

NICARAGUA

Nicaragua is a constitutional democracy with a population of approximately six million. Daniel Ortega Saavedra of the Sandinista National Liberation Front (FSLN) began his second term as president in 2007, following an election in 2006 that international observers characterized as generally free and fair. Security forces reported to civilian authorities. There were instances in which elements of the security forces acted independently of government control.

The most significant human rights abuses during the year included restrictions of citizens' right to change their government and widely reported voting fraud in regional elections; occasional unlawful killings by security forces, which authorities in some cases investigated and punished; police abuse of suspects during arrest, which authorities in some instances investigated and punished; harsh and overcrowded prison conditions; arbitrary and lengthy pretrial detention; lack of respect for the rule of law and widespread corruption and politicization of the membership and actions of the Supreme Judicial Council (CSJ), the Supreme Electoral Council (CSE), and other government organs; withholding of accreditation from election-monitoring nongovernmental organizations (NGOs); and erosion of freedom of speech and press, including government intimidation and harassment of journalists and independent media. There were also frequent instances of corrupt practices; government harassment and intimidation of NGOs; increasing violence against women; trafficking in persons; discrimination against ethnic minorities and indigenous persons and communities; widespread societal discrimination and abuse of lesbian, gay, bisexual, and transgender (LGBT) individuals; discrimination against persons with HIV/AIDS; and violations of trade union rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

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

On May 26, Judge Ruth Chamorro found voluntary police officer Cesar Augusto Cruz Jiron guilty of manslaughter and police officer Francisco Antonio Munoz not guilty in the February 15 shooting and killing of unarmed Manuel Quintanilla Carballo in Catarina. Jiron reportedly shot Quintanilla on the order of Munoz after Munoz and Quintanilla had exchanged words and fought on the street. In response to the verdict, a crowd of 200 to 300 persons--allegedly incited by Vice Mayor Isabel Carballo--attacked the Catarina police station, destroyed records and furniture, and burned a police car. An investigation by the NGO Institute of Strategic Studies and Public Politics (IEEPP) alleged longstanding animosity between the police force and citizens of Catarina that stemmed from police soliciting bribes and abusing authority. After the attack, Catarina police officers were reassigned to other departments and replaced.

On March 21, Nicaraguan National Police (NNP) officers Mariano Esteban Membreno Lopez and Alvaro Vincente Membreno Lopez killed Winston J. Mendoza and injured Jesus Mercado in the Managua barrio of Dimitrov. Accounts by the officers and local residents differed (firing into the air while pursuing gang members versus intoxicated or drug-influenced officers firing for no reason). The NNP failed to confiscate the officers' weapons even though the rounds that harmed the victims were from the same type of weapon issued to Mariano Esteban Membreno Lopez. On June 16, a court acquitted the Membreno brothers for lack of evidence.

On April 1, during a religious celebration in Waslala in the North Atlantic Autonomous Region (RAAN), a shoot-out between police and civilians resulted in the killings of four civilians (Virgilio Quintero, Salome Zeledon, Jairo Zeledon, and Henry Ochoa) and two NNP officers (Captain Reynaldo Amador and Officer Nelson Joshua Hernandez). Initial reports from NNP Commissioner Anmita Granera claimed that police fired in self-defense while trying to disarm Quintero. An investigation by the NGO Nicaraguan Human Rights Center (CENIDH) reported evidence that the officers were intoxicated; eyewitness reports claimed the same and also related that police killed Quintero while he was handing over his weapon and Salome Zeledon while his pistol was holstered. A witness claimed that police shot and injured Ochoa, a bystander, as he attempted to flee and then killed him with a shot in the back. According to CENIDH, at year's end there were no trial developments because the district attorney in Matagalpa, responsible for prosecuting the case, had not received records from the prosecutor in Waslala.

