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2009 Human Rights Report: Nicaragua

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

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Nicaragua is a constitutional democracy with a population of approximately 5.9 million. In January 2007 Daniel Ortega Saavedra of the Sandinista National Liberation Front (FSLN) was sworn in as president for his second term, following the 2006 election that international observers characterized as generally free and fair. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of these forces acted independently.

The most significant human rights abuses during the year included: unlawful killings by security forces; harsh and overcrowded prison conditions; police abuse; lengthy pretrial detention; lack of respect for the rule of law and widespread corruption and politicization of the judiciary, the Supreme Electoral Council (CSE), and other government organs; erosion of freedom of speech and press, including government intimidation and harassment of journalists; widespread irregularities, fraud, and abuses during the January municipal elections in the North Atlantic Autonomous Region (RAAN) and government interference with the operation of political parties for regional elections; government harassment and intimidation of nongovernmental organizations (NGOs); increasing violence against women; discrimination against ethnic minorities and indigenous communities; and violation of trade union rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, security forces killed three persons during the year. The Office of the Inspector General, which makes determinations independently of court rulings, generally conducted parallel investigations and administered punishments, including demotion and dismissal of officers.

On February 14, Jinotega police officer Rosendo Gomez Poveda shot and killed Jose Magdaleno Rocha Benavides. Police alleged that the victim resisted arrest and attempted to disarm the officer, but his relatives demurred. Authorities suspended Poveda, and at year's end there was no information available regarding any government investigation or further action.

On October 3, a police officer in Somoto, Madriz, shot and killed 16-year-old Francisco Absalon Carrasco Montano. According to police, Carrasco Montano threatened them with a machete when they broke up a fight among suspected gang members. Family members of Carrasco claimed he was unarmed and called for an investigation.

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In April a jury found police officers Denis Cano and Norvin Sevilla guilty of homicide in the September 2008 killing of Luis Angel Vargas Salgado. A judge sentenced Cano, the patrol chief, to 12 years in prison (later reduced to two years and six months) and Sevilla to three years. On May 6, Salgado's mother filed a complaint with the NGO Nicaraguan Center for Human Rights (CENIDH), claiming that Cano and Sevilla had not been incarcerated immediately following their sentences and that her family had received numerous death threats. By year's end Sevilla was released from prison, and Cano's case was under appeal.

On February 17, members of the Artola Delgadillo family, who had been granted special protection under precautionary measures from the Inter-American Court of Human Rights, filed a complaint with CENIDH that armed groups had again threatened them. The family members stated that relatives of Casimiro Candry, who had been sentenced in 2008 to 30 years in prison for the 2007 killings of Villanueva and Gilberto Artola Delgadillo, threatened them after police had disarmed the family members.

b. Disappearance

There were no reports of politically motivated or other disappearances.

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

Although the law prohibits such practices, human rights and other NGOs received complaints that police frequently abused suspects during arrest; often used excessive force, including beatings on body areas that do not bruise easily to hide the evidence; or engaged in degrading treatment that caused injuries to criminal suspects during arrests. All three main human rights organizations--the NGOs Permanent Commission on Human Rights (CPDH) and CENIDH, and the government's Human Rights Ombudsman (PDDH)--received complaints against the Nicaraguan National Police (NNP) for excessive force and arbitrary detention.

On April 2, antinarcotics police wearing hoods entered a Managua home without presenting a search warrant and forced six family members, including a 15-year-old girl and her 21-year-old pregnant sister, to be strip-searched for drugs. Police also beat their 17-year-old brother when he resisted arrest, but they found no drugs. On April 4, the family filed a complaint with the CPDH; at year's end the police had not investigated the incident.

On June 9, a group of police shot into a crowd of protesting lobster divers in Puerto Cabezas in the RAAN, injuring Marcela Davis, a Miskito indigenous women's leader, and Bick Gonzalez, a Miskito diver. Police denied involvement in the shooting, and the officer who allegedly shot Davis was sent on vacation. At year's end there was no information available regarding any government investigation or further action in the case.

On September 25, NNP antiriot officers used tear gas, billy clubs, and rubber bullets to dislodge more than 150 artisanal salt makers and their families, including children, who were protesting and blocking traffic in front of the country's largest salt company, which was owned partially by relatives of FSLN officials. Some protesters were injured, a few were arrested and released the following day, and by year's end there was no investigation.

On October 22, three government supporters, assisted by a driver from the Managua mayor's office, assaulted human

rights activist Leonor Martinez after she had participated in the NGO Civil Coordinator's press conference criticizing an October Supreme Court of Justice (CSJ) decision (see also section 3). She reported to police the assault, as well as subsequent threatening phone messages and a threatening encounter. At year's end there was no information available regarding any government investigation or further action in the case.

There were no investigations or charges in the March 2008 case of degrading police treatment of 13 Managua youths that the PDDH reported, nor in the May 2008 or July 2008 police-abuse cases that CENIDH and the CPDH respectively reported.

Prison and Detention Center Conditions

Prison conditions continued to deteriorate due to antiquated infrastructure, increasing inmate populations, and lack of capital investment. The country's eight prisons, designed for fewer than 5,000 inmates, held 5,952 prisoners who suffered from parasites, inadequate medical attention, frequent food shortages, contaminated water, and inadequate sanitation. Family members, churches, and charitable organizations provided some prisoners with food and medical attention to mitigate harsh conditions since, according to NGOs, prisoners were provided only with the bare essentials: food (beans and rice) and water.

Conditions in jails and temporary holding cells were also harsh. Most facilities were old, infested with vermin, physically deteriorated, lacking in potable water, and equipped with inadequate ventilation, electric, or sewage systems. At least two detainees died due to dangerous conditions, and many prisoners suffered mistreatment and discrimination from police officials and other inmates.

On January 2, Eduardo Picado Medina, a prisoner in Chinandega, died of cardiac arrest brought on by a severe asthma attack that began in his prison cell.

On August 22, an NNP chief stationed in Pearl Lagoon in the South Atlantic Autonomous Region (RAAS) subjected a detained Afro-Caribbean teenager to grossly degrading treatment in a holding cell. Community leaders decried the police behavior as an example of racial discrimination by the country's Hispanic majority against a minority member of the population.

On September 6, La Modelo prison inmates in Tipitapa began a six-day hunger strike to protest poor conditions and abusive treatment by prison officials. On September 9, the CPDH received complaints that five spouses and one young daughter of La Modelo inmates alleged inhumane and unsanitary treatment when prison officials conducted body-cavity searches of them using the same surgical glove. At year's end there was no information available regarding any government investigation or further action.

On November 9, Jose Domingo Cornejo, a Chinandega penitentiary inmate, died of encephalitis after repeatedly requesting his sentence be changed to house arrest due to poor prison conditions.

On November 17, antiriot NNP forcibly quelled a riot at Chinandega penitentiary, killing one inmate (Hector Estrada Picado), injuring two severely, and hospitalizing at least 14 for tear-gas-induced respiratory problems. The media reported that the prisoners rioted over poor conditions and mistreatment; a public defender claimed the cause was a judge's unwillingness to allow prisoners to reduce their sentences legally through work.

The investigation of Abel Antonio Ramirez Castellon's September 2008 death while incarcerated in Sebaco did not result in further action, although the CPDH reported that the Sebaco municipal cell conditions improved during the year.

Pretrial detainees often shared cells with convicted prisoners. Juvenile prisoners also shared cells with adults. Suspects were regularly left in police holding cells during their trials because the government did not allocate funds to transport them to court.

Conditions for female inmates were generally better than those for men, but women still suffered from overcrowded and unhygienic cells. During the year authorities pardoned 63 women who were held for minor drug possession, leaving the country's approximately 125 female inmates incarcerated in Managua's La Esperanza women's prison. Police reported that 90 percent of female inmates were serving drug possession sentences.

The government generally permitted prison visits by local and international human rights observers, with the exception of the La Modelo prison in Tipitapa. In certain instances the government restricted prisoners' access to visitors, attorneys, physicians, and human rights officials. Local human rights groups stated that authorities had denied them access to prisons and prevented them from interviewing detainees. At times government officials did not grant access to foreign government representatives to meet with their imprisoned nationals and did not grant attorneys access to imprisoned clients.

