



2008 Human Rights Report: Nicaragua

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

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Nicaragua is a constitutional democracy with a population of approximately 5.7 million. In January 2007 Daniel Ortega of the Sandinista National Liberation Front (FSLN) was sworn in as president, following the 2006 elections that international observers characterized as generally free and fair. While civilian authorities generally maintained effective control of the security forces, there were 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 November municipal elections and substantial government interference with the operation of political parties; substantial government harassment and intimidation of nongovernmental organizations (NGOs); 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, there were reports that members of the security forces committed unlawful killings. In two of these cases, the courts found officers guilty. The Office of the Inspector General, which makes determinations independently of court rulings, conducted parallel investigations and administered punishments, including demotion and dismissal of officers.

On January 11, security forces from the Nicaragua National Police (NNP) in Managua shot and killed Moises Elias Castillo, a soldier on home leave. On September 19, a court sentenced officer Marvin Jose Morales to 14 years' imprisonment for the unlawful death of Castillo.

On May 21, an armed altercation between police and army forces and civilians at El Encanto ranch in the South Atlantic Autonomous Region (RAAS) resulted in the death of three workers and injuries to a soldier. On July 3, authorities charged two police officers, Jose Romero and Feliciano Rodriguez; volunteer police officer Jose Martinez; and soldier Wilfredo Reyes for the unlawful killings of Wilfredo Salazar, Santos Reyes, and Marvin Leiva Reyes. On November 5, a Bluefields court declared the three suspects not guilty. Human rights organizations complained that the court decision did not accord with due process.

On September 14, three police officers in La Paz Centro shot and killed Luis Angel Vargas Salgado after he reportedly knocked over a police security cone with his bicycle and fled the scene. On September 15, community

members rioted and burned down the La Paz Centro police station to protest the alleged failure of authorities to take action against the officers who reportedly committed the killing. On September 16, NNP Commissioner Aminta Granera visited La Paz Centro, apologized publicly to the victim's family, and announced that she would prosecute the officers involved. Following Granera's visit, police and community members cooperated in rebuilding the police station. By the end of December, six NNP officers awaited trial for their reported involvement in the killing.

On January 30, a jury declared two persons innocent and ordered them freed and found, Casimiro Candry guilty in the March 2007 killings of Villanueva Delgadillo and her husband Gilberto Artola Delgadillo. The judge sentenced Candry to 30 years in prison. At year's end there was no information available regarding the Inter-American Court of Human Rights' August 2007 granting of precautionary measures in favor of the Delgadillo-Artola family in relation to the killings.

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 used excessive force or engaged in degrading treatment that caused injuries to criminal suspects during arrests.

The government-sponsored Office of the Human Rights Ombudsman (PDDH) reported that on March 8, police used cruel and degrading treatment against 13 youths after unknown assailants in the youths' neighborhood attacked presidential bodyguard Daniel Mendoza. The 13 youths reported to the PDDH that police punched some of them in the stomach and threatened them with guns to force them to admit guilt regarding the attack on Mendoza. By year's end there was no information available regarding any investigation or charges against the officers involved.

The Nicaraguan Center for Human Rights (CENIDH) reported that on May 5, after responding to a family quarrel complaint, police in Managua kicked, beat, punched, and threw onto the floor a suspect wearing only underwear during transport to the police station. A police officer reportedly warned the suspect not to discuss the maltreatment when police took the suspect to the hospital for treatment of his wounds. At year's end there was no information regarding any investigation of the incident.

The NGO Center for the Prevention of Violence (CEPREV) reported that police used excessive force in the arrest of adolescent boys suspected of criminal activity, including gang violence and drug trafficking. The Nicaraguan Permanent Commission on Human Rights (CPDH) reported that on July 31, approximately 20 Managua police officers forcibly entered a house, beat, and detained a person they believed was a gang member; the victim also suffered burns to his right forearm. At year's end there was no information regarding any investigation of the incident.

Between July and December, there were several instances of alleged government-orchestrated mob violence or vigilante justice, including violent attacks against members of opposition political parties and civil society. Human rights groups reported that government authorities ordered the NNP not to interfere with vigilante acts, with the result that police failed to provide adequate protection to demonstrators and did not arrest or detain persons who engaged in progovernment mob violence.

On July 30, a progovernment mob attacked a van driven by Alberto Boschi, a Sandinista Renovation Movement (MRS) mayoral candidate, who was driving a group of MRS youth to an antigovernment protest. Authorities later arrested and tried Boschi for inciting a riot and injuring a journalist. Civil society groups alleged that Boschi's arrest

and trial were politically motivated. While his case was on appeal, reports indicated that Boschi went into hiding. His whereabouts were unknown at year's end.

Prison and Detention Center Conditions

Prison conditions continued to deteriorate due to an antiquated infrastructure and increasing inmate population. The Ministry of Government reported that during the year, the country's eight prisons, which were designed for fewer than 5,000 inmates, held approximately 6,500 prisoners. Prisoners suffered from overcrowding, parasites, and inadequate medical attention. Inmates complained about frequent food shortages, contaminated water, and inadequate sanitation in their cells. Family members, churches, and charitable organizations provided some prisoners with food and medical attention to mitigate harsh prison conditions.

Conditions in jails were also harsh. Most jails and police holding cell facilities were old, infested with vermin, physically deteriorating, lacked potable water and had inadequate ventilation, electric, and sewage systems. The government constructed 24 new holding cells throughout the prison system; however, conditions overall remained poor. Some detainees died due to dangerous holding cell conditions, including mistreatment from other prisoners and police officials. On September 29, Abel Antonio Ramirez Castellon died while in police custody in Sebaco, following his September 27 arrest. Police alleged that Ramirez Castello died from asphyxiation when he tried to squeeze his body between the iron bars of his cell. An investigation by the Office of the Inspector General was pending at year's end.