On July 7, in Chichigalpa, NNP officers shot and killed two citizens. The officers attempted to arrest Alonso Israel Cuadra Zamora, wanted for robbery, while he rode in a truck with other sugarcane workers. The NNP claimed that Zamora resisted arrest and a broad fight occurred; witnesses alleged that police fired into the truck and killed another rider, Urrita Lopez. In the following hours, civil unrest broke out and police used tear gas and gunfire to control unruly crowds, resulting in the shooting and killing of Norvin Antonio Flores and the injuring of 20 other civilians (three by gunfire, according to the media) and 12 officers. A CENIDH investigation reported that the NNP used excessive force and did not attempt mediation or antidisturbance tactics, but by year's end there were no developments in this case, and none were expected.

By year's end there were no developments, and none were expected, in the February 2009 case of Jinotega police officer Rosendo Gomez Poveda, who shot and killed Jose Magdaleno Rocha Benavides, and in the October 2009 case of a police officer in Somoto, Madriz, who shot and killed Francisco Absalon Carrasco Montano.

Concerning the case of the 2008 killing of Luis Angel Vargas Salgado, in April 2009 a jury found police officers Denis Cano and Norvin Sevilla guilty of homicide. A judge sentenced Cano, the patrol chief, to 12 years in prison (later reduced to two years and six months) and Sevilla to three years. On May 6, Salgado's mother filed a complaint with CENIDH, claiming that Cano and Sevilla had not been incarcerated immediately following their sentences and that her family had received numerous death threats. By year's end Sevilla was released from prison, and Cano's case was under appeal.

b. Disappearance

There were no reports of politically motivated or other disappearances.

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

Although the law prohibits such practices, human rights and other NGOs received complaints that police frequently abused suspects during arrest; often used excessive force, including beatings on body areas that do not bruise easily; or engaged in degrading treatment that caused injuries to criminal suspects during arrests. According to an NNP report covering the period January-September, the NGO Permanent Commission on Human Rights (CPDH) and CENIDH--the main

human rights organizations--received seven and five complaints, respectively, against the NNP for excessive force, arbitrary detention, and cruel or degrading treatment at prisons. Human rights organizations claimed that the government generally did not take action on complaints against government authorities or security forces.

The National Human Rights Institute (PDDH) reported that the largest number of complaints received during the year (1,291, or 35 percent of the total) was related to the NNP and that the NNP had the highest rate of compliance with PDDH resolutions (80 percent) (see section 5).

On March 17, during a carnival celebration, two student members of the National Network of Citizen Resistance (Jairo Contreras and Jessica Lottz) were distributing flyers that called for a protest against government corruption when a police antiriot squad with covered badges and identification numbers surrounded and without explanation assaulted and injured them and wrestled away their flyers. At year's end there were no developments, and none were expected, in this case.

There were no investigations or charges, and none were expected, in the April 2009 warrantless home search, strip search, and beating case, notwithstanding a complaint filed with the CPDH; in the June 2009 case of police firing into a crowd of protesting indigenous lobster divers and injuring two persons; in the September 2009 case of antiriot police dispersing and injuring protesting artisanal salt makers; or in the October 2009 case of Sandinista-led Citizen Power Council (CPC) members beating a female member of the NGO Coordinadora Civil.

Prison and Detention Center Conditions

Prison conditions continued to deteriorate due to antiquated infrastructure, increasing inmate populations, and lack of capital investment. The country's eight prisons, designed for fewer than 5,000 inmates, held more than 6,500 prisoners. They suffered from parasites, inadequate medical attention, frequent food shortages, contaminated water, and inadequate sanitation. Family members, churches, and charitable organizations provided some prisoners with food and medical attention to mitigate harsh conditions since, according to NGOs, prisoners were only provided with the bare essentials: food (beans and rice) and water. The national budget allowed only 11 cordobas (approximately \$0.50) per prisoner per day for three meals and lacked an amount for prisoner health. The government permitted religious observance by prisoners and detainees.

