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1999 Country Reports on Human Rights Practices

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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 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 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 \$454. The economy is predominantly agricultural, dependent on sugar, beef, coffee, and seafood exports, with some light manufacturing. In late 1998, Hurricane Mitch had a devastating effect on the economic infrastructure, reducing the annual growth rate for 1998 from a pre-hurricane estimate of 6 percent to 4 percent. Despite this setback, the economy grew 6.3 percent in 1999. The inflation rate dropped to 11.5 percent from 18.5 percent in 1998. The unemployment rate was estimated officially at 11 percent; however, some nongovernmental organizations (NGO's) estimated the rate of unemployment and underemployment combined at 40 to 50 percent. Private foreign investment continued to increase; however, economic growth continued 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, which also increased significantly in the wake of Hurricane Mitch.

The Government generally respected many of its citizens' human rights; however, serious problems remained in some areas. Members of the security forces committed several extrajudicial killings, and 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 prison conditions improved slightly. Security forces arbitrarily arrested and detained citizens, although apparently less frequently than in the previous year. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. Most of the human rights abusers cited by the Tripartite Commission in well-documented reports remain unpunished. The Government followed few of the Commission's recommendations, and the political will to reopen these cases is virtually nonexistent. In March the Government forced Colonel Lenin Cerna, an egregious human rights abuser and former head of state security under the Sandinistas, to retire from the army, along with some of his top deputies; however, despite Cerna's admissions in newspaper interviews that he committed abuses, the Government has not prosecuted him. Lengthy pretrial detention and long delays in trials 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 Judicial Organic Law, intended to address many of these problems, came into effect in January; however, the weak judiciary continued to hamper prosecution of human rights abusers in some cases. In June the National Assembly elected Benjamin Perez, President of the Assembly's Human Rights Commission, as the country's first Human Rights Ombudsman. Discrimination against women is a problem. Violence against women and children, including domestic abuse and rape, remained a problem. Child prostitution increased. Discrimination against indigenous people is a problem. Child labor also remained a problem. There were some cases of trafficking for forced labor and trafficking in women and girls for the purpose of forced prostitution.

FSLN leaders continued to threaten, in speeches and public statements, the use of violence for political ends.

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 reports of extrajudicial killings by police attempting to arrest suspects, of suspects while in detention, and by army members in rural areas.

During the year, the Inspector General's office (IG) of the National Police reported 18 instances in which police officers killed alleged criminals and 2 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. Of the 20 cases that the IG remanded to the courts during the year, 3 were adjudicated. In those cases, one officer was found innocent of wrongdoing and released; one officer was discharged dishonorably; and one voluntary police officer was found guilty of homicide and received a prison sentence. Police Inspector General Eva Sacasa has stated that the police themselves are often in great danger when apprehending heavily armed members of criminal gangs.

On January 12, Hilario Briones Arostegui and Santos Arostegui Torres, reportedly wanted by the police for multiple crimes, were collecting discarded cans from a trash dump in Esteli when four police officers in civilian clothes and two civilians identified as Pablo Andino and "Cesar" approached them. The civilian known as Cesar shot Briones repeatedly in the head, killing him. Arostegui attempted to flee, but the four police officers prevented him from doing so. Cesar then reportedly killed Arostegui in a manner similar to the killing of Briones. According to the Nicaraguan Association for Human Rights (ANPDH), the police could have arrested the unarmed suspects without difficulty. Late in the year, the ANPDH filed a formal complaint in the case with the police Internal Affairs Unit; action by the Internal Affairs Unit was pending at year's end. On February 14, in Puerto de Hierro, Matagalpa department, voluntary police officer Juan Thomas Lopez Guerrero killed Juan Adolfo Mejia Leon following an argument between Mejia and Lopez's brother while they both were attending a baseball game. According to an investigation by the Nicaraguan Center for Human Rights (CENIDH), after the argument, the Lopez brothers left the stadium and waited outside for Mejia to leave; Juan Lopez then killed him. The CENIDH assisted the victim's sister in filing a complaint with the District Court in Matagalpa. On February 23, a District Court judge found Lopez guilty of first degree homicide and sentenced him to 7 years' imprisonment. However, according to the CENIDH, despite the judge's guilty verdict and issuance of an arrest warrant, the authorities reportedly did not take Lopez into custody to serve his sentence by year's end, and he continued to serve as a voluntary police officer.