Between May and June, the UN Development Program (UNDP) conducted a study of the penitentiary system of the North Atlantic Autonomous Region (RAAN) and the RAAS. The study concluded that overcrowded living conditions, lack of medical attention, and the government's prolonged delays in processing cases violated prisoners' human rights.

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 the courtroom. Although conditions for female inmates were generally better than those for males, prisons for women were overcrowded, unhygienic, and lacked sufficient beds. Managua's La Esperanza women's prison held more than 200 inmates, nearly twice its designed capacity, with some prisoners forced to sleep in bathrooms. Between May and June, prison authorities evacuated La Esperanza after a health official determined that the facility's water supply was contaminated. During the evacuation prison authorities held female inmates temporarily at the Tipitapa men's prison.

Although the government generally permitted prison visits by local and international human rights observers, in certain instances it restricted prisoners' access to visitors, attorneys, physicians, and human rights officials. Civil society groups and members of opposition political parties stated that authorities denied them access to prisons, prevented them from interviewing detainees, and were unresponsive to their requests for information regarding prisoners and access to prisons. 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.

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 the 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 maintain internal security. The army is responsible for external security but also has some domestic security responsibilities, including combating drug trafficking. There were approximately 10,022 NNP employees, of whom 9,132 were police officers, 890 civilian personnel, and roughly 1,500 voluntary police who filled staffing gaps. Authorities estimated that police provided consistent protection to only 75 percent of the country. In some areas lacking adequate police protection, citizens engaged in vigilante justice.

The government's failure to allocate adequate funding hampered NNP efforts to improve police performance and resulted in a continuing shortage of officers. Low salaries created conditions where police officers were susceptible to bribes, corruption, and drug trafficking. Many volunteer police officers lacked training and professionalism to enforce the law effectively. The Office of the Inspector General investigated and remanded corruption cases of lower-level officers to the court system and punished some officers through internal administrative measures. 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 security force abuses. During the year, the NNP Office of Internal Affairs investigated 2,027 cases of alleged police misconduct, including 1,384 complaints of excessive force, searches without warrants, and unlawful use of firearms. Of these cases, 565 officers were punished, including 40 dishonorable discharges. The NNP Office of Internal Affairs determined that of 2,027 complaints filed against police, 67 percent pertained to human rights violations, 17 percent to acts of corruption, and the remaining 16 percent to common offenses or minor infractions.

NNP regulations require that to graduate from the police academy and become officers, police trainees receive human rights instruction and that police officers receive annual recertification in human rights awareness. The NNP reported that during the year, the police academy trained 1,383 officers and trainees in human rights principles. Authorities also taught specialized human rights courses to 547 other officers. Additionally, more than 400 police officers attended two-day violence prevention workshops sponsored by CEPREV. The army included human rights training in its curriculum.

Human rights groups complained that President Ortega used his position as commander-in-chief to politicize NNP affairs. These groups alleged that President Ortega ordered police to use excessive force, including firing rubber bullets and tear gas, against protesters who were not threatening the police, and in other situations ordered police not to interfere with progovernment mob intimidation of peaceful protests. During a September 20 march in Leon, the president ordered police not to stop progovernment vigilantes from using machetes, clubs, and mortars to intimidate democratic opposition demonstrators. Afterwards, President Ortega publicly reprimanded riot police who used tear gas to protect the demonstrators from the vigilantes. The president subsequently fired nine key senior police officials and replaced them with FSLN loyalists.

Arrest and Detention

Persons 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 July 8, police arrested and detained CPDH Director Marcos Carmona without presenting an arrest warrant or

explaining the charges against him. That same day, authorities released Carmona and on August 18, dismissed the charges against him (see section 4).

CENIDH reported that on September 27, police forcibly entered without a warrant the home of a Managua resident, beat the victim on the head, and slammed his body against a patrol car. The police officers involved in the incident allegedly blamed the victim's son for stealing one of their cell phones. At year's end there was no information about any investigation by authorities regarding the case.

Arbitrary lengthy pretrial detention after arraignment was a problem. The UNDP reported that detainees in the RAN and RAAS waited an average of seven months for their cases to be presented formally before a judge.

Amnesty

During the year the National Assembly granted amnesty to 135 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. The Judicial Career Law requires that new judicial appointments be vetted by the Supreme Court of Justice (CSJ); however, judicial appointments were 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 is the system's highest court, administers the judicial system, and nominates all appellate and lower court judges. 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 that the civilian court system try members of the military charged with common crimes. Human rights and lawyers' groups complained about the delay of justice caused by judicial inaction and impunity, especially regarding family violence and sexual abuse.

On August 22, a court reopened a 2005 case and convicted former minister of culture Father Ernesto Cardenal of slander against Immanuel Zergen, a German citizen living in the country. The court rendered the conviction after Father Cardenal publicly criticized the Ortega government on August 15, during the inauguration of the new Paraguayan president. Although the court exempted the 83-year-old Catholic priest from a jail sentence, it froze his bank accounts to pay a fine established by the verdict.

Trial Procedures

Trials are public, and the law provides that defendants can choose whether to have a jury trial. Defendants have the right to legal counsel and are presumed innocent until proven guilty. 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

Community leaders in the RAAN and RAAS asserted that President Ortega ordered chiefs of police in these regions to ignore court orders to evict migrants from the Pacific coast who illegally invaded and occupied indigenous lands.

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

The law prohibits such actions. Independent media, human rights groups, and opposition political parties alleged, however, that the Ortega administration sought to blur distinctions between party and government through the use of FSLN-directed Citizen Power Councils (CPCs). The government administered subsidized food and other government benefits through CPCs. By giving CPCs this function, the government reportedly coerced citizens into FSLN membership. Persons seeking to obtain or retain employment in the public sector were required to obtain a letter of recommendation from CPC block captains. There were reports that government agencies mandated that persons seeking to obtain voter registration and national identity documents needed a letter of recommendation from the CPCs.

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 against individuals and the press. Individuals could not always criticize the government freely without reprisal, and at times the government attempted to impede criticism.