Government programs to improve prison and detention facility conditions continued, including announced plans to repair prison facilities in Chinandega, Puerto Cabezas, and Bluefields, although NGOs and human rights organizations were unable to verify implementation. CENIDH reported improvements to the prison transportation system.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government observed these prohibitions, with some exceptions discussed below.

Role of the Police and Security Apparatus

The president is commander in chief of the NNP, which is administered by the Ministry of Government. The NNP forms a single, unified force responsible for enforcing the law throughout the country. The NNP maintains internal security. The army is responsible for external security but also has some domestic security responsibilities, including combating drug trafficking. There were 9,595 NNP employees, of whom 8,423 were police officers, 857 were civilian personnel, and an estimated 315 were voluntary police who filled staffing gaps. In some areas lacking adequate police protection, citizens engaged in vigilante justice.

The government's inadequate funding of the NNP hampered efforts to improve police performance and resulted in a continuing shortage of officers. Low salaries--typically below 2,000 cordobas (approximately \$100) a month for new officers--created conditions wherein police officers were susceptible to bribes, corruption, and drug trafficking. Many voluntary police officers lacked training and professionalism. The Office of the Inspector General generally investigated and punished officers through internal administrative measures and referred some corruption cases of lower-level officers to the court system. The slow pace of the justice system fostered a public perception of impunity within the police force.

The NNP Office of Internal Affairs is responsible for investigating police security force abuses. During the year the office registered 2,283 complaints and investigated 1,686 cases of alleged police misconduct, including 984 complaints of excessive force, searches without warrants, and unlawful use of firearms. In these cases, 899 officers were punished, including 151 dishonorable discharges. The Office of Internal Affairs also determined that of the complaints filed against police, 71 percent pertained to human rights violations, 15 percent to acts of corruption, and the remaining 14 percent to

common offenses or minor infractions.

NNP regulations require that police trainees receive human rights instruction to graduate from the police academy and also annual recertification in human rights awareness. During the year the police academy formally trained 2,473 officers and trainees in human rights principles, with continuing training in human rights given to an additional 5,040 officers. The army included human rights training in its curriculum.

The constitution establishes the NNP as an apolitical, nonpartisan institution protecting all citizens equally under the law. Human rights groups and other NGOs complained that in practice, President Ortega continued to use his position as commander in chief and his embedded surrogates to politicize NNP affairs and threaten the organization's professionalism and institutional integrity. These groups alleged that during the year a general commissioner, the current director of public security and a militant FSLN supporter, ordered police not to interfere with progovernment mob intimidation of peaceful protesters.

On February 28, FSLN mobs violently disrupted an authorized nationwide march against the fraudulent November 2008 municipal elections while police watched passively. Organizers led by the Citizen's Union for Democracy and opposition groups in Managua, Chinandega, Leon, and Jinotega contacted police well in advance of the event and obtained route approval as well as a promise of protection for participants. When the march began, police allowed FSLN mobs to operate with impunity against peaceful marchers, threaten them with rocks and powerful firecrackers, and injure at least one participant severely.

On September 29, three NNP commissioners (one in police uniform) participated in the FSLN women's conference that voted to support the president's reelection. This partisan participation, apparently in violation both of the constitution and of the NNP professional code that bars police from "any political proselytizing," led Police Chief Aminta Granera to criticize the three commissioners publicly for purposely breaking the law, although they were not reprimanded or known to have been disciplined in any way.

On November 18, the National Assembly granted amnesty to Alberto Steffano Boschi, whom a court stacked with pro-FSLN judges had convicted and sentenced in October 2008 to a one-year prison term for allegedly inciting a riot that injured a journalist. Boschi, a dual-national Catholic missionary and former opposition mayoral candidate for Ciudad Sandino, had fled the country in November 2008.

Arrest Procedures and Treatment While in Detention

Individuals are apprehended openly. The law requires police to obtain a warrant from a judicial authority prior to detaining a suspect and to notify family members of the detainee's whereabouts within 24 hours. The law mandates that a prosecutor accompany police making an arrest. Detainees have the right to an attorney immediately following their arrest. Police may hold a suspect legally for 48 hours before arraignment, when they must bring the person before a judge to decide if charges should be brought. The judge then must order the suspect released or transferred to jail for pretrial detention. In practice few prisoners were held beyond the 48-hour deadline. After the initial 48 hours, the suspect has access to bail, visits from family members, and legal representation.

On January 5, Mildred Lopez, the ex-mayoral candidate for La Concepcion in the 2008 municipal elections, organized a peaceful protest to denounce election fraud. Within 24 hours, police violently arrested her and her husband, Gustavo Eslaquit, at home without a court order and detained them for several hours without accusing them of a crime or informing

them of the reason for their detention. At year's end there was no information available regarding a police investigation into the incident.

Arbitrary lengthy pretrial detention after arraignment was a problem. Detainees in the RAAN and RAAS often waited an average of six months for their cases to be presented formally before a judge.

Amnesty

During the year the National Assembly granted 63 pardons and one general amnesty to citizens.

e. Denial of Fair Public Trial

Although the law provides for an independent judiciary, the judicial system remained susceptible to corruption and politicization and did not function independently (see section 4). The law requires new judicial appointments be vetted by the CSJ, a process often based on nepotism, influence, or political affiliation. Once appointed, many judges were subject to political and economic pressures that affected their judicial independence.

The judicial system contains both civil and military courts. The 16-member CSJ, the highest court, administers the judicial system and nominates all appellate and lower-court judges. The 16 CSJ magistrates, equally divided along party lines between the FSLN and the Constitutional Liberal Party (PLC), are appointed by the National Assembly. The CSJ is divided into specialized chambers for administrative, criminal, constitutional, and civil matters. The law requires that the Office of the Attorney General investigate crimes committed by and against juveniles. The Office of the Prosecutor under the Public Ministry has authority to investigate criminal and civil matters.

The law does not permit military tribunals to try civilians, and the military code requires the civilian court system to try members of the military charged with common crimes. Human rights and lawyer groups complained of a delay of justice caused by judicial inaction and impunity, especially regarding family violence and sexual abuse.

On July 14, former minister of culture Father Ernesto Cardenal publicly asked President Ortega to unfreeze his bank accounts to permit his travel to receive an international poetry award. The government had frozen the Catholic priest's bank accounts in 2008 after he refused to pay the fine for his conviction in a reopened slander case that was widely viewed as political retribution for his criticism of the president.

Trial Procedures

Trials are public, and the law provides that defendants can choose a jury trial. Defendants have the right to legal counsel and are presumed innocent until proven guilty. Defendants also have the right of access to all information and evidence registered with the government, as well as the right to know why and how it was obtained, but only during the discovery and trial phases, not during the pretrial period. The law provides public defenders to represent indigent defendants. Defendants can confront and question witnesses who testify against them and also have the right to appeal a conviction. The law extends these rights to all citizens regardless of gender, ethnicity, disability, or other status. The courts continued to use the Napoleonic legal process for some old cases.

The country continued to lack an effective civil law system, with the result that private litigants often filed their cases as criminal complaints to force one party to concede rather than face the prospect of detention in jail. This civil-based criminal

caseload continued to divert resources from the overburdened Office of the Prosecutor.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The law provides that persons can file lawsuits seeking damages for human rights violations before civil courts and also provides for litigants to use mediation to resolve civil claims. In practice many members of the judiciary did not render impartial judgments in civil matters and were not independent of political or other influence. Due to bureaucratic inefficiencies, litigants unable to resolve claims through mediation often had to wait months or years for the courts to process their claims, including the enforcement of domestic court orders.

Property Restitution

The government regularly failed to enforce court orders with respect to seizure, restitution, or compensation of private property. Even when courts ordered specific compensation, the government refused to pay settlements, arguing it was illegal for a judge to determine compensation. For example, an appellate court in Jinotepe ordered the government to return confiscated property to the original owner, but on July 23 the Attorney General's Office countersued to annul the decision, an action apparently without legal basis because appellate court rulings may not be appealed by a lower court. However, on December 16, the lower court judge ruled in the countersuit's favor.

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

While the law prohibits such actions, several domestic NGOs alleged their e-mail and telephone conversations were monitored by the government.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press. However, the government used administrative, judicial, and financial means to limit the exercise of these rights. Although the law provides that the right to information cannot be subject to censorship, it also establishes retroactive liability, implying the potential for penalties for libel and slander. Individuals could not always criticize the government freely without reprisal, and at times the government attempted to impede criticism.