On February 23, in Belen, Boaco department, Martin Canales Suarez was playing baseball with friends when army member Marcos Antonio Chavarria arrived in a drunken state and shot Canales approximately 40 times with an assault rifle. The crime appeared to have roots in personal animosity between the two men. Chavarria fled; however, the case was remanded to the civilian courts, and in March a court tried Chavarria in absentia, found him guilty of the murder, and sentenced him to 30 years' imprisonment. In April the authorities took Chavarria into custody; he was serving his sentence at year's end.

On April 20, Lieutenant Enrique Flores of the National Police antiriot unit shot and killed Roberto Jose Gonzalez, a student demonstrating in support of the "6 Percent Rule" (see Section 2.b.), with a rubber bullet. On April 27, a police investigative panel released a report indicating that Gonzalez was shot at a range of approximately 3 meters. Correct police procedure calls for such bullets to be fired from at least 20 to 30 meters. Police witnesses to the incident said Flores acted in self-defense after Gonzalez pointed a homemade mortar--a potentially lethal type of device, which had caused Flores to lose an ear in a previous riot--at him. Student witnesses disputed this account. The authorities remanded Flores's case to the courts following the police investigation; in June a jury found him innocent of wrongdoing in Gonzalez's death and he was reinstated in the police force.

On May 10, police killed Pedro Gonzalez Talavera near Villa Sandino in Chontales department after Talavera had arrived in the area on horseback to attend a local festival. A group of police officers recognized Talavera, who was wanted for aggravated assault, and chased him; six officers then shot at him with assault rifles. A subsequent investigation indicated that a shot fired from a distance of about 1,000 feet knocked Talavera off his horse; police officer Donald de Jesus Lanzas then allegedly approached Talavera as he lay on the ground, kicked him, and shot him twice, killing him. The authorities charged Lanzas and several other police officers with premeditated homicide; however, despite evidence presented by the CENIDH in the case, in June the presiding judge released the officers without charges. At year's end, the case was pending in the Appellate Court of Juigalpa.

On August 20, in the town of Jicaro, police shot brothers William and Roger Chavarria Garcia, killing William and wounding Roger. According to the CENIDH, the victims were wanted for cattle rustling; however, according to the police IG's office and the ANPDH, the incident began when the victims, who were inebriated and on horseback, deliberately knocked over officer Juan Arguijo's motorcycle. There also reportedly was personal animosity between William and voluntary police officer Dimas Pasos Centeno, one of the officers involved in the incident. In September a court convicted Pasos of William Chavarria's murder and sentenced him to a prison term; the court found three other officers innocent in the case.

On November 17 in La Libertad, Chontales department, police shot and killed Armando Roberto Perez Ocana, who was wanted in Juigalpa on robbery charges, after they arrived to expel a group of squatters at the house where Perez was living. According to family members, after four officers entered the house and found Perez lying down complaining of stomach pain, Lieutenant Victor Galeano hit Perez with the butt of his rifle. Moments later, Galeano shot Perez; Perez died of his wounds on the way to a local medical facility. The police claimed that Galeano shot Perez in self-defense; however, the CENIDH concluded after looking into the case that the police account lacked credibility. In December the Criminal Circuit Court of Juigalpa accepted the argument of self-defense and opted not to pursue charges against Galeano or the other officers involved in the incident.

In August Wilmer Antonio Gonzalez Rojas, age 16, committed suicide in Modelo prison near Managua; a subsequent investigation indicated that Gonzalez was subjected to abusive treatment by prison personnel prior to his death (see Section 1.c.).

On December 24, 1998, police officer Nicasio Martin Jiron killed 14-year-old Everet Alexander Gonzalez Gaitan in the German Pomares neighborhood of Managua. Jiron and other police officers reportedly were attempting to apprehend an armed robbery suspect when a group of neighborhood residents attempted to prevent the suspect's arrest; in the ensuing clash between residents and police, Jiron shot Gonzalez. A lower court released Jiron without charges, but in January an appellate court found him guilty of involuntary homicide.

