the Ministry of Health created a National Council for Rehabilitation to address the needs of the 559,000 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 procured thousands of prostheses and other medical equipment for veterans and former resistance members.

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 March, 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, and there is also an armed faction of the same name. The extent to which the two groups are linked is not clear. In May armed Yatama groups assaulted an army outpost after a confrontation between a soldier and a Miskito in which the Indian was killed (see Section 1.a.). 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 have long 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 armed men.

On September 4, 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. These provisions had not been implemented by year's end.

The 1987 Autonomy Law requires the Government to consult the indigenous 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 health care. Critics of government policy cited extremely high unemployment rates, but calculation of reliable employment statistics was complicated by the fact that most of the working indigenous population on the Atlantic coast is engaged in subsistence fishing, farming, and mining.

The Awas Tingni, an Amerindian tribe in the RAAN, sued the Government in 1996, claiming that the Government's decision to award a long-term lumber concession to a Korean firm on a portion of the land it claims as its own was a violation of the American Convention on Human Rights. In 1997 the Supreme Court declared the Government's concession to the Korean firm unconstitutional. The case eventually went before the IACHR, where it remains. In April a court decree shut down the Korean firm's operations on the land, but a domestic company purchased the enterprise and reopened it not long

afterward.

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. New unions must register with the Ministry of Labor and be granted legal status before they may 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. Workers may strike legally only after they have demonstrated that they have just cause to strike and have exhausted other methods of dispute resolution, including mediation by the Ministry of Labor and compulsory arbitration.

In February public sector doctors began a 4-month strike, initially demanding a 1,000 percent pay increase that the Government said it could not afford. Strikers and supporters confronted police in street demonstrations in April and May (see Section 2.b.). The strike ended on June 9 with agreement on an immediate 100 percent salary increase for the doctors and a further 50 percent increase in 1999. The Government also agreed to rehire doctors dismissed during the strike and to restore pay withheld.

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. The 1996 Labor Code provides protected status to union leaders, requiring that companies receive permission from the Labor Ministry after having shown just cause in order to fire union executive board members. Such protection is limited to nine individuals per union.

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.

Nineteen firms, employing some 13,500 workers, operate in the government-run export processing zone (EPZ), and a private EPZ contains another firm with 500 employees. Four additional zones were authorized in 1997, but have not opened. In response to long-standing complaints by union representatives that the Labor Ministry did a poor job of enforcing the Labor Code in the EPZ's, the Ministry opened an office in the Managua free trade zone in 1997 to ensure that the code was being enforced. Of the 19 EPZ enterprises, only 2 are unionized. EPZ officials claim that, due to memories of the corrupt and ineffective unions of the 1980's, workers in the other 17 EPZ enterprises simply have no interest in unionizing. They also claim that wages and working conditions in EPZ enterprises are better than the national average.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor; however, it does not specifically address forced or bonded labor by children. The Labor Ministry reported that some child mendicants were forced to beg by the parents, and that some were "rented" by their parents to organizers of child beggars (see Section 6.d.). Parents forced many rural children to participate in annual harvests.

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

The Constitution prohibits child labor that can affect normal childhood development or interfere with obligatory school year. 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.

A study published in September by the National Commission against Child Labor concluded that over 160,000 children under 17 years of age work, 140,000 of them in rural activities, including the annual harvest of crops such as coffee, cotton, bananas, tobacco, and rice. Most of the children working in rural areas are 14 or younger. In Managua, 4,000 to 5,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging. The Labor Ministry reported that many child mendicants are forced to beg by their parents, and that many are "rented" by their parents to organizers of child beggars. Children the age of 10 or older often worked for less than \$1.00 per day on the same banana and coffee plantations as their parents. The Constitution prohibits forced labor, but does not specifically prohibit forced or bonded labor by children (see Section 6.c.).

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 November 1997, the first increase since 1991. At year's end, a another adjustment was pending approval in the National Assembly. Minimum wages vary by sector. Examples of monthly rates were: agriculture, \$27.75 (300 cordobas); fisheries, \$46.25 (500 cordobas); construction, \$44.40 (480 cordobas); government, \$32.38 (350 cordobas); and banking, \$64.75 (700 cordobas). The minimum wage does not provide a decent standard of living for a worker and family. It falls far below government estimates of what an urban family must spend each month for a basic basket of goods (\$129.51, or 1,400 cordobas). The vast 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 that severance pay shall be from 1 to 5 months' duration, depending on the duration of employment and the circumstances of firing. However, persons fired for cause may be denied severance pay through a process requiring employers to demonstrate proof of worker misconduct. It also established an obligation of an employer 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.

[end of document]



[Return](#) to 1998 Human Rights Practices report home page.

[Return](#) to DOSFAN home page.

This is an [official U.S. Government source](#) for information on the WWW. Inclusion of non-U.S. Government links does not imply endorsement of contents.