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## Nicaragua

### Country Reports on Human Rights Practices - [2005](#)

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Nicaragua is a constitutional democracy, with a population of approximately 5.4 million. In 2001 voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party (PLC) as president in a generally free and fair election. While civilian authorities generally maintained effective control of the security forces, some members of the security forces committed human rights abuses.

The human rights situation was affected significantly by persistent impunity, corruption, and a political struggle between the Bolanos administration and the opposition dominated legislature and judiciary. During the year the National Assembly attempted to rewrite the constitution and strip the executive branch of powers and institutional control. By year's end a framework law was agreed that would postpone any application of these constitutional changes until January 2007. The following human rights problems were reported:

- unlawful killings by members of the security forces
- harsh detention conditions
- beatings, torture, and other alleged abuses of detainees
- arbitrary arrest and detention of citizens
- politicization and corruption of the judiciary
- harassment and killing of journalists
- corruption and politicization of the Supreme Electoral Council
- politicization of the Office of the Human Rights Ombudsman
- domestic abuse and rape, and wage discrimination against women
- violence against children and child prostitution
- trafficking in women and girls for the purpose of sexual exploitation
- discrimination against indigenous people
- widespread child labor
- violation of worker rights in free trade zones

#### RESPECT FOR HUMAN RIGHTS

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

##### a. Arbitrary or Unlawful Deprivation of Life

Although the government or its agents did not commit any politically motivated killings during the year, police received allegations from nongovernmental organizations (NGOs), the media, and private citizens of unlawful killings by police officers; each of these was referred to the inspector general (IG) of the police. All killings involving police were referred to the courts for review, but the courts rarely found officers guilty of wrongdoing. During the first half of the year, the IG reported 79 cases of injuries inflicted on criminal suspects by police during arrests (see section 1.d.).

On February 23, one of several rural land occupations instigated by the Sandinista party (FSLN) led to a violent confrontation between squatters and police near the city of Chinandega, where three squatters were killed, and nearly two dozen police and squatters were injured seriously. Following an investigation, the police internal affairs unit suspended 10 officers for excessive use of force. Prosecutors concluded that there was sufficient evidence to bring charges against only two of the officers, Mayra Ines Altamirano and Francisco Javier Gonzalez. At year's end there were no further developments in the investigation or possible court proceedings against the two officers. The human rights NGO Nicaraguan Permanent Human Rights Commission (CPDH) concluded that while some police officers had abused their authority and used excessive force, the squatters and political elements that encouraged the land seizure also bore responsibility for the violence and deaths.

On June 26, in Managua, police officers Francisco Acuna, Julio Guerrero, and Juan Hernandez allegedly shot and killed 17-year-old Samuel Garcia Chica in Managua. According to media accounts, police opened fire on Garcia when he and several other young alleged gang members resisted police search efforts. Police internal affairs found insufficient evidence to accuse the officers of wrongdoing. At year's end there was no further information available regarding the investigation or possible judicial action.

At year's end the police had still made no progress in solving the May 2004 killings of four police officers at the police station in Bluefields.

b. Disappearance There were no reports of politically motivated disappearances.

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

Although the law prohibits such practices, there were credible reports that some police physically mistreated detainees, particularly to obtain confessions. The IG's office reported receiving 480 complaints of human rights violations by police officers during the first half of the year, including unlawful killings (see section 1.a.) and complaints forwarded by the Office of Civil Inspection for Professional Responsibility; the IG's Office found that 126 complaints had merit. The IG's office punished 204 officers for violating human rights. As a result, police discharged three officers dishonorably, remanded six to the courts on both human rights and corruption charges, and gave the rest lesser punishments, including demotion, suspension, and loss of pay.

On May 1, three police officers in the municipality of El Tortuguero allegedly raped a fellow officer in the municipal police barracks. Internal affairs investigated and concluded that only one officer, Leonel Duarte Sequeira, committed the rape and that there was insufficient evidence against the other two alleged participants. Internal affairs ordered Duarte dishonorably discharged from the Nicaraguan National Police (NNP), and his case was sent to the Office of the National Prosecutor for Prosecution. At year's end there was no further information on Duarte's trial.

In 2003 the Granada criminal court absolved of all charges police officer Santiago Arauz Cardenas for the 2003 beating of Octavio de la Rocha.

#### Prison and Detention Center Conditions

Prison conditions were harsh. According to government statistics, there were 5,589 inmates in prisons designed to hold 5,446 prisoners. Some prisons and police holding cells were significantly overcrowded and lacked proper sanitation. The Managua women's prison, with a capacity of 110, reportedly held 170 prisoners in July. International donors and the United Nations Development Program (UNDP) worked with the police to improve conditions in holding cells.

The prison system remained underfunded, and medical supplies ranged from inadequate to nonexistent. For the country's 8 penitentiaries and 5,589 prisoners, the authorities maintained a staff of 28 medical specialists. Prison authorities reported that 30 percent of prisoners slept on metal bunks or mattresses on floors. A study carried out during the year by the authorities of the National Penal System (SPN) revealed that for each of 431 prisoners with serious mental and physical illnesses, the prison system had an average budget of \$.18 (3 cordobas) per month to purchase medicine.