Conditions in jails and temporary holding cells were also harsh. Most facilities were old; infested with vermin; physically deteriorated; lacking in potable water; and equipped with inadequate ventilation, electric, or sewage systems. There were no reports of detainee deaths due to dangerous conditions, although many prisoners suffered mistreatment and discrimination from police officials and other inmates. The PDDH reported receiving 163 complaints related to prison conditions.

In May Isolda del Socorro Herrera complained in a filing to CENIDH that during incarceration in the National Women's Prison, La Esperanza, in Managua, officials subjected her to numerous unnecessary vaginal searches and intentionally delayed her release.

On July 11, police arrested a young gay man (identified in the media only by the initials J.O.M.) in Altagracia and placed him in a prison cell with four inmates on Ometepe Island. J.O.M. alleged that police told the other prisoners he was "fresh meat," provided them condoms, and ignored his pleas for help as prisoners raped and sodomized him repeatedly until the next day. After his release his family complained to Altagracia officials; after no response, the family brought a case to the Rivas Department municipal court. The case began on October 11 and was underway at year's end.

During the year CENIDH received some prisoner reports of mistreatment by the Judicial Auxiliary Directorate, the plainclothes police unit responsible for investigation of serious crimes. One family member reported to CENIDH the case of a prisoner subjected to electric shock; at year's end, CENIDH awaited the results of an examination by the CSJ Institute for Forensic Medicine (IML).

Pretrial detainees often shared cells with convicted prisoners. Juvenile prisoners also shared cells with adults due to overcrowding, especially in the departments of Leon, Matagalpa, and Esteli. Suspects were regularly left in police holding cells during their trials because the government did not allocate funds to transport them to court. During the year the CPDH identified cases where prisoners have waited for months in NNP holding cells for movement to permanent facilities or for judicial proceedings to commence. This problem was particularly serious in the RAAN and the South Atlantic Autonomous Region (RAAS). According to an NNP report released on November 17, 93 percent of the inmates in preventive holding cells in the RAAN and the RAAS should be incarcerated in the National Penitentiary System. The report also stated that the RAAN and the RAAS prison facilities had a capacity for 1 percent of the country's total incarcerated population but held up to 11 percent.

Conditions for female inmates were generally better than those for men, but women still suffered from overcrowded and unhygienic cells. During the year human rights organizations reported that the National Women's Prison held approximately 290 women.

The government frequently denied prison visits by local and international human rights observers, and the CPDH claimed that the government generally denied media access to prison facilities. In certain instances the government restricted prisoners' access to visitors, attorneys, physicians, and human rights officials. Throughout the year local human rights groups claimed authorities denied them access to prisons and prevented them from interviewing detainees. Both the CPDH and CENIDH reported denials of access to prison facilities (except access to NNP holding cells), the CPDH, since 2007, and CENIDH, since 2009. In addition the National Assembly Human Rights Commission reported denials and slow or no response to requests for prison access. Due to their lack of access, human rights organizations received complaints through family members of inmates and often were unable to follow up cases until after release of the prisoner.

The government allowed foreign government representatives to meet with their imprisoned nationals. However, during the year the NNP failed to notify foreign government representatives in most cases of arrests of their citizens; virtually all notifications came through friends or family members of the arrestees. In one case foreign government representatives protested that the NNP confiscated and failed to return an arrestee's passport.

Prisoners and detainees were permitted to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. However, the complaints were often ignored or not processed. The ombudsman could serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders, although the CPDH claimed that this generally did not occur.