On August 27, 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. The government interpreted Fox's August 12 speech in Managua about democracy in Latin America as criticizing the Ortega administration. The prosecutor subpoenaed and seized financial documents of the foreign NGO. The prosecutor also subpoenaed local cosponsors of the Fox visit. At the end of the year the case remained before the Supreme Court.

The independent media were active and expressed a variety of views. The government, however, sought to restrict

media freedom through harassment, censorship, arbitrary application of libel laws, and use of national security justifications to suppress reporting.

Throughout the year President Ortega criticized independent media outlets, including referring to them as "traitors" and "murderers." Government and private actors harassed media outlets for reporting critical of the government. The government continued to give preferential treatment to media organizations loyal to the FSLN party, intimidate independent media outlets and journalists into self-censorship, and otherwise hamper the activities of the independent media. El Nuevo Diario reported that during the year, the government spent approximately 40 million cordobas (\$10 million) on publicity in various media, 80 percent of which went to government-friendly operators.

On April 9 and 29, the Ministry of Health prohibited an El Nuevo Diario reporter from entering ministry facilities, allegedly because of his unfavorable reporting about the government.

On April 17, a court ruled in favor of five CPC members and found the president and editor in chief of La Prensa guilty of libel for publishing a December 2007 article criticizing CPC violence, but which did not publish the name of any CPC members. El Nuevo Diario and media organizations asserted that the court's decision was political and against freedom of expression. The court fined the editor in chief 18,000 cordobas (approximately \$900) and the president 9,000 cordobas (approximately \$450). At year's end the case was on appeal.

In July President Ortega asked the attorney general to explore the possibility of treason charges against La Prensa for publishing articles regarding the government's hosting members of the Revolutionary Armed Forces of Colombia (FARC) terrorist organization during a July 19 FSLN anniversary celebration. On July 29 the attorney general responded that the media should act responsibly but did not file charges against La Prensa.

On April 4, television Channel 10 cancelled the popular talk show of political commentator Jaime Arellano. Media analysts alleged that the Channel 10 decision was based on a quid pro quo for the government to issue the television station a radio license. On April 7, Arellano moved his talk show to Channel 2. On August 25, that station cancelled the program, reportedly after the government threatened not to renew its broadcast license. The cancellation of the show followed days of CPC-member public protests against Arellano. Throughout the year CPCs also protested in front of the facilities of other media organization that criticized the government.

Progovernment and other radio stations reported incidents of vandalism and sabotage, including thefts of copper wiring and damage to transmission equipment. On April 6 and June 5, unknown actors damaged the facilities of opposition station Radio 15 de Septiembre, rendering the station unable to transmit for several days.

Harassment and intimidation of the media increased substantially following the November municipal elections and the resulting civil unrest. Beginning on November 12, Radio 15 de Septiembre and independent station Radio Corporacion were unable to transmit for three weeks. The managers of the stations asserted that the government jammed their signals.

On November 16, FSLN mobs blocked roads to Leon and prohibited local and international journalists from covering a scheduled opposition march.

On November 18, government supporters destroyed the offices and equipment of the independent station Radio Dario in Leon, reportedly in retaliation for the political opposition's nonviolent march that same day. Also on November 18, FSLN mobs burned a Channel 2 news vehicle that had carried reporters covering the civil unrest in Managua.

At year's end there were no reports of any investigation of the December 2007 anonymous death threats against

political cartoonist Manuel Guillen.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available only in urban areas. The International Telecommunication Union reported that in 2007 there were only 2.7 users per 100 inhabitants. Frequent power outages and infrastructure problems hampered citizens' 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 June 26 the Autonomous University of Nicaragua canceled a planned meeting between two political candidates after students associated with the FSLN protested the presence of the opposition candidate at the university.

On October 22, the Central American University (UCA) released the results of a poll revealing that the central government was falling in popularity and that the FSLN would lose in several key municipal elections. That same day First Lady Rosario Murillo called an emergency press conference to denounce the UCA poll and the faculty. On October 28, FSLN sympathizers attempted to take control of the UCA campus and threatened to use their influence to cancel the university's 6 percent national budget entitlement because of the release of the October 22 poll results.

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 with the police its planned size and location. During election campaign periods, the CSE must authorize political party marches. Prior to and following the November 9 municipal elections, the government limited these rights by restricting public spaces where groups could assemble, countering group demonstrations, and failing to protect opposition demonstrators.

After civil society prodemocracy marches in June and July, groups reportedly paid by the CPCs continually occupied without legal authorization Managua traffic rotundas, in a campaign entitled "prayer against hatred--love is stronger than hate." These occupations limited the places for public assembly during the municipal elections campaign and until the end of the year.

On July 25, a mob of 30 CPC and FSLN party members in Managua, some wielding machetes, beat and injured city council candidate and Vamos con Eduardo political movement leader Jaime Chavarria and three members of his family, as he attempted to verify his eligibility to vote in the November municipal elections. The police did not protect Chavarria from the mob, and authorities did not detain or charge anyone in relation to the attack.

On September 20, progovernment mobs set up unauthorized road blocks on the main roads from Managua and Chinandega into Leon and stopped a previously registered civil society democracy march. The mobs, which included the Leon FSLN mayoral candidate, attacked buses, threatened democracy marchers and police, injured several marchers with machetes, broke car windows, and set fire to an opposition leader's vehicle. At year's end there were

no detentions or charges filed against anyone in relation to the violence.

Progovernment mobs increasingly limited the right to assembly for several days following the November 9 municipal elections. The mobs, unrestrained by police, used homemade mortars, machetes, sticks, and other improvised weapons to intimidate opposition protestors, and prohibited access to public space by establishing unauthorized road blocks using buses, trucks, and burning tires. On November 16, the mobs blocked access to Leon to prevent persons from participating in opposition marches in that city. On November 17, mobs blocked access to a Managua church where an opposition leader was holding a press conference about election abuses. On November 18, government supporters limited traffic throughout Managua by controlling the city's major roads.