On December 25, 1998, Douglas Enrique Toruno was leaving the Enamores discotheque in Condega when two soldiers in a state of severe inebriation arrived and began firing automatic weapons indiscriminately in the direction of Toruno and his friends. One of the bullets hit Toruno in the back, and he died shortly thereafter. In February the District

Criminal Court found one of the soldiers, Sergeant Mario Garcia Perez, guilty of murder and sentenced him to 7 years in prison. The court absolved the second soldier, Francisco Bello Oporta, of wrongdoing. 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 members of the army killed five members of a criminal band as they slept.

There were no further developments in the case of former army officer Frank Ibarra, who in 1993 was sentenced in absentia to 20 years' imprisonment for the November 1992 murder of Dr. Arges Sequeira Mangas, president of the Association of Nicaraguan Confiscated Property Owners. (The killing occurred when Ibarra was still a member of the army.)

There were no further developments in cases cited by the Tripartite Commission. The Commission, established by then-President Violeta Chamorro in 1992 to address the issue of unresolved deaths of former Contras and others, 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 over 83 human rights cases involving 164 allegedly murdered former combatants, as well as 181 specific recommendations, to the Government for followup. However, only one soldier and five policemen cited by the Commission ever served a partial or whole sentence.

In March the Government forced Colonel Lenin Cerna, an egregious human rights abuser and former head of state security under the Sandinistas, to retire from the army, along with some of his top deputies; however, despite Cerna's admissions in newspaper interviews that he committed abuses, the Government did not prosecute him.

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" (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. 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. Law enforcement groups and political analysts described the political motivations as tenuous and stated that most of these actions were purely criminal in nature.

In 1998 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 ANPDH alleged the involvement of voluntary police officers in the killings. Although in December 1998, a jury found five voluntary police officers innocent of murder charges in the case, IG Sacasa's office expelled them from the police force. The ANPDH asserted that the authorities failed to take any action against the persons who had planned the attack. At year's end, the ranch remained in the hands of the cooperative members allegedly responsible for the killings. 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 were credible reports that police beat or otherwise physically mistreated detainees, often to obtain confessions. During the year, the ANPDH received 70 complaints of torture or degrading treatment by the authorities. The ANPDH and other human rights groups forwarded complaints of human rights abuses directly to police Inspector General Sacasa, who proved willing to prosecute abusers. During the year, her office recorded 94 complaints of physical abuse by police, including those submitted by the ANPDH, and found 26 to have merit. The Inspector General sanctioned 51 officers in these cases.

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 some 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 followup action. A small budget and a small staff limited its effectiveness. Police Inspector General Sacasa received a total of 529 complaints of human rights abuses by police officers during the year, including complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 155 of these cases to have merit. She sanctioned a total of 232 officers for violations of human rights. Of those sanctioned, 11 officers were discharged dishonorably, and 54 were remanded to the courts; the rest received lesser punishments, including demotion, suspension and loss of pay.

In April a number of persons were injured in a series of violent clashes between police and students demonstrating in support of additional government funding for universities (see Sections 2.a. and 2.b.). During one of the demonstrations on April 9, police injured some demonstrators when they shot rubber bullets at a group of protesters after some protesters threw homemade grenades at police officers. There were media reports that police beat a student whom they detained. After conducting an investigation, the Chief of Police announced that six police officers would be remanded to the courts on charges of destruction of property (a sound system being used by students) and using unnecessary force in dealing with students during the demonstration. In May a court found the six officers innocent of the charges. On April 20, when further student demonstrations took place, the police killed one student (see Section 1.a.), and four police officers and several students were wounded, in violent confrontations between demonstrators and police. In addition, Luis Chavez, age 12, was severely wounded by the explosion of a homemade grenade apparently left behind by a demonstrator. Prison conditions remained harsh, although they improved slightly. The prison system is overcrowded and underfunded,