The extent to which the government monitored and investigated prison conditions was unknown, but the government included funds in its budget to improve prison and detention facilities, including plans to repair facilities in the RAAN and to construct a new facility in Bluefields in the RAAS. During the year in Bluefields, two holding cells were remodeled, and dining- and kitchen-facility improvements were begun. On October 24, Minister of Government Ana Isabel Morales reported an annual penitentiary system allocation of approximately 340 million cordobas

(\$15.5 million). The National Penitentiary System director publicly commented on requirements for a new Granada prison water well, a new Bluefields prison, and a new women's penal center, but by year's end there were no signs of new facility construction. In addition the CSJ implemented a program to ameliorate juvenile detention conditions that involved a media campaign, electronic filing systems, and psychological care for detainees. Its effectiveness at year's end was unknown.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

The president is commander in chief of the NNP, which is administered by the Ministry of Government. The NNP forms a single, unified force responsible for enforcing the law throughout the country. The NNP maintains internal security. The army is responsible for external security but also has some domestic security responsibilities, including combating drug trafficking. There were 10,072 NNP employees, of whom 9,341 were police officers and 731 were civilian personnel.

The government's inadequate funding of the NNP hampered efforts to improve police performance and resulted in a continuing shortage of officers. The NNP reported that its budget of approximately 1.1 billion cordobas (\$50 million) was insufficient and negatively affected operational capacity. During October the government began constructing a new medical forensic facility funded by foreign government assistance.

The Office of the Inspector General in some cases investigated and punished officers through internal administrative measures and referred some corruption cases of lower-level officers to courts. The slow pace of the justice system fostered a public perception of impunity within the police force. The NNP Office of Internal Affairs is responsible for investigating police abuses. From January to September, the office registered 2,010 complaints and investigated 1,418 cases of alleged police misconduct involving a total of 2,296 officials. Of the complaints filed against police, approximately 73 percent pertained to human rights violations; 14 percent to corrupt acts; and 13 percent to minor offenses or infractions. Authorities disciplined 710 officials, resulting in 34 demotions, 126 minor disciplinary actions, and 550 other types of disciplinary action. In 29 other cases, judicial resolution was pending at the end of the period.

NNP regulations require that police trainees receive human rights instruction to graduate from the police academy and also annual recertification in human rights awareness. During the year the police academy formally trained 3,219 officers and trainees in human rights principles, of which 641 officers received continuous or follow-on training. The army included human rights training in its curriculum. Additionally, the antitrafficking-in-persons and antichild-labor NGO Casa Alianza reported providing training on basic human rights principles and human-trafficking prevention to approximately 230 police officers.

The constitution establishes the NNP as an apolitical, nonpartisan institution protecting all citizens equally under the law. Human rights groups and other NGOs complained that in practice President Ortega continued to use his position as commander in chief and his embedded surrogates to politicize NNP affairs and threaten the organization's professionalism and institutional integrity.

For example, on September 1, a pro-Sandinista union group staged a violent demonstration at the offices of *La Prensa*, an opposition newspaper, and the NNP made no attempt to stop or disperse the crowd. Demonstrators used explosive projectiles shot from homemade mortars and threatened newspaper workers and CENIDH personnel. There were no injuries or property damage reported, but newspaper delivery was delayed for several hours, and employees were denied access to their workplaces. CENIDH and the CPDH declared the demonstration to have been politically motivated and government organized to apply pressure to media sources and promote self-censorship before 2011 elections. On December 10, the same group demonstrated for three hours in front of the homes of *La Prensa* officials, including the general manager. The demonstrators threatened violence, and police reportedly took no action to disperse them.

Arrest Procedures and Treatment While in Detention

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

the 48-hour deadline. After the initial 48 hours, the suspect has access to bail, visits from family members, and legal representation.

Arbitrary and lengthy pretrial detention after arraignment was a problem. Particularly in the RAAN and the RAAS, detainees often waited an average of six months for their cases to be presented formally before a judge due to limited facilities and high crime rates.

On June 23, authorities detained lay Roman Catholic missionary and former opposition mayoral candidate Alberto Steffano Boschi, a dual national, for five hours at Managua airport and stripped him of his Nicaragua citizenship. Convicted in 2008 of assault--a charge that he and several human rights groups labeled as fabricated and politically motivated--and sentenced to one year in prison, Boschi had fled the country. Granted amnesty by a law passed in November 2009, Boschi returned to the country to reunite with his family, but the airport citizenship revocation without regard to normal administrative process meant that his reentry was only for a limited time as a foreign tourist. On October 11, he appealed; at year's end he remained in the country as a tourist, and a court decision was pending.