Freedom of Association

The law provides for this right, including the right to organize or affiliate with political parties; however, in March the government stripped two parties of their legal registration and in February removed the presidents of two additional parties. The government also used administrative and judicial means to harass other civil society organizations (see section 4).

c. Freedom of Religion

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

Societal Abuses and Discrimination

There were reports of societal abuses. In the days following the November elections, unknown actors desecrated and vandalized statues of the Virgin Mary that the government had installed in public places during its "prayer against hatred" campaign. Civil society groups alleged that these statues were damaged due to the Catholic Church Episcopal Conference's criticism of the government's handling of the elections.

There were no reports of discrimination, including anti-Semitic acts. The Jewish community had fewer than 50 members.

For a more detailed discussion, see the 2008 International Religious Freedom Report at www.state.gov/g/drl/irf/rpt.

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

The law provides for freedom of movement within the country and freedom to travel and emigrate, and the government generally respected these rights in practice. The government cooperated with the Office of UN High Commissioner for Refugees (UNHCR) through humanitarian organizations, such as the International Organization for Migration, 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 were no reports that the government used forced exile in practice.

The right of citizens to return to the country is not established in the constitution, but the government did not restrict its citizens' return in practice. There were no reports of political violence against citizens returning from civil-war-era self-imposed exile.

Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. On July 9, the government implemented a new refugee law that establishes a formal refugee commission and provides the legal basis to grant refugee status. During the year the government granted asylum to Colombian citizens and FARC members Martha Perez, Doris Torrez, and Nubia Calderon. The government also granted "safe haven" status to Mexican citizen and FARC member Lucia Morett, who by year's end had returned to Mexico.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The new refugee law establishes provisions for regularizing the legal status of approximately 6,000 Salvadorans who had lived in the country since the civil wars of the 1980s. The new law also waives fines imposed on persons who have been in the country illegally and offers them a year from July 9, 2008 to regularize their status.

The Council of Protestant Churches in Nicaragua, UNHCR's implementing NGO partner in the country, reported that between January and August, 97 persons, mainly from Somalia, Eritrea and Ethiopia, formally requested and received refugee status.

Stateless Persons

Citizenship is derived by birth within the territory (*jus soli*) or through a formal naturalization process. The 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 that 250,000 children and adolescents lacked legal documentation.

Persons without citizenship documents were unable to obtain a *cedula*, the national identity card, and therefore had difficulties participating in the legal economy, conducting bank transactions, or voting. Persons who lacked a *cedula* also were subject to other restrictions in employment, access to courts, and land ownership. Women and children lacking citizenship documents were reportedly more vulnerable to sexual exploitation by traffickers. The government did not effectively implement laws and policies to provide persons the opportunity to obtain nationality documents on a nondiscriminatory basis. 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 did not effectively implement laws and policies to provide citizens living outside of the country access to citizenship documents on a nondiscriminatory basis. Media reported that the government illegally granted *cedulas* for political purposes to persons who were not citizens of 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

Domestic and international civil society organizations, the Catholic Church, and media reported widespread fraud, government interference, abuses, and irregularities including violence, intimidation, premature closing of voting stations, destruction of ballots, and delayed accreditation of opposition party poll watchers during the November 9 municipal elections. The government also excluded opposition party poll watchers from the tabulation of the final results. The government did not permit credible international observer groups to monitor the elections.

International and domestic organizations requested that the government address the irregularities, including

through recounting the votes. However, by year's end the government had not conducted a recount or otherwise addressed the other reported irregularities.

There were widespread reports of government manipulation of the electoral system in the weeks preceding the elections. The manipulation included favoring FSLN supporters in delivering voter identification cards and, contrary to election laws, permitting FSLN supporters to administer the voter identification application process. Electoral authorities delayed the accreditation of opposition party poll watchers to prohibit them from monitoring the delivery of electoral material.

Based on its assessment of damage caused by Hurricane Felix in September 2007, the government stated that it would not hold November 9 municipal elections in the RAAN. On April 4, the CSE voted to delay elections until April 2009 in the RAAN municipalities of Puerto Cabezas, Prinzapolka, and Waspam. After violence related to the announced postponement erupted in the RAAN on April 4, the National Assembly voted on June 11, to schedule elections for January 18, 2009, in the RAAN municipalities of Puerto Cabezas, Prinzapolka, Waspam, Rosita, Bonanza, Siuna, and Mulukuku.

There continued to be widespread concerns that the two main political parties, the FSLN and PLC, controlled and manipulated the political system. Minority political parties could not operate without restrictions or outside interference. On February 20, the CSE removed the presidents of the Liberal Nicaraguan Alliance and the Resistance Party of Nicaragua, on the grounds that the elections of these officers were based on erroneous decisions by their respective parties' executive committees.

On June 11, the CSE stripped the Sandinista Renovation Movement (MRS) and the Conservative Party (PC) of their legal registrations, barring them from participating in elections for the next four years, including the November 9 municipal elections. The CSE claimed that the MRS failed to properly establish, document, and register its party branches. The CSE argued that the PC failed to register the required number of candidates for the November municipal elections. On December 21, the Inter-American Court of Human Rights began investigating the government's stripping of the legal registrations of the MRS and PC.

There were credible reports that FSLN membership conferred economic advantages upon individuals and their families, including required letters of recommendation from CPCs to obtain government employment, and that government employees were obliged to participate in CPC activities. Opposition parties also complained that the government allowed the FSLN to manipulate the voter identification card application process, and that the government intentionally withheld voter cards from opposition party supporters.

There were 17 women in the 92-seat National Assembly, four women in the 16-member Supreme Court of Justice, 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.

Government Corruption and Transparency

The law provides criminal penalties for official corruption. However, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. There was widespread public perception of corruption in many government institutions, particularly in the judiciary, the National Assembly, the CSE, the comptroller general, the human rights ombudsman, and the national prosecutor. On February 7, authorities closed the 2006 investigation of Human Rights Ombudsman Omar Cabezas for using government funds for personal benefit but did not release a public report on the investigation's findings. On October 13, Lino Hernandez, an official in the Office of the Comptroller General, announced that his office would issue criminal sanctions against Cabezas. On October 17, Cabezas challenged the comptroller's decision. At year's end there were no further developments in

the case.