with medical attention virtually nonexistent. There was some improvement in prison food, but malnutrition remained a widespread problem in local jails and police holding cells. A series of uprisings at the Modelo Prison in Tipitapa, just outside Managua, coincided with a change in the leadership of the prison system. In February William Frech, the first civilian prison director in more than 20 years, replaced the quasi-military prison administration that had been in place since the 1980's. Frech, a lawyer and a sociologist, attempted to provide more humane treatment for prisoners, but soon faced the threat of a walkout by prison guards after he fired the Modelo Prison director and three deputies in May. The conflict was resolved on May 11 after high-level mediation and concessions by both sides. After Frech's appointment, prison conditions improved slightly due to the arrival of 1,200 donated beds and to small improvements in medical care. In October Frech resigned, and the Government appointed another civilian, Carlos Quintana, to replace him. According to government statistics, prisons had a total inmate population of 5,298 in September, down from 5,570 in September 1998.

In August 16-year-old Wilmer Antonio Gonzalez Rojas committed suicide in Modelo Prison. In letters he wrote before taking his life, Gonzalez described severe beatings by a prison official called "Rocky" and solitary confinement in a small "punishment cell" for months. At the time of his death, Gonzalez, who had served 15 months in prison, believed that he had to serve another 21 months; he had not been informed yet that his sentence had been reduced, requiring him to serve only 3 more months before being released. Then-Director of Prisons William Frech initiated an investigation into Gonzalez's death; as a result of the investigation, the prison psychologist, the prison official responsible for Gonzalez's transfer to a punishment cell, and the prison guard known as Rocky all were fired. An additional six prison officials were reprimanded and demoted. However, the authorities did not file criminal charges against any of those involved.

Prison officials calculated that the daily expenditure per prisoner for food was about \$0.58 (7 cordobas) and reported that the annual budget for food remained constant. However, food distribution improved after Frech's appointment as Director of Prisons. 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 4 showers and 4 toilets for more than 150 prisoners.

As of September, 4 percent of the prison population were between the ages of 15 and 18, compared with 8.5 percent in 1998 and 10.4 percent in 1997. Youths generally are housed in separate prison wings from those housing adults; however, at year's end, some prisons outside the Managua area had not completed the process of establishing separate facilities for juveniles or converting part of their existing prison space into separate youth wings. In the Managua area, juveniles are housed in the youth wing of the Modelo Prison. 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 4.5 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.

Conditions in jails and holding cells also 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 holding six detainees each frequently were filled to capacity. At the Bluefields jail, over 150 prisoners were crowded into 4 cells originally designed to hold 8 prisoners apiece. 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, which remain severe. 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, but apparently 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. 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 more closely observed than in past years, and few prisoners were held illegally beyond the 48-hour deadline.

Lengthy pretrial detention remained a problem. It is estimated that, contrary to law, as many as one-third of prisoners had been jailed for 6 months or more without a trial. Some prisoners spend more than a year in jail without a trial.

During the year, the ANPDH forwarded 113 complaints of illegal detention to the police IG's office. That office deemed 13 complaints to merit investigation. Of these, nine were determined to be without merit and four remained under investigation at year's end. Some complaints came to the IG's office directly, while others were made via human rights organizations such as the ANPDH 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 susceptible at times to political influence. The judiciary is hampered by arcane legal codes, prosecutors who play a passive role, a hitherto nonexistent public 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 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 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 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 1998 and took effect in January. The new 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's Judicial Commission approved a new draft Criminal Code, which was scheduled for consideration by the full Assembly in 2000. At year's end, a special subcommission of the Judicial Commission was reviewing a new draft Criminal Procedures Code. A draft of an important reform of the Attorney General's office and functions was made public in May and was under review by a special commission of the Assembly at year's end.

All legal actions on property-related lawsuits in district courts were suspended in December 1997 in anticipation of the establishment of new mediation and arbitration services referred to as "new property courts" (see Section 1.f.). By year's end, the delay in establishing the new courts had deprived property claimants of due process in the judicial system for 24 months.

Human rights and lawyers' groups complained about the delay of justice, sometimes for years, caused by judicial inaction. Among the steps the judiciary took to address such delays were an increase in the number of courts, the creation of a Public Defender's office in Managua, the designation of trained lawyers as judges, the creation of an appeals court on the Atlantic Coast, and a separation of juvenile courts from adult courts in Managua.