In August Fausto Carcabelos complained to CENIDH that police arrested him at home, based on a March 2009 court order; held him illegally for three days; and denied him access to his attorney while incarcerated. Although pressed during the year, the NNP did not act on the complaint by year's end.

Amnesty

During the year the National Assembly received 800 pardon requests and granted 37.

e. Denial of Fair Public Trial

Although the law provides for an independent judiciary, the judicial system remained susceptible to corruption and politicization and did not function independently (see section 4). The law requires new judicial appointments be vetted by the CSJ, a process often based on nepotism, influence, or political affiliation. Once appointed, many judges were subject to political and economic pressures that affected their judicial independence. The PDDH reported receiving 759 complaints (18 percent of the total) concerning due process of law and 550 complaints related to access to justice during the year.

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

Trial Procedures

Trials are public, and the law provides that defendants can choose a jury trial. Defendants have the right to legal counsel and are presumed innocent until proven guilty. Defendants also have the right of access to all information and evidence registered with the government, as well as the right to know why and how it was obtained, but only during the discovery and trial phases, not during the pretrial period. The law provides public defenders to represent indigent defendants. Defendants can confront and question witnesses who testify against them and also have the right to appeal a conviction. The law extends these rights to all citizens regardless of gender, ethnicity, disability, or other status. The courts continued to use the Napoleonic legal process for cases that were initiated before December 24, 2002.

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.

Regional Human Rights Court Decisions

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

On May 28, the Inter-American Court of Human Rights found the government in partial compliance with its 2005 judgment in the Yatama case, having paid indemnities for damages as well as expenses incurred by CENIDH and the Center for Justice and International Law. However, the court also found the government in partial noncompliance, since it had not adopted legislative measures to establish judicial recourse for implementing CSE decisions, had not reformed electoral law to regulate the consequences of nonfulfillment of electoral participation requirements, had not reformed electoral law provisions that were declared in violation of the American Convention on Human Rights, had not adopted measures necessary for indigenous and ethnic community members to participate in electoral processes, and had not publicized certain paragraphs of the judgment. The court asked the government to report its compliance progress every four months.

Civil Judicial Procedures and Remedies

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

Property Restitution

The government regularly failed to enforce court orders with respect to seizure, restitution, or compensation of private property. The PDDH reported receiving 110 complaints related to private property during the year. Even when courts order specific compensation, the government refused to pay settlements, arguing it was illegal for a judge to determine compensation.

For example, at year's end the following three cases, in which the government failed to enforce court-ordered restitution, remained pending:

- Danilo Perez won cases ordering return of his property in 1994 and 1995, but the government refused to execute the court order to expel illegal occupants from his property.

- In 1999 Sylvia Sanchez, Olman Dompe, and Yolanda Diaz requested that the Attorney General's Office reclaim their property from an occupant who did not receive title under applicable law. The office, however, filed a petition with the court requesting a ruling in favor of the illegal occupant.
 - The Attorney General's Office filed suit in a civil court in 2007 to overturn an appellate court ruling that ordered the government to return a 5,349-acre property to Mrs. Lidia Baumister, although the law provides that appellate rulings may not be appealed.
- f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

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

On April 20, an FSLN sympathizer threatened opposition leader Eduardo Montelegre, telling him that he and his family were "being watched." His wife, Eliza Maria McGregor Raskosky, claimed that her telephone calls were recorded (see section 3).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press. However, the government used administrative, judicial, and financial means to limit the exercise of these rights. Although the law provides that the right to information cannot be subject to censorship, it also establishes retroactive liability, implying the potential for penalties for libel and slander. Individuals could not always criticize the government freely without reprisal, and at times the government attempted to impede criticism (see section 1.c.).