The quality of prison food remained poor, and malnutrition remained a problem in local jails and police holding cells. Prison officials calculated that the daily expenditure per prisoner for food was approximately \$0.55 (9.2 cordobas). Many prisoners received additional food from visitors. Conditions in jails and holding cells remained harsh. Many holding cells were dark, poorly ventilated, unhygienic, and overcrowded. Suspects regularly were left in holding cells during their trials, because budgetary shortfalls restricted the use of fuel for transfers to distant courtrooms. At the Bluefields jail, there were 2 showers and 4 toilets for more than 100 prisoners. The authorities occasionally released detainees when they could no longer feed them.

In July Rosa Argentina Solorzano Picado died in the Managua women's prison. Her family alleged that she had suffered from a severe lung infection and other health problems and that prison and judicial authorities refused to transfer her out of the prison to receive medical attention. Prison authorities, the judiciary, and the Office of the National Prosecutor opened separate investigations to determine whether official wrongdoing or negligence contributed to Solorzano's death. Prison authorities ultimately concluded that three officials were negligent in their duties and failed to respond adequately to Solorzano's health problems. Prison authorities recommended administrative penalties for the three officials. No information regarding any further investigation was available at year's end.

The only separate prison for women was in Managua. In the rest of the country, women were housed in separate wings of prison facilities and were guarded by female custodians. Juveniles were housed in separate prison wings and were on different schedules than adults for mealtime and recreational activities.

The government permitted prison visits by local and international human rights observers, and such visits took place during the year.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

#### Role of the Police and Security Apparatus

The NNP is a single, unified force responsible for law enforcement throughout the country and is controlled by the Ministry of Government. Inadequate budget support for the NNP hampered efforts to improve police performance and resulted in a continuing shortage of officers. As a result, the army provided support in rural areas. Lack of coordination and rivalries between the NNP and the army were problems. The NNP continued to reduce the law enforcement role of voluntary police, private citizens who helped fill staffing gaps in some areas and who sometimes were implicated in human rights abuses.

Corruption and impunity remained a problem. The IG's office investigated allegations of police abuse and remanded to the court system for

review all cases in which police used deadly force. During the year the courts were slow in adjudicating cases submitted by the IG. While the police await court decisions, the IG office usually applies administrative restrictions, such as suspension with pay or confinement to precinct. There was no information available on the number of police officers remanded to the courts for cases involving deadly use of force.

Police trainees are required to receive human rights instruction to graduate from the police academy and become officers, and police officers must be recertified in human rights annually. The army included human rights training in its core training curriculum (see section 4).

#### Arrest and Detention

Persons are apprehended openly, and 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. By law a prosecutor must accompany police making an arrest, and detainees have the right to an attorney as soon as they are arrested. Police may hold a suspect legally for 48 hours before they must bring the person before a judge to decide if charges should be brought. The judge then either must order the accused released or transferred to jail. This law was observed more closely than in the past, and few prisoners were held illegally beyond the 48-hour deadline (see section 1.c.). During the 48 hours, the suspect does not have access to bail or to visits from family members.

There were no reports of political detainees.

Statistics from the Department of Prisons indicated that 16 percent of all prisoners awaiting final verdicts were pretrial detainees, compared with 26 percent in 2002.

#### e. Denial of Fair Public Trial

Although the law provides for an independent judiciary, the judicial system was susceptible to corruption and political influence. Judges' political sympathies or acceptance of bribes or influence from political leaders often influenced judicial actions and findings. While civil and criminal courts continued to expedite the judicial process for those in prison awaiting a final verdict, human rights and lawyers' groups continued to complain about judicial inaction and delay. The PLC and FSLN manipulated the judiciary for political purposes. The FSLN utilized its political control of the judiciary to impede the resolution of property claims. Both lower courts and the Supreme Court rendered controversial judgments dismissing evidence and convictions against international drug traffickers.

On March 3, FSLN leader Daniel Ortega used personal connections with judicial officials to obtain a court order permitting him to hold a rally in Masaya on March 6 to block a campaign rally by a rival for the 2006 FSLN presidential candidacy, former Managua mayor Herty Lewites. The media and human rights organizations, including the pro-Sandinista Nicaraguan Center for Human Rights (CENIDH), criticized the action as a politically motivated threat to the freedoms of expression and assembly.

In March the Supreme Court named Oscar Loza, formerly of the state security directorate and a documented human rights abuser during the 1980s Sandinista regime, as a Managua appeals court judge. In March and April the court system continued to erase all corruption charges and convictions against Byron Jerez, former director of taxation during the government of Arnoldo Aleman (see section 3).

In April the National Assembly elected four magistrates to the Supreme Court, ensuring that the institution remained evenly divided between PLC and FSLN caucuses with political loyalties either to Arnoldo Aleman or Daniel Ortega. Despite promises that FSLN leader Daniel Ortega had made to President Bolanos that independent candidates would be given fair consideration, the National Assembly ignored lists of experienced and politically neutral candidates proffered by civil society and the Bolanos administration.