Judges appear susceptible to corruption. For example, in June the president of Banco del Sur was accused of corruption and fled the country. The National Police tracked him for several weeks; he eventually turned himself over to the authorities, after which he came to Managua to stand trial. Under suspicious circumstances, the judge handling his case absolved him of all wrongdoing.

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 the year, 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 the year.

Judges at times appeared to be susceptible to political influence. On November 8, a criminal court judge handed down a "provisional sentence" (similar to an indictment) against Controller General Agustin Jarquin and two codefendants, journalist Danilo Lacayo and Nestor Abaunza, a former employee of the Comptroller General's office, for fraud against the State in connection with payments of official funds Jarquin made to Lacayo with Abaunza's involvement (see Section 2.a.). The same day, Jarquin relinquished his position as Comptroller General. However, contrary to normal practice, the judge did not issue a warrant for the arrest or detention of Jarquin or his codefendants prior to making her ruling. Following criticism by jurists and the press of this departure from normal procedure, the judge issued a warrant and police arrested Jarquin and his codefendants on November 10. Jarquin and his codefendants appealed the court's ruling, as provided for in the law; in December an appeals court overturned the provisional sentencing on the fraud charge; all three defendants were released from custody and Jarquin resumed his position as Controller General.

In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. The new Judicial Organic Law provided for the establishment of a Public Defender's office to represent indigent defendants. At year's end, the office was operational in Managua and had 13 appointed public defenders; however, more are needed. Elsewhere in the country where public defenders were not 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. 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 have remained in prison after their scheduled release date. 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 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. By year's end, the Supreme Court had established the physical locations for the new courts and had begun identifying personnel to train mediators and arbitrators; however, the courts were not operational yet at year's end, and property claims, some of which had been pending for over 2 years, remained suspended.

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, 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, the Government has not invoked these provisions to suppress the media.

The Inter-American Press Association (IAPA) reported that during the year, 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 journalist's 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.

However, the IAPA reported 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.

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.

In March a presidential adviser publicly asserted that Controller General Agustin Jarquin, a political rival of President Aleman who previously had raised questions about the President's financial holdings, had made payments from official funds to numerous political allies and journalists through contracts for "public relations consulting." The next day, a major daily newspaper identified one of the beneficiaries, who used a false identity to receive payments, as a well-known journalist and host of a popular television interview program. There were allegations that the payments were made in return for media coverage favorable to Jarquin in his ongoing dispute with the Aleman administration about alleged government corruption. Jarquin and the journalist, Danilo Lacayo, both acknowledged the payments, but claimed that Lacayo had provided unspecified investigative support in return and denied that the purpose was to influence media coverage of Jarquin. Following public disclosure of the payments, Lacayo resigned from his television show. In November a judge in Managua charged Jarquin, Lacayo, and a third individual with fraud against the State in connection with the payments. The defendants appealed the judge's finding; in December the appeals tribunal overturned the lower court's ruling and dismissed the fraud charge (see Section 1.e.). However, the tribunal did not rule out the possibility of further judicial action against the defendants on lesser charges, including falsification of documents, mismanagement of funds and use of a false name.

The IAPA reported that in June Mario Mariena Martinez, a reporter for a major daily newspaper, was prevented from covering a presidential news conference. The presidential communications secretariat issued a statement that it suspended Mariena's credentials due to his improper attitude. A presidential advisor stated that he asked the newspaper's managing editor to assign another reporter to cover the President; the newspaper subsequently published an editorial protesting the government action regarding Mariena.

The Government does not restrict academic freedom. In April student demonstrations organized by the FSLN to demand increased government funding for universities under the so-called "6 Percent Rule," a Sandinista-supported constitutional provision that allocates funding for universities at 6 percent of the national budget, led to violent confrontations between police and university students, which resulted in one death and several injuries (see Sections 1.a., 1.c., and 2.b.). On May 5, the situation finally was defused when the National Assembly reached a compromise agreement on university funding following government talks with university and student representatives.

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 proce