One of the largest daily newspapers, *La Prensa*, claimed that government officials insulted and intimidated its journalists and that CSJ officials responded aggressively or refused to respond to questions about cases involving the constitution, rule of law, and corruption. Independent media sources reported during the year that government Web sites did not have up-to-date information ordinarily available publicly. They claimed that the CSE removed the electoral list

from its site and that the National Assembly changed its site to make it difficult to refer to laws.

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

According to *La Prensa* in January, the government attempted to block the importation of paper needed to produce newspapers. The government attributed the problem to differing tax and customs agency views, but media and civil society organizations called these actions politically motivated. *La Prensa* also reported government use of tax audits and the denial of transmitting licenses against television and radio stations as means to exert pressure on independent media.

On October 27, alleged pressure by FSLN groups on the owner of a Juigalpa radio station forced the cancellation of a daily program, *Face to Face with the News*, and the denial of studio access for its head, Lombardo Madriz Fonseca, who broadcast statements critical of the government, condemned the 2008 municipal elections for fraud, and criticized the Juigalpa mayor, an FSLN party member.

The National Assembly considered and defeated in March a bill, proposed by FSLN legislators in 2009, which would have required all journalists to belong to an FSLN-affiliated union, the Nicaraguan Journalists Association. The Committee to Protect Journalists and other NGOs had criticized the bill.

The government continued to exclude independent media outlets from all official media events and to withhold government advertising contracts, instead funneling the equivalent of millions of dollars worth of its advertising funds and important public announcements only to "official" media outlets owned or controlled by the Ortega family. Opposition news sources reported that during official government events, they were generally not permitted to enter the venue, and if they were allowed access, were not permitted to interview or question officials.

During the year there were several reported cases of threats or acts of violence against press outlets and journalists. After the reported mid-July Ometepe prison rape (see section 1.c., Prison and Detention Center Conditions), NNP officials in Rivas Department reportedly hampered *La Prensa* efforts to investigate the

incident and refused to provide any information. The College of Journalists issued a notice complaining about NNP behavior.

On August 27, five men ignored press credentials, assaulted independent journalist and photographer Sergio Cruz, and destroyed his camera equipment and vehicle while he was photographing an opposition mural on a public street. Several civil society groups, including Movement for Nicaragua, called the attack politically motivated.

On August 31, a contract dispute between *La Prensa* and six distribution service providers led to government-inspired action against the newspaper. The government declared *La Prensa's* contract cancellation a violation of worker rights, and the Ministry of Labor threatened large fines and mobilized the Sandinista Workers' Center (CST), a government-affiliated union umbrella group, which violently demonstrated in front of the newspaper offices on September 1 and at the homes of newspaper officials on December 10, both reportedly without efforts by police to stop or disperse demonstrators (see also section 1.d., Role of the Police and Security Apparatus).

After September and October floods, independent news outlets reported they were denied access to, or information about, conditions in shelters and camps that housed displaced persons. The shelters were mainly controlled and administered through Sandinista-led Citizen Power Councils (CPCs) instead of through the government agency charged with disaster response.

La Prensa continued to have pending libel cases against it in the court system, cases that newspaper officials claimed were filed for political purposes by individuals affiliated with FSLN-controlled CPCs. In January a court dismissed an open libel case against the newspaper *El Nuevo Diario* due to lack of evidence.

Internet Freedom

There were no government restrictions on access to the Internet or Internet chat rooms; however, for the second year, several NGOs alleged that the government monitored their e-mails. Individuals and groups engaged in the expression of views via the Internet, including by e-mail. Internet access was available in the majority of the country's cities, and there were more than 23,500 Internet hosts in the country as of 2006, although the International Telecommunication Union reported only approximately 3.5 percent of the country's inhabitants used the Internet in

2009. Frequent power outages and infrastructure problems hampered citizen access to Internet and e-mail services.

Academic Freedom and Cultural Events

There were no government restrictions on cultural events.