In July PLC-affiliated Judge Roxana Zapata granted to former President Aleman what the government and media described as an illegal medical parole that freed him from house arrest following 2003 convictions for money laundering, fraud, and corruption. According to the media and the government, the arrangement was part of a political deal between Aleman and Daniel Ortega. Although the attorney general's office appealed Aleman's release to an appeals court, sending Aleman back to house arrest for several weeks, on August 30, the Supreme Court, controlled by Aleman and Ortega supporters, approved the "medical parole" and ordered the government to release Aleman. The government released Aleman on September 22. Although Aleman's convictions technically remained in effect, press reports indicated that he and Ortega continued to negotiate a deal to erase the convictions.

The Supreme Court took partisan positions on legal issues in the institutional conflict between the Bolanos government and its FSLN and PLC opponents in the National Assembly. The court ignored the constitutional principle of separation of powers and ruled in favor of the assembly in every constitutional dispute that arose out of the assembly's reforms intended to strip powers from the presidency (see section 3). The Supreme Court's proposal during the year to create a body of judicial police that would follow its orders alone was dropped when the government and National Assembly reached a settlement.

The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court, and it administers the judicial system and nominates all appellate and lower court judges. The Supreme Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. The law requires that the attorney general investigate crimes committed by and against juveniles. The military code requires that the civilian court system try members of the military charged with common crimes.

There were no new developments in the case of Henry Ruiz and other members of the Augusto Cesar Sandino Foundation charged in 2003 with document fraud and illicit association to commit a crime. Observers noted that the charges were politically motivated.

#### Trial Procedures

Trials are public and juries are used. 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 against them and also have the right to appeal a conviction. The Napoleonic legal process continued to be used for some old cases, particularly those which had been on appeal many times.

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 to the party with more influence over the judge rather than face the prospect of detention in jail. This civil-based criminal caseload diverted resources from an overburdened prosecutor's office.

#### Political Prisoners

There were no reports of political prisoners.

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

The law prohibits such actions, and the government generally respected these prohibitions in practice. Section 2 Respect for Civil Liberties, Including:

##### a. Freedom of Speech and Press

Although the law provides for freedom of speech and of the press, and the government generally respected these rights in practice, several constitutional provisions potentially qualify freedom of the press. The constitution stipulates that citizens have the right to accurate information, thereby providing an exception by which the freedom to publish information that the government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, the law establishes a retroactive liability, implying the potential for sanctions against the press. During the year the government did not invoke these provisions to suppress the media.

Journalists writing about controversial or politically sensitive subjects were subject to harassment and death threats. Well-connected individuals and groups also regularly used the corrupt court system to harass journalists by bringing trumped-up charges of libel or other crimes against them.

There were no new developments, and none were expected, regarding the August 2004 complaint filed by *La Prensa* journalist Mirna Velasquez with the CENIDH alleging blackmail and threats by Judge Carlos Mario Pena. During the year, however, Pena was removed from his position by the Supreme Court due to his involvement in a scheme to defraud the government of money seized from alleged international drug traffickers.

In May the National Assembly pressured the government into ratifying the new Arce Law, named for FSLN national assembly member Bayardo Arce. The law significantly reduced the tax exonerations that media outlets may obtain for imported materials and equipment. These tax exonerations helped the print and other media to keep prices low to enable wide access to information. Media outlets reported that the law resulted in significant bureaucratic delays that slowed the importation of needed printing supplies and equipment.

In June *La Prensa* political cartoonist Manuel Guillen received anonymous death threats, purportedly from the Sandinista party, in response to his regular caricatures of FSLN leader Daniel Ortega. Ortega and other FSLN leaders denied any responsibility for the threats. FSLN National Assembly deputy Tomas Borge told the media that if the FSLN had intended to kill Guillen, it would not have revealed its plans in advance.

In August taxi driver Santos Roberto Osegueda shot and killed *La Prensa* correspondent Ronny Adolfo Olivas Olivas in Esteli. Prior to the killing, Olivas received numerous death threats related to his reporting on international drug traffickers in the country. Media accounts stated that prior to his death Olivas had compiled a list of prominent individuals involved in drug trafficking in Esteli. On October 25, a jury trial found Osegueda guilty of murder, and on October 31, he was sentenced to 25 years' imprisonment.

In January a court in Juigalpa found the former PLC mayor of El Ayote, Eugenio Hernandez Gonzalez, guilty of murder in the November 2004 killing by shooting of *La Prensa* journalist Maria Jose Bravo Sanchez. The court sentenced Hernandez to 25 years in prison. The trial failed to address widespread public and media beliefs that others were involved in a politically motivated plot to kill Bravo Sanchez, who had received several death threats from prominent local PLC members prior to the killing. At year's end Hernandez remained in prison but had a pending appeal of his conviction.

There were no government restrictions on the Internet or academic freedom

##### b. Freedom of Peaceful Assembly and Association

###### Freedom of Assembly

The law recognizes the right to public assembly, demonstration, and mobilization in conformity with the law and requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. Although the authorities routinely granted such permission, many groups claimed that the process was too cumbersome and marched without registering.