Independent media were active and expressed a variety of views. The government, however, sought to restrict media freedom through harassment, censorship, the arbitrary application of libel laws, and the use of national security justifications to suppress reporting.

Throughout the year President Ortega and First Lady Rosario Murillo actively criticized independent media outlets. On July 3, days after three-time boxing world champion and Managua Mayor Alexis Arguello was found dead at home, the president blamed the media for causing his death. On March 18, in the role of coordinator for all government

communication, the first lady circulated an article to FSLN supporters entitled, "Enemies of Nicaragua—Journalists." On July 19, the president labeled the independent media as "terrorists, agents of the CIA," and "sons of Goebbels."

Government officials and private individuals harassed media outlets for criticizing the government. During the year the NNP reported eight cases of threats and acts of violence against journalists. The government continued to exclude independent media outlets from all official media events and to withhold government advertising contracts, instead funneling the equivalent of millions of dollars worth of its advertising funds and important public announcements only to "official" media outlets owned or controlled by the Ortega family.

On June 1, when the Ministry of Health announced the first confirmed H1N1 influenza cases in the country, only "official" media were invited to the press conference. Independent media complained they were denied access to government officials as well as to information that should be publicly available. When government officials cooperated with independent media, they were often reprimanded by superiors for doing so. The government also threatened to eliminate the constitutionally provided tax-free importation of newsprint.

Harassment and intimidation in the form of tax extortion and fines, along with acts of sabotage and equipment theft, continued against radio stations critical of the government during the year. On June 19, the Institute of Telecommunications and Mail (Telcor) canceled the operating license of radio station La Ley in Sebaco, and armed government and Telcor technicians confiscated the station's transmission equipment, valued at approximately 200,000 cordobas (\$9,700)--a seizure in apparent violation of the constitution. The station's owner, Santiago Aburto, was a supporter of opposition presidential candidate Eduardo Montealegre and a critic of the Ortega administration.

In August four opposition radio stations located on the Atlantic Coast--including Radio Amor, Radio La Portenisima, Radio Hit, and Radio Kabu Yula, which broadcast in the Miskito language--ceased operations due to increased operating costs imposed by the government. Their National Electric Company bills rose by 400 percent after the stations broadcast messages critical of the FSLN-controlled regional government.

On October 8, Radio Corporacion, the leading opposition radio station, announced that the Tipitapa Mayor's Office demanded taxes be paid on its radio transmission tower. On October 14, the Managua Mayor's Office imposed fines and threatened to tow Radio Corporacion vehicles away.

On November 19, unknown persons damaged the printing press of *La Prensa*, the largest daily newspaper in the country, in what owner Jaime Chamorro believed was politically motivated sabotage.

In August 2008 the CSE brought charges against a foreign NGO and several local civil society groups, alleging that these organizations improperly sought to influence municipal elections by hosting former president of Mexico Vicente Fox, who spoke earlier that month in Managua about democracy in Latin America--a speech taken as criticism of the Ortega administration. The prosecutor subpoenaed and seized financial documents of the foreign NGO. The prosecutor also subpoenaed local cosponsors of the Fox visit. On January 29, the Prosecutor's Office ended its investigation and withdrew the case, although it maintained that there were "irregularities" in the accused NGOs' accounts.

Both *La Prensa* and *El Nuevo Diario*, the two largest major daily newspapers, continued to have libel cases open against them within the court system, cases filed by private individuals affiliated with the FSLN's Citizen Power Councils (CPCs). There were also no new developments in the appeal process for the 2007 CPC libel case against *La Prensa* or in the investigation of the 2007 death threats against *La Prensa* political cartoonist Manuel Guillen.

Internet Freedom

There were no government restrictions on access to the Internet or Internet chat rooms; however, several NGOs alleged that the government monitored their e-mails. Individuals and groups engaged in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available in the majority of the country's cities, and there were more than 12,500 Internet hosts in the country, although the International Telecommunication Union reported only approximately 3 percent of the country's inhabitants used the Internet in 2008. Frequent power outages and infrastructure problems hampered citizen access to Internet and e-mail services.

Academic Freedom and Cultural Events

There were no government restrictions on cultural events. However, the government reportedly sought to restrict academic freedom by pressuring universities to cancel events.

On October 2, the FSLN-controlled Journalists Union prohibited Juan Ramirez Huerta, political editor of *El Nuevo Diario*, from presenting his 50-year history of a public school.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law recognizes the right to public assembly, demonstration, and mobilization but mandates that demonstrators obtain permission for a rally or march by registering its planned size and location with the police. The government limited public spaces where groups could assemble, countered group demonstrations, and failed to protect opposition demonstrators.

On August 8 in Managua, a mob of more than 100 FSLN and CPC sympathizers violently disrupted a peace march composed of 400 members of civil society and human rights NGOs. The government-friendly mob injured more than 21 persons, including journalist Mario Sanchez, the NGO Civil Coordinator's spokesperson; damaged buses; groped and partially stripped five women; and chased marchers to sanctuary in a cathedral. Police passively watched the confrontation; government workers and high officials, including Tourism Vice Minister Meyling Calero, participated in the attacks. International human rights organizations (including the International Federation of Human Rights, Inter American Press Association, and World Organization against Torture) and the Catholic Church condemned the violence.

On October 4, government-friendly FSLN and CPC mobs attacked with impunity an opposition-unity rally held in a private home in Nindirí and used powerful firecrackers and rocks to force the rally's cancellation, injure severely one attendee, and damage vehicles and the home. Police responded slowly to the incident.

On November 21, police led by Chief Commissioner Amnita Granera provided security for peaceful opposition and pro-FSLN marches in Managua, but later violent confrontations outside the city resulted in one death and several injuries.

February marked the conclusion of the six-month-long, FSLN-run, voluntary "Prayer against Hatred" campaign that had illegally occupied Managua's main rotundas before, during, and after the fraudulent 2008 municipal election. Some of the "volunteer" campaigners demonstrated against the government for not paying them for their participation.

Freedom of Association

The law provides for this right, including the right to organize or affiliate with political parties; however, in September the government, through the CSE, inexplicably divided one political party between two regional election alliances (see section

3). The government also used administrative and judicial means to harass other civil society organizations (see section 5).

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

The government requires National Assembly approval of religious group applications for legal standing before they may be registered with the Ministry of Government. This registration is required to obtain tax-exempt status, incur legal obligations, or enter into contracts, and different religious groups perceived unequal treatment in the process.

Societal Abuses and Discrimination

There were reports of societal abuses. Monsignor Juan Abelardo Mata, Catholic Church Episcopal Conference leader and outspoken critic of President Ortega, was the target of death threats and allegedly slanderous accusations about his character during the year.

On April 6, Attorney General Hernan Estrada, supported by the PDDH, accused Catholic Church bishops of inciting an assassination attempt against him; a police investigation and media reports indicated he was the victim of common street crime.

On April 30, Presidential Adviser Orlando Nunez Soto allegedly wrote an e-mail letter purporting to contain information from the Vatican and scurrilously attacking the Catholic Church hierarchy for corruption, moral impropriety, thievery, and deceit. A week later the president's wife denied governmental responsibility for the letter.

There were no reports of religious discrimination or anti-Semitic acts. The Jewish community numbered fewer than 50.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, and emigration, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) through humanitarian organizations, such as the International Organization for Migration (IOM), in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and there was no reported use of it.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The National Commission for Refugees--composed of six voting members (three government ministries and three religious organizations) and five nonvoting members from human rights NGOs--is the only entity that may grant refugee status in the country. Asylum may only be granted for political persecution by the executive branch or by the country's embassies abroad.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The law provides for regularizing the legal status of approximately 6,000 Salvadorans, who have lived in the country since the 1980s civil wars; waiving fines imposed on persons who have been in the country illegally and offering them a year-long status-regularization period beginning in July 2008; and establishing a detention center in Managua for refugees during case processing. The center, however, was underfunded and understaffed and had capacity for only 30 refugees.