Public officials are subject to financial disclosure laws, and the Office of the Comptroller is responsible for combating government corruption. However, on September 23, Comptroller General Luis Angel Montenegro stated that not one official had been punished for corruption during President Ortega's administration because it was "a government without corruption."

By year's end the government had not established a coordinating office for the Access to Public Information Law. Journalists reported substantial difficulties in obtaining requested information from state institutions under this law; this included information related to the November 9 elections.

Section 4 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 that focused on humanitarian activities generally operated without government restriction. However, government officials harassed and intimidated domestic and international NGOs that criticized the government, the CPCs, or the FSLN. During the year the government continued financial audits and other investigations of NGOs. Civil society organizations reported growing government confrontation with NGOs due to their independence and autonomy from government institutions and governmental efforts to create adversarial conditions and a "culture of fear" to suppress NGOs critical of the government.

On September 24, the Ministry of Government began investigating 17 prominent civil society organizations that the government accused of laundering money from international donors. As a result of the investigation, the government froze assets, performed tax audits, and disbanded these NGOs during the judicial proceedings against them. The government publication *El 19* featured stories alleging that these NGOs tried to subvert the government. The publication provided the names, addresses, and phone numbers of the directors of these groups.

Other domestic human rights organizations reported increased problems when filing petitions with the courts and believed that the comptroller and tax authorities audited their accounts as a means of intimidation. Some human rights organizations reported increased problems in scheduling meetings and obtaining information from the government and the ombudsman.

Several women's rights groups and other NGOs reported that government officials threatened them and sought to discredit and disband their organizations. On July 8, police without a warrant arrested Marcos Carmona, the president of CPDH, at his home and detained him for several hours for his alleged aggression in 2007 against two police officers. Carmona did not see the arrest warrant until police displayed it during a press conference later that day. On August 6, authorities tried Carmona but cleared him of all charges on August 18. Media reported Carmona's arrest and trial as part of the government's intimidation campaign against civil society and opposition groups.

On September 27, CENIDH director Vilma Nunez reported to the press that on September 26 alleged Ortega sympathizers vandalized her Leon home and sent death threats. Throughout the year CPDH and CENIDH employees and their families reported anonymous death threats, including text messages accusing them of being CIA agents. Both organizations reported that government media outlets Channel 4, Radio Ya, and the newspaper *El 19* conducted a smear campaign against them.

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

On September 17, Sofia Montenegro, president of the Women's Autonomous Movement (MAM), reported that unknown actors made verbal death threats against her and sent her text messages with her photo containing the caption "agent of the CIA." On September 20, while she was attending a peace demonstration in Leon that Ortega supporters violently disrupted, unknown actors threatened Montenegro's life in full view of police officers, who did not offer her assistance. At year's end there was no information available regarding any investigation of the threats against Montenegro.

The Public Ministry continued its November 2007 investigation against nine prominent women's rights advocates who provided social and legal services to sexual abuse victims. NGOs complained that the ministry launched the investigation to intimidate defenders of women's rights and members of the MRS.

The government generally cooperated with international organizations and permitted visits by the UN Development Program and other UN representatives.

Human rights NGOs and former ombudsman officials asserted that the ombudsman was politicized, influenced by partisan interests, and lacked independence to comply with its mandate. On September 23, Human Rights Ombudsman Omar Cabezas publicly called Human Rights Watch Director Jose Vivanco a criminal and a fascist due to Vivanco's critical reporting on Venezuela. By year's end the PDDH had not issued its annual report to the National Assembly, but made recommendations regarding persons with disabilities and prison conditions. There was minimal government response to the PDDH's 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 5 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. There were reports of societal abuses and discrimination against persons of Afro-Caribbean descent, indigenous communities, homosexuals, and persons with HIV/AIDS.

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. Women may apply the law against their spouses. 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. Through December the NNP Women's Police Commissariats reported 3,482 cases of sexual crimes, including 1,289 cases of rape, 47 cases of aggravated rape, 92 cases of attempted rape, and 704 cases of statutory rape. There were no reliable statistics available regarding the number of rape prosecutions or convictions. Women's rights NGOs reported that at least 12 sexual assault perpetrators were absolved of all charges, even though the prosecutor's office presented ample evidence and witnesses of their crimes.

On September 26, the Office of the Attorney General released a letter from Zoilamerica Narvaez, in which Narvaez announced that out of concern for the welfare of her family and the use of her case for political purposes during the elections, she had withdrawn her 2003 petition to the Inter-American Commission on Human Rights that alleged her stepfather, President Daniel Ortega, had raped her in the 1980s.

The law criminalizes domestic violence and provides up to six years' imprisonment for those found guilty. The law also provides for the issuance of restraining orders to protect women who fear for their safety. NGOs asserted that

the law was selectively enforced. Spousal abuse was widespread and underreported. The Supreme Court of Justice Institute of Forensic Medicine reported there were at least 11,184 cases of domestic violence, of which 52 percent were between domestic partners and approximately 4 percent involved domestic violence against children. The PDDH Special Prosecutor for Women reported that more women were killed violently during the first six months of the year than in the same period in 2007. Police reported a 25 percent increase in the filing of gender-based and domestic violence complaints during the first six months of the year compared with the same period in 2007.

Police Commissioner Aminta Granera required police officers to complete training sponsored by CEPREV and other NGOs to improve the police's capacity to deal with domestic violence. The NNP continued a campaign to raise public awareness regarding domestic violence and help victims of domestic abuse. Reports of violence against women continued to increase, a rise likely attributable to a greater public willingness to come forward to authorities. Primarily due to cultural attitudes, impunity regarding violence against women remained a problem. The law requires female victims of sexual crimes to undergo medical testing by Supreme Court of Justice forensic specialists before proceeding with legal action against perpetrators. A lack of female forensic doctors deterred women from taking legal action against sexual offenders. Sexual abuse and rape of adolescent girls continued, including cases involving incest.