For several weeks in April, thousands of Sandinista-affiliated university students and union members organized violent demonstrations in Managua and other cities to protest increases in transportation costs. Protesters attacked President Bolanos and members of his cabinet with rocks and homemade mortars, injured police officers and bystanders, threw incendiary devices, disrupted traffic, and hijacked and burned buses and government vehicles. Police arrested violent participants, usually releasing them the next day. Several persons, including police officers, were taken to local hospitals and treated for tear gas inhalation and other injuries.

#### Freedom of Association

The law provides for the right to organize or affiliate with political parties, and the government generally respected this right in practice. Private associations do not have legal status to conduct private fundraising or receive public financial support until they receive authorization from the National Assembly.

#### c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice. The government's requirements for legal recognition of a church are similar to its requirements for other private associations (see section 2.b.). A church must apply for legal standing, which the National Assembly must approve. Following assembly approval, a church must register with the Ministry of Government as an association or a foundation.

#### Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#)

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

The law provides for freedom of movement within the country and freedom to travel and emigrate abroad, and the government generally respected these rights 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.

Statutory provisions prohibit forced internal or external exile, and the government observed this prohibition in practice. There were no reports of political violence against citizens returning from civil-war-era, self-imposed exile. The constitution retains certain citizenship requirements for high-level government officials, including the provision that they must renounce citizenship in other countries at least four years prior to election or appointment.

#### 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. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum and cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

#### Elections and Political Participation

Enrique Bolanos Geyer of the PLC won the presidency in generally free and fair national elections in 2001. In simultaneous legislative elections, the ruling PLC alliance won 52 deputy seats, the FSLN won 37, and the Conservative Party won 1 seat. In a June countrywide poll, 84 percent of respondents stated that they felt that the National Assembly did not represent them in any way.

During the year the National Assembly used controversial charges of fundraising violations by President Bolanos during his 2001 election campaign to pressure the president to negotiate with the assembly on a wide variety of issues in the country's long running institutional conflict. The Organization of American States (OAS) and foreign governments expressed concerns that the political charges against the president and the efforts to remove him from office threatened the constitutional order. In June the National Assembly formed two special commissions to study the charges against the president and several of his ministers who had been members of his campaign team. In September the assembly stripped several cabinet members of their immunity and sent their cases to the judiciary for prosecution on charges of campaign finance irregularities. Assembly leaders publicly stated that the charges were political in nature and intended as a lever in negotiations between the executive and legislative branches of government.

Because of political disputes with the president, PLC and FSLN deputies in the National Assembly enacted several constitutional changes during the year that transferred many presidential powers to the assembly, including control over property restitution, appointment and

removal of ambassadors and government ministers, and control of public utilities and the state social security institute. The Bolanos government regarded most of these reforms as unconstitutional and refused to recognize them. In January the Central American Court of Justice declared the reforms an unconstitutional violation of the separation of powers mandated by the constitution. In October based on discussions with the OAS and foreign governments, the National Assembly passed a framework law specifying that the constitutional reforms to strip powers from the presidency would not take effect until a new National Assembly and presidential administration took office in January 2007 and had the opportunity to accept or reject the reforms.

Although the law provides that the Supreme Electoral Council (CSE) is an independent fourth branch of government, the CSE was highly politicized, subject to political influence, and did not function properly throughout the year. During 2004 nationwide municipal elections, which were marred by serious irregularities, there were credible allegations that the CSE invalidated results in key precincts to ensure that several close races were won by the PLC and FSLN. The CSE had previously attempted to deny legal status to parties other than the PLC and FSLN (see section 5). Growing doubts about the impartiality of the CSE led to increasing rates of voter abstention in recent elections.

There were 22 women in the 90-seat National Assembly and 4 women on the 16-member Supreme Court. Two members of the National Assembly claimed indigenous heritage. In July President Bolanos named Javier Williams Slate, a member of the Miskito indigenous group, as vice foreign minister.

#### Government Corruption and Transparency

The government continued its anticorruption campaign during the year, but its efforts were hampered by corruption and politicization in the judiciary, which dismissed a large number of controversial cases and released from confinement Byron Jerez, one of only two former government officials successfully prosecuted for corruption. In March Sandinista criminal court judge Edgard Altamirano refused to consider evidence of corruption and absolved Jerez for his role in the looting of the Nicaraguan Industry and Commerce Bank (BANIC) and lifted a 2003 judicial order preventing Jerez from leaving the country.

Sandinista appeals court judges Enrique Chavarria and Silvia Rosales also overturned Jerez's conviction and 8-year sentence in another corruption case, which involved 157 checks that Jerez personally wrote as director of taxation to shell companies that he had personally established. Media reports suggested that Jerez had bought his freedom via large payoffs to the Sandinista judges, Daniel Ortega, and other FSLN leaders.

Throughout the year National Prosecutor Julio Centeno Gomez, a personal friend of former President Aleman, refused to consider Panamanian evidence of the former president's corruption. Gomez actively obstructed Panamanian efforts to charge Aleman with money laundering in that country by refusing to deliver Panamanian judicial notices to Aleman and obstructing the efforts of the attorney general to do so. There was a widespread public perception of corruption and political deal-making in many state institutions, including the judiciary, the National Assembly, the CSE, the Office of the Controller General, the Office of the Human Rights Ombudsman (PDDH), and the Office of the National Prosecutor.