During the year the government granted refugee status to two Colombians and political asylum to Peruvian indigenous leaders Alberto Pizango, Saul Puerta, and Cervando Puerta. Pizango and the Puerta brothers received asylum on June 9 after the Peruvian government accused them of instigating a confrontation in the Peruvian Amazon that killed 24 police and nine indigenous persons. On October 13, the Puertas returned to Peru once a Peruvian court overturned arrest orders against them; Pizango remained in the country since the Peruvian court upheld the order for his arrest.

The IOM and the country's Council of Protestant Churches reported that there were increasing numbers of refugees entering the country, primarily on the Atlantic Coast, hoping to reach the United States or Canada. According to the UNHCR, 227 persons formally requested refugee status (approximately 80 percent from Somalia, 10 percent from Eritrea, 5 percent from Ethiopia, 4 percent from Nepal and Bangladesh, and 2 percent from Cuba and Colombia). During the political crisis in neighboring Honduras, approximately 40 Hondurans requested refugee status. However, only 1 percent of all refugee-status seekers actually stayed in the country.

Stateless Persons

Citizenship is derived by birth within the country's territory and from one's parents. Local civil registries normally register births within 12 months upon the presentation of a medical or baptismal certificate; however, many persons, especially in rural areas, lacked registration or birth certificates. The NGO Child Rights Information Network estimated in September 2008 that approximately 250,000 children and adolescents lacked legal documentation.

Persons without citizenship documents were unable to obtain "cedulas," the national identity cards, and therefore had difficulties participating in the legal economy, conducting bank transactions, or voting. Persons who lacked cedulas also were subject to other restrictions in employment, access to courts, and land ownership. Women and children without citizenship documents were reportedly more vulnerable to sexual exploitation by traffickers. The NGO campaign "The Right to a Name and Identity" worked primarily in the RAAN and RAAS to register birth certificates and distribute cedulas. The government deliberately manipulated issuing cedulas for political purposes for citizens both inside and outside the country.

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

The law provides citizens the right to change their government peacefully; however, the government restricted the exercise of this right in practice.

Elections and Political Participation

The results of the January 18 RAAN municipal elections heavily favored the FSLN and its Yatama indigenous allies, through an electoral process that continued a pattern of fraud that civil society observed in the rest of the country during the November 2008 municipal elections. The government allowed observers from the Moravian Church and an FSLN-

affiliated NGO to monitor polling places but did not allow any independent domestic or international observers with significant monitoring experience to participate.

Allegations of RAAN election fraud stemmed primarily from an orchestrated voter-registration process containing substantial irregularities. FSLN-controlled CPCs reportedly staffed the voter-registration drive and manipulated eligible-voter lists to gerrymander election districts in favor of FSLN-bloc candidates, and the FSLN-controlled CSE politicized the distribution of cédulas necessary for voter registration. The media reported that the CSE intentionally delayed issuing cédulas to non-Sandinista voters to prevent their voting but issued them to minor children of FSLN families (under the legal voting age of 16) to increase the FSLN voter pool. On election day there were reports that the FSLN brought in voters from outside the RAAN and also ordered soldiers and police to vote in areas that have historically favored non-Sandinista candidates.

CSE actions led to concerns regarding manipulation of the scheduled March 2010 RAAN and RAAS regional elections. For example, on September 17, the CSE published its list of authorized political parties expected to appear on the ballot, and the list prevented Eduardo Montealegre's Liberal Independent Party from running as a unified party, instead splitting it between two electoral alliances. Evidence also existed of fraud in the September 20 PLC primaries held in the RAAN and the RAAS, where turnout in some areas was three times higher than the total vote for all parties in the 2006 general election. PLC members who did not support former president and PLC leader Arnaldo Aleman reportedly were not allowed to vote in the PLC primaries, while many FSLN party members were.

Responding to a reported appeal by President Ortega and more than 100 mayors, six FSLN justices in the CSJ's Constitutional Chamber ruled on October 19 that the president's human rights were violated by the constitutional provision that limits presidents to two terms in office and thus prohibits his running for another term. The president had threatened to call a referendum if the National Assembly failed to change the constitution so that he would be eligible to run again. The CSJ's ruling was reached on short notice in the absence of three regular non-FSLN members of the chamber; it was almost universally regarded by constitutional experts, the media, civil society members, and every opposition party as illegal and an "institutional coup d'etat."

There were 17 women in the 92-seat National Assembly, four women in the 16-member CSJ, and five women in the 13 cabinet-level posts. Five persons from indigenous and other ethnic groups in the RAAN and the RAAS were deputies in the National Assembly.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. World Bank indicators reflected that corruption was a serious problem.

In the executive branch, officials dispensed funds outside the normal budgetary process controlled under law by the legislature. Officials who drew these funds, from the equivalent of hundreds of millions of dollars in economic and developmental assistance loaned by the Venezuela-led multigovernmental Bolivarian Alliance for the Peoples of Our America (ALBA), claimed they were administered by a joint venture between the state-owned oil companies of Venezuela and Nicaragua--an arrangement that prevented public oversight or basic accounting to track the money. Government explanations of ALBA-related spending were often contradictory. For example, the government sometimes claimed that ALBA funded the "Zero Hunger" program and at other times claimed the funds came directly from the national budget. The media reported that ALBA-funded contracts were awarded to companies run by individuals with ties to the Ortega family.

Independent media, human rights groups, and opposition political parties reported that the Ortega administration blurred distinctions between party and government by using FSLN-directed CPCs. The government administered subsidized food and other government benefits directly through CPCs, which reportedly coerced citizens into FSLN membership. A September study by a foreign embassy confirmed that the Zero Hunger program, administered through the Ministry of Agriculture and distributed by local CPCs, lacked transparency, displayed official corruption, and demonstrated political preference in its beneficiaries. According to the study, authorities spent most Zero Hunger funds before the 2008 municipal elections to buy votes or reward loyalty. Additionally, persons seeking to obtain or retain public-sector employment were obliged to obtain recommendation letters from CPC block captains. Civic groups complained that government agencies required CPC recommendation letters from persons seeking voter registration and national identity documents.

In the legislative branch, allegations surfaced in February that FSLN National Assembly deputies offered sexual favors and money to opposition lawmakers in exchange for votes. Some PLC members reported that they were offered prostitutes and up to approximately 800,000 cordobas (\$39,000) to support FSLN legislation; at year's end there were no official investigations or ethics charges against allegedly implicated FSLN deputies, and none were expected.

Within the judicial branch, the CSJ was demonstrably susceptible to corruption throughout the year, especially by political parties and drug cartels.

On January 15, six PLC justices in the CSJ issued a ruling that provided a stay of proceedings in former president Arnoldo Aleman's corruption cases. The CSJ decision revoked and left without effect the previous court's ruling and suspended the order that barred Aleman from leaving the country as well as all civil and criminal proceedings related to money laundering and corruption during his presidency. Many observers viewed the decision as the product of an agreement between Aleman and President Ortega, wherein Aleman received his freedom in exchange for FSLN control over the National Assembly.

The law requires that cash seized in antinarcotics operations remain under judicial-system control until a conviction sentence is issued, but it does not clearly specify how seized cash should then be distributed. The media reported that in practice CSJ justices pocketed a portion of the seized cash and gave the rest to police, resulting in the disappearance of more than 20 million cordobas (approximately \$970,000) during the year without accountability.

Cars seized by the NNP in drug cases reportedly were given to members of the judiciary in violation of the law requiring seized assets to be distributed equally among five government agencies. In Rivas Department, for example, damaged or less valuable cars were left in police lots, while the majority of the more valuable ones were provided to judges and officials.

Public officials were subject to financial disclosure laws, and the Office of the Comptroller is responsible for combating government corruption.

Although the law mandates public access to government information and statistics, it was rarely applied. A Violeta Barrios de Chamorro Foundation study of the law's implementation that was published on May 21 found that 37 of 51 government entities approved a relevant facilitative office, but only 16 existed with an official in charge and only two had fully compliant Web sites. An appeal mechanism existed if authorities denied or ignored an appropriate information request, but its processes were slow and burdensome. The CPDH, unable to obtain information from the CSE about its actions during 2008 municipal elections, filed a case on May 27 with the Court of Administrative Disputes to compel release of the information. At year's end the CSJ had not provided any information on the case status nor responded to CPDH information requests.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups operated in the country. Civil society organizations focused on humanitarian activities generally operated without government restriction. However, government officials harassed and intimidated domestic and international NGOs that criticized the government, CPCs, or the FSLN. During the year the government continued financial audits and other investigations of NGOs. Civil society organizations continued to report governmental confrontations with NGOs, adversarial conditions, and a climate of fear created to suppress organizations critical of the government.