There were no government-operated shelters dedicated to female victims of violence and other forms of abuse. The Network of Women Against Violence operated the only three shelters in the country designated solely to assist women.

There were 32 NNP women's commissariats operating throughout the country. The 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 they intensified public awareness campaigns to encourage women to report spousal abuse and other violence, commissariats lacked equipment and funding to adequately discharge their responsibilities. In December 2007 the government initiated a campaign to involve all family members in combating domestic violence, and in the ensuing six months, the number of such cases reported increased by 96 percent compared to the same period in 2007.

Prostitution, which is legal for persons 14 years of age and older, was common, although the law prohibits its promotion, including procurement. In Managua most prostitutes worked on the streets, in nightclubs and bars, or in massage parlors. The law imposes a penalty of five to seven years' imprisonment for convicted sex tourism offenders. The NNP reported no cases of sex tourism during the year.

The law prohibits sexual harassment, and those convicted face between one and three years' imprisonment, or between three and five years' imprisonment if the victim is under 18 years old. The NNP women's police commissariats reported 375 cases of sexual harassment during the year. The Network of Women against Violence reported that the law was rarely enforced and that police statistics on sexual harassment did not fully reflect the extent of the problem.

The law provides that women enjoy the same rights as men, including family and property rights. 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 Human Rights Ombudsman 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

Although the government publicly expressed its commitment to children's human rights and welfare, it did not develop national policies or coordinate effectively with national and international NGOs to address children's matters.

The government did not register all births immediately, with the result that many children and adolescents lacked birth certificates, were not listed in the national civil registry, lacked legal identity, were denied public services, and had to work or beg in the streets (see section 2.d.).

Violence against children remained a significant problem. CEPREV reported that, as in the previous year, one of three girls and one of five boys were victims of sexual abuse. An Esteli Forensic Clinic study found that 87 percent of rape, sexual crimes, and abuse victims were children. NGOs reported continuing cases of forced child marriage between young girls and older men. There was no information available on government efforts to combat the problem.

Child prostitution remained a problem. The law permits juveniles 14 years of age or older to engage in prostitution. The country was a destination for child sex tourism, primarily in Granada and Managua; however, there were no reported cases during the year.

On September 21, First Lady Rosario Murillo unveiled the government Amor program to remove 25,000 children from the streets and Managua child protection centers. The program created Child Development Centers (CDI) to enable parents to provide for their families and improve their economic circumstances, while also encouraging foster homes for orphaned children.

Media reported that personnel sexually, physically, and emotionally abused children living in Ministry of Family child protection centers. By year's end the Ministry of Family had not conducted a formal investigation based on the PDDH's 2007 report characterizing living conditions of children in government protection centers as "jail-like."

Trafficking in Persons

The law prohibits trafficking in persons for purposes of forced sexual exploitation but does not identify forced labor exploitation as trafficking. There were reports that persons were trafficked from, through, and within the country.

The government reported that the country was primarily a source and transit point for trafficking in persons. The Judicial Auxiliary Police reported 13 trafficking cases involving 24 victims during the year. Of these cases, 10 resulted in prosecutions, two were under investigation, and one was closed for lack of evidence.

NGOs reported that trafficking in persons was a serious and increasing problem in the country. The country was a source for women and children trafficked for sexual exploitation primarily to tourist areas within El Salvador, Guatemala, Honduras, and Costa Rica. Victims were also trafficked internally, primarily from poorer areas to Managua. Trafficking for labor exploitation also occurred.

Poverty, illiteracy, lack of economic opportunity, porous borders, and vast areas of sparsely populated territory in the RAAN and RAAS contributed to making the country a major source of trafficking victims in the Central America region.

Persons trafficked from the country to foreign destinations usually were young women and girls from rural areas, poor neighborhoods in urban centers, or border towns. The main groups at risk were young and uneducated women and children from poor, rural areas; victims of domestic abuse and sexual violence; and persons lacking legal identification documents required for persons more than 16 years old. Young women from poor areas of Managua

and border towns were at the greatest risk of internal and external trafficking. Traffickers recruited undocumented Nicaraguan boys to work as unpaid labor on farms in Costa Rica.

The Office of the Special Prosecutor for Children and Adolescents, other government agencies, and NGOs reported that traffickers included organized crime, taxi driver networks, family operations, persons running brothels, and former victims of prostitution. Traffickers used night clubs, massage parlors, hotels, brothels, and restaurants to recruit and deceive victims. Traffickers lured persons lacking cédulas (national identity cards) with the promise of proper travel documentation.

Many trafficked victims used legal migration procedures. Traffickers sometimes exploited the minimal documentation requirements within El Salvador, Guatemala, Nicaragua, and Honduras to transport trafficking victims through official ports of entry. Traffickers also took advantage of the low price of falsified immigration documents to move victims through the country. The NGO Casa Alianza reported that traffickers did not need to use clandestine methods to transport victims because traffickers were able to operate freely within the country using regular public and private transportation services.

Trafficking for sexual exploitation carries a sentence of between four 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 concubine with the perpetrator. There are no penalties for attempted trafficking. Labor trafficking is not criminalized, and 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 efforts impeded government efforts to combat trafficking.

There was no information available regarding any developments in the investigation of two trafficking suspects apprehended in December 2007 at Managua airport while they were allegedly trying to put unaccompanied children on an airplane to Atlanta, Georgia.

On March 31, police stopped a bus illegally transporting 80 children from Sandy Bay in the RAAN to a location in Managua. On April 1, the special prosecutor for children's rights accused Delayda Wilson, a RAAN Ministry of Family official, RAAN Regional Governor Reynaldo Francis, Puerto Cabezas Police Commissioner Bayardo Rosales, and Elizabeth Enriquez, the mayor of Puerto Cabezas, with kidnapping and violating the human rights of the children. The minister of the family stated that she had not authorized the transfer. The authorities returned the children to Sandy Bay on April 1, but did not bring charges against the RAAN government officials.