Although the constitution provides for public access to government information, no law defines a mechanism for the transmission of the information. There were no formal procedures for requesting information, explaining why access to information was denied, or appealing the denial of a request for access. In practice the government sometimes provided such access for citizens and noncitizens.

#### 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 generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The autonomous, government-financed PDDH struggled with budget shortfalls, party politicization, and political infighting between Ombudsman Omar Cabezas of the FSLN and Deputy Ombudsman Adolfo Joaquin Ortel of the PLC. Cabezas, a former Sandinista guerrilla in the 1970s and a state security official in the 1980s, used the PDDH to promote the FSLN political agenda and staffed the office with FSLN party members. In July and August, leaders of several indigenous people's organizations, including the Miskito organization Yatama, publicly announced their intent to bring a lawsuit alleging human rights violations against Cabezas and several other leaders of the former Sandinista regime for actions involving indigenous communities during the 1980s (see section 5).

There were special ombudsmen for children's issues, women's issues, and indigenous affairs within the PDDH. In April Special Ombudsman for Children's Issues Carlos Emilio Lopez resigned his post, and in July and October the special ombudsmen for indigenous issues and women's issues resigned as well. All publicly stated at the time of their resignations that Cabezas has made it impossible for them to perform their jobs.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits discrimination on the basis of race, gender, disability, language, or social status, the government made little effort to combat discrimination. Few discrimination suits or formal complaints were filed with government officials.

#### Women

The most prevalent violations of women's rights involved domestic and sexual violence, including spousal abuse, which were widespread

and underreported. 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 for women who fear for their safety.

In its 2004 report, the government's Women's Institute reported that government agencies provided psychological, medical, social, and legal assistance in 54,725 instances in which women reportedly suffered domestic abuse and noted that 72 percent of the abusers never were arrested. The Women's Institute also reported that 73 percent of cases of violence and sexual abuse against women took place in the home and that the majority of the abusers were spouses or ex-spouses. The NGO Women's Network reported that domestic violence led to the deaths of approximately 50 women per year.

The NNP and local human rights groups confirmed that while police sometimes intervened to prevent domestic violence, prosecutors rarely prosecuted perpetrators because victims allegedly failed to press charges or testify in court. Cases that reached the courts usually resulted in not guilty verdicts due to judicial inexperience and lack of legal training.

The law punishes sexual abuse, including spousal rape, and stipulates that any person convicted of physically abusing or raping another person can be sentenced to between nine months and four years in prison. This penalty is increased to between 3 and 20 years if the victim is less than 10 years of age or if the perpetrator is a parent or guardian of the victim. Sexual abuse crimes often went unpunished because victims were reluctant to press charges or testify against perpetrators. The law was not effectively enforced because of insufficient government resources allocated for training prosecutors and judicial officials on the law regarding sexual abuse. According to the NNP, police received 1,212 rape complaints during the first 11 months of the year, compared with 1,327 reported instances of rape in 2004. Many women were reluctant to report abuse or file charges due to the social stigma attached to rape. The police managed 24 women's commissariats, with at least 1 in each of the country's 17 departments. Whereas each commissariat was located next to a police station and was supposed to be staffed by six police officers, two social workers, one psychologist, and one lawyer, a lack of funding limited staff size. The commissariats provided social and legal help to women and mediated spousal conflicts, investigated and helped prosecute criminal complaints, and referred victims to other governmental and nongovernmental assistance agencies. The commissariats reported 9,533 cases of domestic violence and 2,207 cases of sexual crimes for the first half of the year. The government's Women's Institute reported that during the year, 46 NGOs and other members of the Women's Network located in several larger cities provided short-term shelter to battered women.

By year's end the Inter-American Court of Human Rights had not ruled on the 2003 complaint of Zoilamerica Narvaez that the government had denied her due process in 2002 by dropping sexual molestation, harassment, and rape charges against her stepfather, former president Daniel Ortega.

Prostitution is legal for persons 14 years of age and older, although the law prohibits its promotion, including procurement. Prostitution was common, and in Managua most prostitutes worked on the streets, clandestinely in nightclubs and bars, or offered sexual services in massage parlors. A tourism law prohibits the promotion of sex tourism, specifies that travelers engaging in sex tourism will be prosecuted, and calls for the revocation of operating licenses for organizations that promote sex tourism.

Although prohibited by law, sexual harassment in the workplace continued to be a widespread problem. Penalties were negligible, and the government made little effort to enforce the law. The law provides for gender equality, but discrimination against women persisted. Salaries for male and female workers differed significantly, with men sometimes making twice as much as women in the same positions. Even with similar qualifications, men advanced more quickly than women. Women constituted the majority of workers in the traditionally low-paid education and health service sectors and were estimated by the government and NGOs to make up two-thirds of the informal economy.