Domestic NGOs and their members who were under investigation reported problems in access to the justice system and delays in filing petitions with courts. Many believed that comptroller and tax authorities audited their accounts as a means of intimidation. NGOs reported encountering severe problems scheduling meetings with authorities and an unwillingness to reveal any information due to a growing culture of secrecy.

In February authorities dropped accusations of money laundering against some organizations such as the Women's Autonomous Movement (MAM) due to lack of evidence, although authorities continued to monitor their accounts and maintained the possibility of reopening cases during the year. MAM reported surveillance of the organization and its offices and the theft of key documents.

In January authorities revived a September 2008 investigation against MAM leader Juanita Jimenez in which she was accused of abuse of power as a notary public. MAM and Amnesty International pressed the government to resolve the case, but there were no developments by year's end, and none were expected. Such accusations and ensuing investigations prevented individuals from working in public offices or performing public services, including working as lawyers or notaries public.

Authorities dismissed the cases against, or never formally charged, the 17 prominent civil society organizations that the government accused in 2008 of laundering money from international donors. While they were under investigation, the government froze their assets, seized computer equipment, performed tax audits, and disbanded them. MAM reported that the government returned its equipment at the end of the investigation, but some was damaged without explanation or compensation.

NGOs complained that the government continued to sideline civil society organizations not affiliated with the FSLN by preventing them from participating in government social programs, such as Zero Hunger and Zero Usury.

There were fewer death threats against members of civil society and human rights NGOs during the year; however, at least five leaders received death threats for political reasons, including Monsignor Juan Abelardo Mata, Víctor Boitano, Alvaro Leiva Sanchez, Jaime Arellano, and Bernicia Sanchez Escobareveral. Additionally, some NGOs reported perceiving serious threats, fearing retribution through financial monitoring or judicial action, and often encountering hostility when they questioned or criticized the government or FSLN.

There were no reports of any developments, and none were expected, regarding the 2008 death threats against MAM President Sofia Montenegro, CENIDH Director Vilma Nunez, and other CENIDH members.

The government generally cooperated with international organizations and permitted visits by the UN Development Program and other UN representatives. However, international NGOs, including Save the Children, reported difficulties signing agreements with the government that specify the length of permitted operation in the country. Authorities allocated tax numbers to Save the Children and several other NGOs that exposed them to tax as businesses rather than nonprofits.

Human rights NGOs and former ombudsman officials asserted that the PDDH office was politicized, influenced by partisan interests, and lacked the independence necessary to comply with its mandate. The PDDH suffered from general budget cuts during the year and publicly claimed inadequate resources to complete its mission. Its December 1 annual report on human rights identified and condemned corruption within the judicial system and the lack of access thereto but praised education and health advances. The government did not respond to PDDH recommendations.

The National Assembly operated a human rights committee that focused primarily on amnesties and pardons. Civil society viewed the committee as controlled by partisan forces and not credible.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, disability, language, or social status. In practice the government often did not enforce these legal protections, and aggrieved persons filed few discrimination suits or formal complaints.

Women

The law criminalizes all forms of rape, regardless of the relationship between the victim and the accused, and the government generally enforced the law. However, many women were reluctant to report abuse or file charges due to the social stigma attached to rape, fear of retribution, and loss of economic security. NGOs reported that both sexual and domestic violence increased. During the year the NNP reported 4,013 cases of sexual crimes, including 1,518 cases of rape, 260 cases of aggravated rape, and 80 cases of attempted rape. The Public Ministry did not make year-end statistics available, but during the first six months of the year, it reported 520 accusations of rape, of which 256 had charges brought before a court. Many rape cases were resolved through mediation, which allowed alleged rapists to circumvent heavier punishment. The media reported that 10 percent of cases involving sexual crimes were taken to court, where 62 percent of the accused were convicted.

The law requires female victims of sexual crimes to undergo a medical examination by CSJ forensic specialists before proceeding legally against alleged perpetrators; the lack of female forensic doctors deterred women from taking legal action. Rape victims were often unaware or uninformed about the procedures required to process their cases officially, and much time transpired before victims received the necessary physical and psychological examinations.

Rape and sexual abuse of adolescent girls continued, including cases involving incest and gang rape. According to the NNP, approximately 78 percent of rape cases during the year involved adolescent girls less than 17 years of age.

On July 25, an employee of the Ministry of Migration allegedly raped a colleague. Police assured the victim that an investigation was underway, yet 45 days after the initial report, authorities had not examined the victim medically or psychologically; the alleged rapist and his accomplice continued to work at the ministry; and police had not examined submitted evidence. By year's end, however, the case proceeded to trial after the CSJ Institute of Forensic Medicine (IML) provided information.

The law criminalizes domestic violence and provides for prison sentences up to six years. The law also provides for the issuance of restraining orders to protect women who fear for their safety. NGOs asserted that victims of violence did not have reasonable access to justice; only 10 percent of cases went to court, while the majority of cases were resolved through mediation. NGOs asserted that this form of case resolution was ineffective and led to patterns of abuse and impunity.

Reporting of domestic violence and violence against women increased dramatically, attributable in part to a higher frequency of occurrence, in part to a greater public willingness to come forward, and in part to the NNP's continued 2008 campaign ("A Home Cannot Be Built Out of Violence...Give Love To Your Family") aimed at raising public awareness of domestic violence and helping domestic-abuse victims. NGOs and the NNP asserted that domestic violence remained widespread and underreported, however, with the latter primarily due to cultural attitudes. The NNP reported that during the year there were 27,746 cases of domestic violence and aggression, of which 40 percent were between domestic partners and 2,547 were against children. Although the IML did not make end-of-year statistics available, it reported that in the first six months of the year, it examined 2,886 cases of domestic violence, of which 2,767 were between domestic partners, and 223 cases involving children being considered for criminal proceedings.

The PDDH reported a significant increase in the number of killings of women: there were 53 killings from January through September, 45 of which partners committed. The NNP reported that 31 women were killed during the year due to domestic and sexual violence. NGOs reported 20 percent were sexually abused before death and 31 percent were killed by firearm. Many victims were often raped, beaten, maimed, or mutilated.

During the year 35 NNP women's commissariats operated in the country, three more than in 2008. Commissariats provided social and legal help to women, mediated spousal conflicts, investigated and helped prosecute criminal complaints, and referred victims to other governmental and nongovernmental assistance agencies. Although the government and the NNP intensified campaigns to encourage women to report spousal abuse and other violence, commissariats lacked sufficient government-provided equipment and funding to discharge their responsibilities adequately. There were no government-operated shelters dedicated to female victims of violence or abuse, although there were nine nongovernment-operated women's shelters.

Prostitution, which is legal for persons 14 years of age and older, was common, although the law prohibits its promotion. In Managua most prostitutes worked on the streets or in nightclubs, bars, or massage parlors. The law imposes a penalty of five to seven years' imprisonment for convicted sex-tourism offenders. Several NGOs reported that sexual exploitation of young girls was common, as was the prevalence of older men (often foreigners) who exploited young girls under the guise of providing them support. Although there was a national campaign launched to raise awareness and reporting of sex tourism, the NNP reported no cases of sex tourism during the year.

The law prohibits sexual harassment, and those convicted face between one- and three-year prison terms, or three- to five-year sentences if the victim is under age 18. From January through September, the Public Ministry reported 105 cases of sexual harassment, of which 22 resulted in charges brought to court; year-end statistics were not available. As with rape and domestic violence, sexual harassment was underreported.

Ministry of Health family-planning norms provide for couples and individuals to have the right to decide the number, spacing, and timing of children, and to have the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care, were more available in urban areas and have improved in remote areas, such as the Atlantic Coast. Women generally received better access to diagnostic services and treatment for sexually transmitted diseases than men because NGO efforts and government campaigns focused on women's reproductive health. Health centers and hospitals provided information on the benefits of family planning and breast-feeding and generally had programs in place to address these issues. A 2006-07 demographic survey showed that 70 percent of women used a modern contraceptive method and that the gap between urban and rural users had decreased.