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 coordinates efforts with 16 ministries and autonomous government agencies, and with national and international organizations. The government worked with the IOM, Casa Alianza Nicaragua, and Save the Children to investigate trafficking cases and protect victims. The judicial police handle trafficking complaints.

NGOs reported that the government did not cooperate with or assist international investigations against trafficking. The law does not permit the government to extradite Nicaraguan citizens to other countries, regardless of the crime.

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. NGOs undertook most efforts to reintegrate victims into society. Casa Alianza operated the only two shelters in Managua for victims of trafficking.

The Ministries of the Family and Government continued collaborating with civil society organizations to promote an antitrafficking public awareness campaign. Social workers, lawyers, and healthcare workers staffed an emergency 24-hour hot line to encourage reporting of trafficking incidents; however, inadequate coordination with police reportedly undermined the hot line's effectiveness. The Ministry of Government reported that the NNP continued its efforts to combat and prevent trafficking in persons by disrupting operations, increasing police presence, and targeting massage parlors, nightclubs, and other suspected centers of trafficking activity. The Ministry of Government, the Department of Immigration, and the National Coalition Against Trafficking in Persons made public service announcements at immigration check points to warn people traveling outside the country about the risk of human trafficking and provided instruction on prevention, protection, and reporting of trafficking crimes.

The State Department'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. The government did not effectively enforce the law with regard to protection of persons with disabilities and did not mandate accessibility to buildings for persons with disabilities. On September 16, the NGO Women with Disabilities convened a forum to increase awareness about discrimination its members experienced in employment, access to credit, and education. On September 30, the PDDH special prosecutor for persons with disabilities released a study reporting that 80 percent of public health buildings lacked signs in braille, interpreters for the deaf, or access ramps or bathrooms to accommodate persons in wheelchairs.

The Nicaraguan Institute of Statistics and Census reported in a 2003 study, the most recent available, that approximately 10 percent of the population had some type of disability, few of whom received adequate medical treatment. Government clinics and hospitals provided care for war veterans and other persons with disabilities, but the quality of care was generally poor. The government continued a public relations campaign focusing on greater integration into society of persons with disabilities. The Ministry of the Family is responsible for the protection and advancement of rights for persons with disabilities.

On April 24, a court sentenced an Esteli teacher to 18 years' imprisonment in one of four August 2007 cases of abuse of children with disabilities. At year's end there was no information available regarding the status of the other three cases.

National/Racial/Ethnic Minorities

Various indigenous and other ethnic groups from the RAAN and RAAS attributed the government's lack of resources devoted to the Atlantic Coast to discriminatory attitudes toward ethnic, racial, and religious minorities in those regions. In contrast with the rest of the country, the racial makeup of the RAAN and the 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 and 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 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 people 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 the same population sizes as the departments of Leon and Masaya but had only five representatives in the National Assembly compared with 10 for Leon and Masaya.

Most indigenous people in rural areas lacked access to modern health care, 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. In its 2008 report, the UN Committee on the Elimination of Racial Discrimination (CERD) noted the persistence of racial stereotypes in the country and the lack of access to health services in the RAAN. The CERD requested that the government develop 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 December 7, Rama community leaders filed a lawsuit against the government for illegally delaying for more than one year land titling in the RAAS. On December 18, the government office charged with settling title claims issued titles to a Mayangna community in Awas Tingni. Miskito, Rama, and Mayangna leaders claimed that the government discriminated against them by not providing interpreters for court cases or native language translations of government documents.

There were no new developments, and none were expected, regarding the 2006 lawsuit CPDH filed with the Supreme Court of Justice 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 Daniel Ortega and other ranking Sandinista officials.

On September 25, Attorney General Hernan Estrada presented a check for 2,227,500 cordobas (approximately \$111,425) to Brooklyn Rivera, the Yatama leader, in response to the IACHR 2006 request that the government indemnify the Yatama indigenous organization for excluding Yatama from participation in 2004 municipal elections.

Although the law requires that the government consult indigenous persons regarding the exploitation of their areas' resources, some indigenous communities continued to complain that government authorities excluded RAAN and RAAS indigenous people 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.

Civil society groups representing RAAN indigenous communities continued requesting that the National Assembly and the Office of the President establish a government commission to investigate alleged human rights violations relating to the government's response to the September 2007 Hurricane Felix.

Other Societal Abuses and Discrimination

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. The new penal code, implemented in July, repealed criminal penalties relating to same-sex relations. However, homosexual persons continued to face widespread discrimination and human rights abuses based on their sexual orientation. Gay rights activists reported that the Public Ministry received at least 10 complaints during the year alleging that education and health institutions discriminated against

persons because of their sexual orientation.

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 or sexual orientation 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.

On June 30, the Public Ministry announced that it was bringing charges against health care professionals Martha Zuniga Trujillo, Amelia Membreno, and Meyling Castro Ubeda for allegedly misdiagnosing Maria Josefa Rivera Castro as having AIDS in 2001 and publicizing that mistaken diagnosis. At year's end a judge was reviewing the case.

Section 6 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 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.

On November 15, in the Jose Ruiz Health Center in El Viejo, Chinandega, the government-sponsored Federal Healthcare Trade Union (FETSALUD) and MITRAB impeded health care workers from forming a union. The workers were already members of FETSALUD but decided to form an independent union. The workers alleged that when they filed their new union registration petition, the labor inspector shared this information with his father, a FEDASALUD leader and health ministry official, who told the workers to stay with FETSALUD or risk being fired.

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 for arbitration. MITRAB often declared strikes illegal, even when workers followed legal strike procedures.