The Office of the Human Rights Ombudsman and the Women's Institute are the two main government offices charged with ensuring the legal rights of women. The Women's Institute is responsible for implementing policies and programs to promote women's rights and interests. Women enjoy the same rights as men, including under family and property law.

## Children

Although the government publicly expressed its commitment to children's human rights and welfare, insufficient allocation of budgetary resources prevented the provision of adequate funding to children's programs and primary education. Children 15 years of age and younger constituted approximately 40 percent of the population.

Primary education was free and universal. Although the law provides for compulsory education through the sixth grade, the law was not enforced. According to ministry of education statistics, during the year rates of enrollment were estimated at 80 percent for primary school and 42 percent for secondary school. UNICEF statistics reported that only 29 percent of children complete primary schooling.

Although medical care was often limited, boys and girls had equal access. According to the Ministry of Health, the government devoted 8.6 percent of its budget to child health care.

Violence against children was a significant problem. From January to November, there were an estimated 2,451 cases of physical and sexual assault, 494 cases of statutory rape, 393 cases of kidnapping, and 21 cases of incest against minors. Additionally, 639 minors between 13 and 17 years old were rape victims, 219 minors under age 13 were rape victims, and 85 minors died due to violent crime. The NNP estimated that approximately 66 percent of sexual abuse victims were under the age of 18, and that 30 percent were younger than 13.

Child prostitution was a problem. While the law defines statutory rape as sexual relations with children who are 13 years of age and younger, there is no legal prohibition on prostitution by juveniles 14 years of age and older (see section 5, Trafficking in Persons).

Child labor was a problem (see section 6.d.).

### Trafficking in Persons

The law specifically prohibits trafficking in persons and assigns a penalty of up to 10 years in prison. There was evidence that the country was a source area for trafficking in women and girls to other countries for purposes of sexual exploitation. During the year the Ministry of Government's antitrafficking-in-persons liaison office coordinated the government's antitrafficking awareness campaigns for both the public and border police and immigration officials, significantly increasing public and official awareness of the problem. In addition the government operated an antitrafficking unit within the police department. The Foreign Ministry's consular officers in neighboring countries assisted with the repatriation of victims. The Ministry of Government has primary responsibility for combating trafficking.

There were two major trafficking prosecutions during the year, resulting in the conviction of four traffickers. In January authorities charged Daniela de la Asuncion Perez Castillo, Rosa Isabel Perez, Johana Elizabeth Perez Chavarria, and Jackeline Carolina Lopez Martinez with trafficking girls and women to Guatemala for the purpose of sexual exploitation. In April a Managua jury convicted all four women and sentenced three women to eight years in prison; the fourth received a four-year sentence.

Government officials, NGOs, and other organizations characterized trafficking as a growing problem throughout the region. The government, NGOs, and media periodically reported cases of individual women trafficked to brothels in Guatemala and Mexico by well-organized criminal bands operating throughout Central America. Few cases were documented fully by the authorities, and there were no reliable statistics on the scale of the problem. The two main types of trafficking involved women moved from rural areas to urban nightclubs and massage parlors and women from urban areas, lured to brothels in neighboring countries by offers of legitimate employment.

The women's commissariats and the Ministry of Education conducted a nationwide trafficking awareness campaign at high schools, presenting high-risk youth with pamphlets and presentations warning them against the dangers of trafficking. The Ministry of Labor's inspectors conducted inspections of strip clubs several times during the year to ensure that they employed no underage workers.

The government-civil society national coalition against trafficking in persons carried out awareness campaigns, worked to improve coordination between the government and civil society in repatriation cases, and continued to undertake a major survey designed to provide the first reliable statistics on the extent of trafficking.

### 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 in the provision of state services. The government did not effectively enforce the law with regard to protection of persons with disabilities. Despite some efforts, such as the creation of a special ombudsman for persons with disabilities during the year, the government's role in helping persons with disabilities was minimal and often was criticized. The government had not legislated or otherwise mandated accessibility to buildings for the persons with disabilities.

The National Council for Rehabilitation of the Ministry of Health addresses the needs of the estimated 535 thousand citizens with some type of disability, few of whom received medical treatment. Government clinics and hospitals provided care for war veterans and other persons with disabilities, but the quality of care was generally poor. During the year the government carried out a public relations campaign calling for greater integration of persons with disabilities in society. Although the law obliges employers to enter into employment contracts with persons with disabilities, not to let disabilities affect salaries, and to consider persons with disabilities equal to other workers, the law rarely was enforced. Disabilities rights advocates contended that many national and local government officials either were unaware of the laws on equal opportunity or made no effort to put them into effect. Advocates also criticized the civil service law requirement that all government employees be "physically and mentally able," on the grounds that this contradicts constitutional provisions that all persons are equal before the law.

### National/Racial/Ethnic Minorities

Various indigenous and other ethnic groups from both the Northern and Southern Autonomous Atlantic Regions (RAAN and RAAS) sometimes linked the government's lack of resources devoted to the Atlantic Coast to discriminatory attitudes toward ethnic, racial, and religious minorities that predominate in that region. In contrast with the rest of the country, the region's racial makeup tended to be black and Amerindian, and its religious composition was principally Protestant denominations.