Women in some areas, such as the RAAN and RAAS, did not have widespread access to medical care or programs. The Ministry of Health reported a total of 5 percent fewer maternal deaths during the year, compared with 2008. However, the

decrease was less pronounced in rural areas (11 percent) than in urban areas (24 percent), and maternal death was generally more likely to affect poor rural women than their urban counterparts. Most of the women who died in childbirth were older than 35 years or adolescents who lived in rural areas and had low education levels.

The law provides that women enjoy the same rights as men, including in the family and the workplace and regarding property. However, women generally experienced economic discrimination in access to employment, credit, and pay equity for substantially similar work, as well as in owning and/or managing businesses. The NNP Office of the Superintendent of Women is responsible for enforcing the law to protect women. In practice authorities often discriminated in property matters against poor women who lacked birth certificates or national identity cards. The Office of the PDDH's Special Prosecutor for Women and the Nicaraguan Women's Institute are the principal government entities responsible for protecting the legal rights of women. However, they had limited effectiveness.

Children

Citizenship is derived by birth within the country's territory and from one's parents; however, the Ministry of Family (MiFamilia) failed to register births immediately. Media reports estimated that annually 50,000 children were not properly registered. During the first six months of the year, "Programa Amor" (the child-welfare program launched by the president's wife), in conjunction with Save the Children and the UN Children's Fund, successfully registered 11,250 children located mostly in the RAAN. However, the problem persisted: children and adolescents lacked birth certificates, were not listed in the national civil registry, lacked legal identity, were denied public services, and were highly vulnerable to trafficking.

The NNP reported that approximately 24 percent of the victims of domestic and sexual violence were children. Save the Children reported that both child abuse and violations of children's human rights increased most notably in poor rural areas. The media reported that during the year there were few judicial resources available to defend the rights of children and that, of all cases brought to court alleging violations of children's human rights, more than half were dismissed and 28 percent of those charged were found guilty. There were no government programs specifically combating child abuse.

An NGO reported that MiFamilia personnel sexually, physically, and emotionally abused children living in government-sponsored child-protection centers during the year. The MiFamilia center in Managua reportedly took in children with a range of issues but did not develop specific programs to address them. It was overcrowded and chaotic; children were bullied and infested with lice.

The PDDH's 2007 allegations of corruption and abusive living conditions did not result in a MiFamilia investigation during the year.

There were no reports of child marriage; however, NGOs stated that while child marriage was rather uncommon, it existed in rural areas. There were no government efforts to combat it.

The law prohibits promoting or engaging in child prostitution, but it remained a problem. Penalties include four to 10 years in prison for a person who entices or forces a child under age 12 to engage in sexual activity, and one to five years in prison for the same acts involving persons between the ages of 12 and 18 years. The law defines statutory rape as sexual relations with children who are 13 years old or younger, and there is no law prohibiting prostitution by juveniles 14 years of age or older.

The law also prohibits promoting, filming, or selling child pornography. The penalty for an individual convicted of inducing, facilitating, promoting, or using a minor younger than 16 years for sexual or erotic purposes, or forcing such a person to

watch or participate in such an act, is five to seven years in prison. If the victim is older than 16 years but younger than 18 years, the penalty is reduced to four to six years in prison. During the year the NNP reported 34 cases of child pornography.

According to the IML midyear report, 82 percent of sex crimes were with minors younger than 17 years old. The country was a destination for child sex tourism, primarily in Granada and Managua; however, there were no officially reported cases during the year.

Trafficking in Persons

The law prohibits trafficking in persons for all purposes. There were reports that persons were trafficked to, from, through, and within the country.

NGOs continued to confirm that trafficking was a serious and increasing problem. The IOM also stated in September that international trafficking was present and that there was a disproportionate increase in internal and urban trafficking for sexual and labor exploitation. Porous borders and lack of access to legal identification documents, which led individuals to cross borders clandestinely, exacerbated trafficking problems.

NGOs reported increases in trafficking victims from urban and suburban areas during the year. However, victims overwhelmingly originated from rural areas such as the RAAN and RAAS. Women and children living in rural border areas were at particularly high risk--along with poor, rural, homeless, and undocumented children--of being trafficked for commercial sexual and/or labor exploitation.

The majority of victims were women and children trafficked to Guatemala and El Salvador for commercial sexual exploitation, while Costa Rica was the main destination for trafficking adults and children for forced labor. Victims generally were poor and uneducated; adults generally were coerced under the assumption of finding gainful employment, while children were homeless and frequently had histories involving domestic or sexual abuse.

NGOs and government agencies reported that traffickers included organized crime, employment agencies, other trafficking victims, family members, brothel operators, international truck drivers, and sometimes children carrying packages or guiding border-crossers. Many traffickers used legal migration procedures to traffic victims through official ports of entry, exploiting ineffective government security measures and often taking advantage of the minimal documentation requirements among El Salvador, Guatemala, Honduras, and Nicaragua as well as the low price of falsified immigration papers.

The IOM reported that a common method of luring victims into trafficking involved recruiters (usually women acquainted with the victim who had acquired the trust of the community) who presented rural women with employment opportunities abroad. Recruiters invited young girls and women to travel as a group and provided false paperwork enabling them to cross borders through official ports of entry. Upon arrival at the final destination, victims were enslaved in brothels and sexually exploited.

NGOs reported that family friends or trusted persons often promised urban employment opportunities as domestic workers to young girls from rural and suburban areas. After taking transportation into the city, victims were informed that their workplaces were actually night clubs or bars; on arrival, they were often forced to dance or perform sexual acts.

The Public Ministry is charged with prosecuting trafficking cases. The Ministry of Government has primary responsibility for combating trafficking through the National Coalition against Trafficking in Persons, which coordinated efforts with 16 ministries and autonomous government agencies and with national and international organizations. The judicial police

handle trafficking complaints.

Trafficking for sexual exploitation, slavery, or adoption purposes carries a sentence of between seven and 10 years in prison. The maximum penalty is applied against perpetrators in cases where the victim is married, less than 14 years of age, or living as a sex slave with the perpetrator. The penalty range increases to 10-12 years in prison for trafficking of children under 18. There are no penalties for attempted trafficking. Laws against commercial sexual exploitation of minors do not protect all adolescents under 18 years old. The failure of the government to allocate adequate resources, the slow pace of law reform, judicial corruption, lack of border and immigration controls, and inadequate government coordination impeded government antitrafficking efforts.

From January to September, there were five cases of suspected trafficking pursued by the Public Ministry, with 18 persons under investigation; at year's end no one was convicted. NGOs reported that the government did not cooperate with or assist international investigations against trafficking. The law does not permit extradition of citizens.

There continued to be no information available regarding the investigation of two trafficking suspects apprehended in 2007 at the Managua airport while they allegedly tried to put unaccompanied children on a United States-bound flight.

Although the government and NNP did not report officials involved in trafficking, NGOs asserted that both were often aware of, and sometimes colluded with, traffickers. When NGOs gave information to the NNP about specific locales, such as brothels, known to engage in trafficking, officials responded that nothing could be done.

The tasking of "Programa Amor" to help women, children, and adolescents who were trafficking victims did not produce any reported results. NGOs reported there were no other government-sponsored reintegration or aid programs, shelters, or resources for trafficking victims. Rather than the government, NGOs undertook most efforts to reintegrate victims into society. The NGO "Casa Alianza" operated the only two shelters in Managua for trafficking victims.

The government did not allocate sufficient resources to identify victims and failed to provide effective access to judicial remedies for victims. Judges often treated victims as complicit parties in trafficking cases. A lengthy hearing process deterred some victims from submitting cases.

Although the government continued its antitrafficking campaign to increase public awareness and reporting of suspected trafficking cases, inadequate coordination between government entities undermined its effectiveness. For instance, NGOs reported that the 24-hour hotline developed to facilitate reporting of suspicious activity in fact closed after government working hours. Also, police often did not take action or investigate cases although given specific details regarding the whereabouts of known traffickers.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities, but in practice such discrimination was widespread in employment, education, access to health care, and the provision of state services. MiFamilia is responsible for the protection and advancement of rights for persons with disabilities. The government did not effectively enforce the law with regard to the protection of persons with disabilities and did not mandate accessibility to buildings for persons with disabilities.