Government security forces violently interfered with the national transportation strike. On May 5, professional drivers of trucks, buses, and taxis demanded that the government freeze rising fuel prices, parked their vehicles along major highways, and blocked traffic. Union leaders alleged that on May 6, under express instructions from President Ortega to end the strike, police in Leon destroyed the windows of 40 vehicles and towed them away. On May 13, police in Las Maderas shot rubber bullets and injured strikers in an attempt to quash the strike. In June the strike ended peacefully only after President Ortega publicly promised the strikers a fuel subsidy, which he subsequently delivered.

On July 24, workers at Panzyna Laboratories in El Crucero formed a new union. On July 31, company management fired Marlon Dona, a leader of the union. On August 4, the MITRAB accorded legal status to the union. On August 7, union leaders presented management with a list of the union's board of directors, and on August 13, they presented MITRAB with a letter regarding their intention to bargain collectively. On that same day management notified union members of the immediate cancellation of their employment contracts. On August 14, workers began to strike due to the illegal firings. On August 15, management called police to forcibly remove the strikers. Workers

filed a labor rights complaint with MITRAB and a police abuse complaint with the NNP and the Legal Medicine Institute. Although the local labor inspector issued resolutions revoking the firings, management refused to comply with the order and appealed the decision to the Inspector General's Office. On August 29, the Inspector General's Office ruled against the strikers and ordered them to return to their jobs within 72 hours. In October workers abandoned their efforts to form a new labor union.

b. The Right to Organize and Bargain Collectively

The law provides for the right to collective bargaining. 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 employees' 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 new penal code, which entered into force in July, establishes sanctions against employers who violate labor rights, 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 for their employees "white unions" (employer-led unions), which lacked independence. Union leaders asserted that employers that who supported the Ortega administration often pressured workers affiliated with independent unions to resign and register with FSLN unions.

Although employers must reinstate workers fired for union activity, MITRAB cannot legally order employers to rehire fired workers. Formal reinstatement requires a judge's 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 due to weak enforcement of the law.

On September 18, an opposition member and union leader from the Federation of Democratic Workers of the Public Sector complained that Ministry of Transportation and Infrastructure (MTI) officials harassed and fired him illegally for defending 20 other illegally dismissed union members from the MTI and also for allegedly disrespecting the FSLN Minister of Transportation and Infrastructure.

Labor leaders complained that employers routinely violated collective bargaining agreements and labor laws. During the year MITRAB carried out 6,138 inspections and issued fines to 18 companies, including some that operated in the Export Processing Zones (EPZs).

There are no special laws or exemptions from regular labor laws in the 41 EPZs. Less than 10 percent of the estimated 65,500 EPZ workers were union members. Because a high proportion of EPZ unions had fewer than 50 members, many lacked effective collective bargaining power.

The NGO International Solidarity Center reported allegations of violations of the right to organize and bargain collectively, especially in the EPZs, where employers stalled negotiations and allegedly fired or harassed employees trying to form unions. Labor leaders complained of labor violations involving the closings of EPZ factories KB Manufacturing, Everly, and Mil Colores. Other unionized clothing manufacturers in the EPZs closed, or threatened to close, to avoid paying claims for back wages and severance.

On June 6, the Nien Hsing Garment factory closed its operations, dismissing 9,600 of its 14,839 employees. The Mexican company C&C, owned by three of the former Nien Hsing factory owners, hired the 5,289 remaining Nien Hsing employees.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. The law does not prohibit the trafficking of persons for forced labor. 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 of forced prostitution of minors who were trafficked to urban centers from other countries or from rural areas within the country (see section 5, Trafficking).

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 2005 National Survey of Adolescent and Child Labor, the most recent available, 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. NGOs estimated that there was a decline in the number of children working between the ages of five and nine years old, because the government eliminated fees to attend public school. However, these NGOs noted a substantial increase in the number of children between ages 14 and 17, especially those who were illiterate, working in the most dangerous forms of child labor.

The law establishes the minimum age for employment at 14 years and limits the workday to six 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.

During the year the Social Security Office (INSS) decreed that all employees more than 14 years old must be enrolled in the INSS 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 facilities employing child labor. The government did not provide adequate resources for MITRAB to effectively enforce the law except in the small formal sector.

Most child labor occurred in the large informal sector, including on coffee plantations and subsistence farms, and in forestry, fishing, and hunting. According to the International Labor Organization'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. Employers also used child laborers to cross major land borders with drugs and other contraband.

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

The government updated its national plan to eradicate the worst forms of child labor but did not coordinate its efforts with NGOs. On July 9, the government appointed First Lady Rosario Murillo as the president's representative for the National Council on Childhood and Adolescence Integral Protection, which coordinates government efforts on children's rights and activities with civil society groups. The government continued activities to incorporate working adolescents into the formal workforce by transferring children from the worst forms of child labor into nondangerous activities. NGOs offered vocational training to help adolescents develop job skills for EPZ factory employment. Through its inspections network, which included two child labor inspectors, MITRAB removed 394 child workers from coffee plantations.

e. Acceptable Conditions of Work

The national minimum wage law establishes a statutory minimum wage for nine different economic sectors and is 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 33 percent. The monthly minimum wage ranged from 1,392 cordobas (approximately \$71) in the agricultural sector to 3,232 cordobas (\$166) in the financial sector. A Central Bank review of the minimum wage adjustment reported that the minimum wage remained significantly below the government's estimated basic cost of goods for an urban family of 8,670 cordobas (\$455). In general the minimum wage was enforced only in the formal sector.

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 new labor hygiene and security law mandates the creation of regional offices for the National Council of Labor Hygiene and Safety. The council is responsible for worker safety legislation, 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. By year's end the Ministry of Labor had conducted 1,337 hygiene and occupational safety inspections of companies.

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.

Employers did not provide appropriate occupational health and safety training and adequate diving equipment for lobster divers in the RAAN, who had access to only one decompression chamber. On June 15, two Miskito community lobster divers suffered from decompression sickness after working at a depth of 120 feet, under conditions that lacked minimum required safety measures and equipment.