### Indigenous People

Indigenous people constituted approximately 5 percent of the country's population and lived primarily in the RAAN and RAAS. The four major identifiable indigenous groups were the Miskito, the Sumo, the Garifuna, and the Rama.

In June the IACHR ruled that the government had violated the rights of the Miskito and Sumo in 2000 when the CSE prevented the primarily indigenous Yatama political party from competing in municipal elections held that year. The IACHR determined that the government must acknowledge its violation of Yatama rights and pay \$80 thousand (1.36 million cordobas) in damages. The government agreed to abide by the ruling.

In July and August leaders of Yatama and other indigenous organizations announced their intent to bring before domestic and international tribunals charges of genocide and crimes against humanity against several former leaders of the Sandinista regime for the Red Christmas

operation and other actions taken against the Miskito and other Atlantic Coast indigenous people during the 1980s. Those indicted included former President Daniel Ortega, his brother and former head of the Sandinista army Humberto Ortega, former Sandinista Minister of the Interior Tomas Borge, former Sandinista Director of State Security Lenin Cerna, and Omar Cabezas, former deputy at the Ministry of the Interior and current human rights ombudsman. Yatama leaders stated that they would first take their case to domestic tribunals but if they were denied justice, they would then take bring their complaint to the IACHR. By year's end Yatama had filed a formal complaint with the CPDH human rights NGO requesting its assistance in documenting the abuses to bring formal charges.

Although by law the government is required to consult indigenous people regarding the exploitation of their areas' resources, some indigenous groups and organizations, including Yatama, continued to complain that government authorities excluded Atlantic Coast indigenous people from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Representatives of autonomous regions and indigenous groups regularly complained to the government, media, and NGOs that the government made no effort to invest in infrastructure for the benefit of those who lived there. However, the government gradually implemented a 2004 agreement with local authorities to improve infrastructure in the region, including highway construction, potable water, health care, and education.

The majority of indigenous people in rural areas did not have access to modern health care, and deteriorating roads made medicine and health care almost inaccessible for many communities. Critics of government policy continued to point out extremely high unemployment rates among the indigenous, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic Coast engaged in subsistence fishing, farming, and mining.

#### 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 law provides specific protections for persons with HIV/AIDS against employment and health services discrimination. During the year there were no reports of police or other authorities perpetrating or condoning violence against persons based on sexual orientation or HIV/AIDS status, and there were no reliable statistics on the extent of societal discrimination based on sexual orientation or HIV/AIDS status. The government undertook minimal effort to address discrimination based on sexual orientation or HIV/AIDS status.

#### 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 organize voluntarily in unions, and workers exercise this right extensively. Transportation and agricultural workers were organized into cooperatives, which did not permit strikes. Representatives of organized labor groups criticized cooperatives, noting that they had inadequate grievance procedures, were intended to displace genuine, independent trade unions, and were dominated by employers. According to the Ministry of Labor, less than 10 percent of the work force was unionized.

Employers are legally required to reinstate workers fired for union activity, but they often did not do so. Additionally, the law allows employers to obtain permission from the Ministry of Labor to dismiss any employee, including union organizers, provided the employer agrees to pay double the usual severance pay.

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

The law provides for the right to bargain collectively. While the government protected this right, it often sought to foster resolution of labor conflicts via informal negotiations rather than formal administrative or judicial processes. Companies engaged in disputes with employees must negotiate with the employees' union if the employees are organized. However, the possible existence of more than one union at a place of employment means that several unions, each with different demands, may coexist at any one enterprise. Under the law, management may sign collective bargaining agreements with each union. Although the law recognizes the right to strike, legal strikes were rare. The labor code requires a majority vote of the workers in an enterprise to call a strike and also requires that before beginning the strike, the union receive approval from the Ministry of Labor. To obtain approval, the union must undertake a good faith negotiation process with management, which the labor ministry maintained was necessary to avoid purely political strikes. Union leaders, however, contended that the process is inappropriately lengthy and resulted in too few legal strikes. In its annual survey, the International Confederation of Free Trade Unions criticized the labor code's strike requirements, noting that since 1996, the government has declared only one strike to be legal.

While the law prohibits retribution against strikers and union leaders for legal strikes, this protection may be withdrawn in the case of an illegal strike. Unions sometimes declared strikes without completing the process, and during the year there were several such strikes by teachers and health care workers. If the Ministry of Labor ruled the strikes illegal, employers took advantage of the situation by firing the striking workers.

With a maximum fine of only \$620 (10 thousand cordobas), fines levied by the Ministry of Labor against employers violating the Labor Code did not serve as effective deterrents. In its annual report, the International Labor Organization (ILO) Committee of Experts noted that existing fines were inadequate, and emphasized the need for the government to implement legislation to provide effective monetary sanctions against employer interference in trade union affairs.

There were allegations of violations of the right to organize, most commonly that employers fired employees who were trying to form a union. The Ministry of Labor investigated these allegations and concluded that employers generally acted within the law, taking advantage of the extensive administrative requirements necessary to declare a strike legal or organize a union. Notwithstanding the legality of employer

actions, the result was to weaken significantly the Sandinista Workers Central (CST) union in the free trade zones (FTZ).