Government clinics and hospitals provided care for veterans and other persons with disabilities, but the quality of care was generally poor.

At year's end there was no information available on the remaining three cases from 2007 regarding abuse of children with disabilities.

National/Racial/Ethnic Minorities

Various indigenous and other ethnic groups from the RAAN and the RAAS attributed the lack of government resources devoted to the Atlantic Coast to discriminatory attitudes toward the ethnic, racial, and religious minorities in those regions. In contrast with the rest of the country, the racial makeup of the RAAN and RAAS was predominantly black and Amerindian.

Exclusionary treatment based on race, skin color, and ethnicity was common, especially in higher-income urban areas. Darker-skinned persons of African descent from the RAAN and RAAS, along with foreigners assumed to be from those areas, experienced social discrimination in the interior and Pacific areas and were denied access to private clubs and restaurants in Managua. Persons with darker skin claimed that authorities at the Managua airport targeted them for extra security measures and that police stopped them to conduct illegal searches. There was no information available on government efforts to address discrimination based on skin color, race, or ethnicity.

Indigenous People

Indigenous persons constituted approximately 5 percent of the country's population and lived primarily in the RAAN and RAAS. The five major identifiable indigenous groups were the Miskito, the Sumo, the Garifuna (of Afro-Amerindian origin), the Mayangna, and the Rama. These groups alleged government discrimination through underrepresentation in the legislative branch. For instance, the RAAN and RAAS had generally the same population as Leon and Masaya departments but had only five representatives in the National Assembly, compared with 10 for Leon and Masaya.

Indigenous group members often lacked birth certificates, national identity cards, and land titles. Although they formed political groups, these often held little sway over politics and were ignored or used by major national parties to advance their own agendas. Most indigenous persons in rural areas lacked access to public services, and deteriorating roads made medicine and health care almost unobtainable for many communities. The rates of unemployment, illiteracy, and absenteeism of school-age children were among the highest in the country. By year's end there was no information available regarding any government action to meet the 2008 request, by the UN Committee on the Elimination of Racial Discrimination, for development of a national strategy to combat racism and forge a new relationship with indigenous and ethnic minority communities.

Human rights organizations and indigenous rights groups claimed that the government failed to protect indigenous communities' civil and political rights, including rights to land, natural resources, and local autonomy.

On April 19, the Miskito Council of Elders in the RAAN declared independence from the central government and elected a Wihta Tara (meaning "Great Judge" in the Miskito language) as leader. The elders stated that they declared independence in part because of their lack of representation in the central and regional governments and the alleged corruption of the FSLN-controlled regional government. Election fraud in January's municipal elections (see section 3) increased proindependence sentiment. On October 19, police used tear gas and rubber bullets to suppress a proindependence protest in Bilwi during which one Miskito protester died. By year's end the government had not formally responded to the independence declaration.

In April Rama community leaders filed their December 2008 lawsuits against the government with the Inter-American Court on Human Rights, claiming that the government refused to complete the demarcation process and issue titles for their indigenous lands. On December 19, the government issued titles to most of the Rama territory.

There continued to be no developments, and none were expected, regarding the 2006 lawsuit that the CPDH filed with the CSJ on behalf of the Miskito community, in relation to the Red Christmas operation and other human rights abuses committed in the 1980s by then president Ortega and other high-ranking Sandinista officials.

Although the law requires that the government consult with indigenous persons regarding the exploitation of their areas' resources, some indigenous communities continued to complain that government authorities excluded RAAN and RAAS indigenous persons from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Representatives of autonomous regions and indigenous communities regularly complained to the government, media, and NGOs that the government failed to invest in infrastructure in those regions.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Although sexual orientation is not mentioned specifically, the constitution states that all persons are equal before the law and have the right to equal protection. Lesbian, gay, bisexual, and transgender (LGBT) persons continued to face widespread societal discrimination and human rights abuses, particularly in employment and education. On November 30, the PDDH created the position of a special prosecutor for sexual diversity to champion LGBT issues. A gay rights NGO reported that, despite the fact that their community benefited from legislation which protects their human rights, violence directed toward the LGBT community increased. However, it was difficult to measure trends because LGBT human rights violations were underreported and often mischaracterized.

Although not authorized by the government, gay pride events occurred several times during the year in Managua. There were no reports of violence directed against these events.

On August 11, the Ministry of Health signed a regulation that seeks to eradicate discrimination on the basis of sexual orientation in the public and private health sectors and to allocate funds from international donors and multinational aid for the establishment of programs to combat such discrimination.

Other Societal Violence or Discrimination

The law provides specific protections for persons with HIV/AIDS against employment and health services discrimination. However, persons with HIV/AIDS continued to suffer societal discrimination based on their alleged HIV/AIDS status. Several NGOs worked to educate communities regarding HIV/AIDS discrimination. Communities often stigmatized persons with HIV/AIDS, and there was a general lack of awareness and education among the public and health care professionals regarding prevention, treatment, and transmission of HIV/AIDS.

There were no known developments, and none were expected, regarding the lawsuit by Maria Josefa Rivera against three health-care professionals who misdiagnosed AIDS and publicized that diagnosis in 2008.

Section 7 Worker Rights

a. The Right of Association

The law provides for the right of all public- and private-sector workers, with the exception of those in the military and

police, to form and join independent unions of their choice. Workers exercised this right in practice. Workers are not required to notify their employer or the Ministry of Labor (MITRAB) of their intention to organize a union. The government estimated the national workforce at approximately two million, with 28 percent involved in agriculture, fishing, and forestry activities; 18 percent, in manufacturing; and 53 percent, in services. The unionized workforce represented approximately 4.5 percent of the total workforce between 15 and 60 years old. In general labor unions were allied with political parties. During the year the National Assembly passed a law allowing unions to register outside Managua. MITRAB put this decentralization of union registration in place to remove obstacles that discouraged union registration, and it led to an increased number of unions outside the Managua area.

The constitution recognizes the right to strike, and the law allows unions to conduct their activities without government interference. However, burdensome and lengthy labor code conciliation procedures impeded workers' ability to call strikes. During a strike employers cannot hire replacement workers. If a strike continues for 30 days without resolution, MITRAB has authority to suspend the strike and submit the matter to arbitration. MITRAB often declared strikes illegal, even when workers followed legal strike procedures.

On June 9, NNP officers in Puerto Cabezas shot into a crowd of lobster divers who were protesting price cuts, injuring two persons (see section 1.c.).

On September 29, several members of the National Union of Public Employees (UNE) from Ciudad Sandino went on strike by taking control of the city hall to protest alleged breaches of their collective bargaining agreement with the mayor's office. Tensions began earlier in the year, as the FSLN mayor fired seven union members and replaced them with six close political allies and his son, but the strike did not occur until after the mayor fired two more union members, reportedly for uncovering financial corruption in his office. In response the CPCs of Ciudad Sandino organized a "shock" force that broke up the strike; raided, looted, and destroyed much of city hall; and attacked union members, injuring 10. Police arrived late and did little to stop the violence. After the strike the union and the mayor agreed to attempt to work together peacefully. However, after receiving one fired worker's resignation letter, the mayor replaced him with a close political advisor, a move the union opposed.

b. The Right to Organize and Bargain Collectively

The law provides for the right to bargain collectively. A collective bargaining agreement cannot exceed two years and is automatically renewed if neither party requests its revision. The government protected these rights and often sought to foster resolution of labor conflicts through informal negotiations rather than formal administrative or judicial processes. Companies in disputes with their employees must negotiate with the employee union, if one exists. By law several unions may coexist at any one enterprise. The law permits management to sign collective bargaining agreements with each union operating at the enterprise.

The penal code establishes sanctions against employers who violate labor rights by conducting activities such as interfering with the formation of unions or strikebreaking. In practice many employers in the formal sector continued to violate worker rights by blacklisting or firing union members. Employers also avoided legal penalties by organizing "white unions" (employer-led unions) for their employees, which lacked independence. Union leaders asserted that employers and union leaders who supported the Ortega administration continued to pressure workers affiliated with non-FSLN unions to resign and register with FSLN unions.