The FTZ garment factory Mil Colores/Chaprich continued to experience serious labor problems. Union leaders, NGO representatives, and government officials credibly alleged that management fired dozens of workers without cause, failed to give legally required severance payments to over a hundred others, and used funds taken from worker wages for legally mandated social security and health insurance to pay utility bills. The Ministry of Labor ordered the company to rehire illegally fired workers and meet its financial obligations to employees. By year's end the company had changed management and began to rehire some of the fired workers, provide severance payments to other workers, and pay what it owed to the state health insurance institute.

In February the CST and the management of the FTZ garment factory Nicotex settled a 2004 labor dispute over the firing of workers who attempted to organize a CST branch. The company agreed to rehire all fired union leaders who wished to return, pay the re-hired workers lost wages, and accept a CST union in the factory. The company, however, subsequently forced the resignation of union leaders and issued them severance payments. At year's end the CST union branch had not formed at the factory.

There were no special laws or exemptions from regular labor laws in the 36 FTZs. While many workers in the FTZs were represented by 1 of 27 different union organizations associated with 5 different labor confederations, less than 10 percent of FTZ workers were union members. Not all of these unions had real collective bargaining power. In its annual report, the ILO Committee of Experts expressed concerns that some collective agreements concluded in FTZs in 2001 were still not in force, that no new collective agreements had been concluded in the FTZs, and requested that the government take measures to encourage the negotiation of collective agreements in the export processing zones. Union organizing efforts encountered strong employer opposition in the FTZs. During the year the Ministry of Labor and the management of the government-owned corporation that oversees the FTZs settled disputes at KB Manufacturing and Guanica.

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

The law prohibits any type of forced or compulsory labor (although it does not specifically address forced or compulsory labor by children), but such practices occurred in practice (see section 6.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 law prohibits child labor in areas such as mines and garbage dumps and imposes a maximum fine of \$620 (10 thousand cordobas) for illegal employment of children.

The law permits children from 14 to 16 years of age to work legally with parental permission but limits the workday for such children to 6 hours and prohibits night work. Although the law imposes fines for violators and permits inspectors to close facilities employing child labor, child labor rules rarely were enforced except in the small formal sector due to family economic needs, a cultural legacy of children working in rural areas, and a lack of effective government enforcement of the law.

The government reported that child labor occurred in both urban and rural areas, primarily in the informal sector, including family ventures. In Managua more than six thousand children worked on city streets, selling merchandise, cleaning automobile windows, or begging. The Ministry of Labor continued to report that some children were forced to beg by their parents, and that some parents rented their children to organizers of child beggars. Thousands of children scavenged in garbage dumps to salvage items to use and sell, and in rural areas children worked on farms and in abandoned mines. Tens of thousands of children also labored as domestic workers. Child prostitution was a serious problem (see section 5).

The Ministry of Labor is responsible for enforcing child labor laws, but the government did not allocate adequate resources to enable the ministry to perform its duties effectively. The ILO, foreign governments, and a number of domestic and international NGOs worked with the ministries of labor and family to curb the most egregious cases of child labor and put children into school. Programs targeted children working in garbage dumps and coffee farms and shifted thousands of children from work to school.

#### e. Acceptable Conditions of Work

The statutory minimum wage is set through tripartite (business, government, and labor) negotiations and must be approved by the National Assembly. Each key sector of the economy has a different minimum wage, which must be reviewed every six months. A new minimum wage scale took effect in April, raising the minimum wage by 11 to 16 percent, varying by sector. The minimum wage generally was enforced effectively only in the formal sector. The national minimum wage did not provide a decent standard of living for a worker and family. In every sector the minimum wage was below the \$155 (2,602 cordobas) that the government estimated an urban family needed monthly for a basic basket of goods.

Although the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly, this provision was routinely ignored by employers who often claimed that workers readily volunteered to work extra hours for extra 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 Ministry of Labor's Office of Hygiene and Occupational Security lacked adequate staff and resources to enforce these provisions, resulting in working conditions that often did not meet international standards. Workers in some factories in the free trade zones complained of poor working conditions, being forced to work unpaid overtime, and being told when they may use the toilet. During the year the Ministry of Labor, in conjunction with NGOs and foreign donors, provided training and resources to workers and employers to identify and resolve workplace hygiene and safety problems. The law provides workers with the right

to remove themselves from dangerous workplace situations without jeopardizing their continued employment, but many workers were unaware of this right. There were no new developments, and none were expected, in the Ministry of Labor's 2004 investigation into the deaths of seven workers due to work-related accidents between January and August of that year.

Thousands of individuals claiming to be former banana workers affected by exposure to the pesticide DBCP in the 1970s and 1980s (when its use was legal) continued to press the government to take action on their behalf. Between February and May more than one thousand persons staged a march and camped out in a Managua field to draw attention to their claims. The government responded to their concerns by assisting many of them to obtain passports and other travel documents so that they could travel abroad to give testimony in cases pending in foreign courts. At year's end several hundred lawsuits claiming tens of billions of dollars in damages remained pending in domestic and foreign courts.

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