There were reports that more than 11,000 public employees (more than 12 percent of the public workforce) were fired after rebuffing pressure to join the FSLN party, participate in political marches, or join the FSLN's UNE. The leader of UNE and the National Workers Front (FNT), National Assembly Deputy Gustavo Porras, stated to the media that he wanted to

make the rival Sandinista Central of Workers (CST) and other non-Sandinista unions "disappear" from state institutions, a sentiment that the FNT backed by directing the apparently illegal dismantling of 47 public-sector unions. The pace of politically motivated firings increased significantly during the year. Unions accused the government of directing ministries to hire CPC members to replace fired workers. These unions claimed that the sole criterion for hiring appeared to be political allegiance to President Ortega, since those hired were often unqualified to execute competently the tasks necessary to their jobs.

In February the Internal Revenue Office (DGI) fired nearly 400 employees for refusing to join Sandinista Leadership Councils, government groups dedicated to strengthening the organizational power of the FSLN. The DGI failed to pay severance as required by law. This was one case in a systematic pattern of illegal, politically motivated firings carried out by several large government entities. Although most of these firings were ruled illegal by courts, none of the entities involved abided by rulings mandating severance payment.

On March 26, anonymous CPC members sent death threats to Alvaro Leiva Sanchez, the leader of the Ministry of Transportation and Infrastructure and Democratic Federation of Public Service Employee unions, because of his public lobbying for improved labor rights on behalf of the employees he represented. He reported the threats to police, but by year's end there was no investigation because police claimed a lack of evidence. The Ministry of Transportation and Infrastructure fired Leiva on September 30 without showing proper cause.

Although employers must reinstate workers fired for union activity, MITRAB may not legally order employers to rehire fired workers; that requires a judicial order. The law allows employers to obtain permission from MITRAB to dismiss any employee, including union organizers, provided the employer agrees to pay double the usual severance pay. In practice employers often did not reinstate workers or pay the severance due to weak enforcement of the law.

Although the law establishes a labor court arbitration process, long waiting times and lengthy, complicated procedures detrimentally affected court-mediated solutions, so most labor disputes were reconciled outside of court. The International Labor Organization (ILO) worked with the government and labor leaders to reform this process and make it more accessible to employees in disputes.

Labor leaders complained that employers routinely violated collective bargaining agreements and labor laws. Although year-end statistics were not made available, during the first six months of the year, MITRAB conducted 3,959 inspections and issued 26 fines, including some to companies that operate in the export processing zones also known as free trade zones (FTZs).

There are no special laws or exemptions from regular labor laws in the country's 41 FTZs. Fewer than 10 percent of the estimated 55,000 FTZ workers were union members. Because a high proportion of FTZ unions had fewer than 50 members, many lacked effective collective bargaining power.

On July 21, the FNT-affiliated Confederation of Sandinista Workers-Jose Benito Escobar formed in the Tecnotex textile factory located in an FTZ. Two days later the employer fired 29 of the 33 founding union members in retaliation and circulated a document forbidding the union to exist; those employees who did not sign it were fired. MITRAB promptly ruled that Tecnotex must reinstate the employees; however, when they showed up for work on August 21, company security personnel assaulted them and blocked their entrance to the factory. The fired workers claimed to be unable to find another job in the FTZ because of blacklisting.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. The law prohibits submission, maintenance, or forced recruitment for slavery, forced labor, servitude, or participation in an armed conflict and sets a penalty of between five and eight years' imprisonment. The government did not effectively enforce the law or implement programs to combat forced labor. There were instances of forced domestic servitude, primarily of female minors, and forced prostitution of minors, who were trafficked to urban centers from other countries or from rural areas within the country (see sections 6 and 7.d.).

d. Prohibition of Child Labor and Minimum Age for Employment

Although the law provides for the protection of children's rights and prohibits any type of economic or social exploitation of children, child labor was a widespread problem. The government did not effectively enforce the law to protect children from workplace exploitation. The most recent available national survey of adolescent and child labor (2005) estimated that there were approximately 239,000 working children between five and 17 years old, of whom 36 percent were less than 14 years old.

The law establishes the minimum age for employment at 14 years and limits the workday to six hours and the workweek to 30 hours. Children between 14 and 16 years of age must have parental approval to work. The law prohibits teenage domestic workers from sleeping in the house of their employers; MITRAB is responsible for caring for those teenage domestic workers unable to return each evening to their families, but this was not effectively enforced. It is also illegal for minors to work in places MITRAB considered harmful to their health or safety, such as mines, garbage dumps, and night-entertainment venues.

All employees more than 14 years old must be enrolled in the national social security system. The law also provides for eight-year prison terms and substantial fines for persons employing children in dangerous work and permits inspectors to close those facilities. The government did not provide adequate resources for MITRAB to enforce the law effectively, except in the small formal sector. Although the annual budget for MITRAB was cut during the year, the budget percentage allocated to enforcement increased by 10 percent--from approximately 18 million cordobas (\$880,000) to 21 million cordobas (one million dollars).

Most child labor occurred in the large informal sector, including on coffee plantations and subsistence farms, and in forestry, fishing, and hunting. Children also worked in the production of sugarcane, tobacco, and crushed stone as well as in street sales, garbage dump scavenging, and transport. According to the ILO's International Program on the Elimination of Child Labor, children engaged in the worst forms of child labor in plantation agriculture, shellfish harvesting, pumice and limestone quarrying, gold mining, industrial manufacturing, construction, commercial/retail, hospitality, and as domestic servants.

Children working in agriculture suffered from sun exposure, extreme temperatures, and dangerous pesticides and other chemicals. Hundreds of children working with their families also faced water pollution and powerful ocean tides in harvesting black clams.

The government continued activities to incorporate working adolescents into the formal workforce by transferring children above the legal working age from the worst forms of child labor into nondangerous jobs. NGOs offered vocational training to help adolescents develop job skills for FTZ factory employment. During the first six months of the year, MITRAB reported that it removed 51 child workers from employment and incorporated 783 adolescents into the formal sector; full-year statistics were not available.

MITRAB supported a 10-year plan (2007-16) to end child labor that requires all government programs to include child-labor prevention and eradication initiatives. The government continued its "Programa Amor," which had a primary goal of eradicating child labor by reintegrating abandoned children into society; while there were indications that it was operative early in the year, effectiveness information was inaccessible. *La Prensa* newspaper articles in December reported there was no concrete evidence that "Programa Amor" objectives were being reached. On October 16, more than 340 educators in the RAAN who work for "Programa Amor" and MiFamilia complained that they had not been paid and had not received promised resources and materials for more than six months.

e. Acceptable Conditions of Work

The national minimum wage law establishes statutory minimum wages for nine different economic sectors; the wages are set through tripartite negotiations involving business, government, and labor. The National Assembly must approve any wage increases. During the year the government increased the minimum wage by an average of 11 percent across all sectors. The monthly minimum wage ranged from 1,573 cordobas (approximately \$77) in the agricultural sector to 3,588 cordobas (\$175) in the financial sector. This minimum wage remained significantly below MITRAB's estimated basic cost of goods for an urban family of four, which is 8,670 cordobas (\$420), and did not provide a decent standard of living for a worker and family. Also, the minimum wage was generally enforced only in the formal sector and was thus applicable only to approximately one-third of the working population.

The standard legal workweek is a maximum of 48 hours, with one day of rest; however, this provision was often ignored by employers who claimed that workers readily volunteered for extra hours for additional pay. While the law mandates premium pay for overtime and prohibits excessive compulsory overtime, these requirements were not always effectively enforced.

The law establishes occupational health and safety standards, but the government did not allocate adequate staff or resources to enable the Office of Hygiene and Occupational Safety to enforce these provisions. The law mandates the creation of regional offices for the National Council of Labor Hygiene and Safety. The council is responsible for worker safety legislation and for collaboration with other government agencies and civil society organizations in developing assistance programs and promoting training and prevention activities. The government did not enforce the new law effectively. During the first half of the year, MITRAB conducted 1,096 health and safety inspections; no end-of-year statistics were made available. Also, 1,154 workplace accidents were reported in this period, a drop from 5,497 reported in the first half of 2008.

The law provides workers with the right to remove themselves from dangerous workplace situations without jeopardizing continued employment, but many workers were unaware of this right due to the lack of government dissemination of information.