In February the government allegedly interfered with academic freedom when, contrary to university statutes, the FSLN influenced the election of the National Autonomous University of Nicaragua (UNAN) president in Leon. An influential FSLN member and former director of state security, Lenin Cerna, reportedly actively influenced the election and stated that he would make the UNAN an FSLN bastion, and the president-elect, Dr. Roger Gurdian Vijil, declared himself an FSLN member and publicly thanked the party for its election support.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law recognizes the right to public assembly, demonstration, and mobilization but mandates that demonstrators obtain permission for a rally or march by registering its planned size and location with the police. Police failed to act against or allowed violent demonstrations by pro-Sandinista groups which generally impinged on the freedom of movement of others, endangered bystanders, and damaged or destroyed property.

Freedom of Association

The law provides for this right, including the right to organize or affiliate with political parties; however, the CSE and the National Assembly used their accreditation powers for political purposes. CSE accreditation is mandatory for political parties and election-monitoring organizations, and the CSE withheld accreditation from election-monitoring NGOs for political purposes (see section 5). National Assembly accreditation is mandatory for NGOs to receive donations.

The FSLN made party membership mandatory for public-sector employment and used intimidation and violence to prevent opposition National Assembly deputies from convening and passing legislation. The CPDH reported that employees in various state institutions were required to affiliate with the FSLN and claimed that in order to apply for a government position, an applicant must receive a written

recommendation from the FSLN. The CPDH has also received reports that the FSLN automatically withdrew party fees from the paychecks of state employees.

c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 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, foreign travel, emigration, and repatriation; the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) through humanitarian organizations, such as the International Organization for Migration, in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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

Protection of Refugees

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

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

processing. The center, however, was underfunded and understaffed and only had capacity for 30 refugees.

According to a January UNHCR survey, the government granted refugee status to 120 persons, and there was one person seeking asylum.

Stateless Persons

Citizenship is derived from birth within the country's territory and from one's parents. Local civil registries normally register births within 12 months upon the presentation of a medical or baptismal certificate; however, many persons, especially in rural areas, lacked registration or birth certificates. According to NGOs the government attempted to increase the registration of newborns by opening service desks in public hospitals, specifically Hospital Bertha Calderon in Managua, and not requiring parents to travel to distant offices. Additionally, government "social-promoter" programs have visited rural neighborhoods and encouraged registration.

Due to the high cost, persons without citizenship documents were unable to obtain "cedulas" (national identity cards). A credible December poll released by M&R Consultants estimated that more than 460,000 citizens, approximately 12 percent of the eligible population, lacked cedulas. Persons without cedulas had difficulty participating in the legal economy, conducting bank transactions, or voting and were subject to restrictions in employment, access to courts, and land ownership. Women and children lacking citizenship documents were reportedly more vulnerable to sexual exploitation by traffickers. Civil society organizations and the media reported that the government deliberately manipulated issuing cedulas to citizens within and outside the country for political purposes. The December M&R Consultants poll found that 70 percent of surveyed citizens lacking cedulas were members of opposition parties or independents.

In August the CSE raised the cost of a cedula to 300 cordobas (approximately \$14), a 600 percent increase, without National Assembly approval. Numerous civil society organizations objected and declared the cost too expensive for the average citizen whose old cedulas had expired, almost half of whom lived on less than 22 cordobas (approximately one dollar) a day. Additionally, several organizations expressed concern by alleging that the cost increase and the increased potential for voting irregularities with new cedulas disguised a governing-party attempt to manipulate voter rolls before the 2011 election while government and political party resources were used to purchase large numbers of cedulas for party members.

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

On January 19, the CSE issued regulations governing electoral observation for the March regional elections in the RAAN and the RAAS. Civil society organizations and the opposition claimed the regulations differed greatly from previous elections, limited electoral-observer eligibility, and tightly controlled the observation process. On January 22, the CSE disqualified numerous opposition candidates, months after the disqualification deadline. Civil society organizations reported that FSLN officials and FSLN-affiliated members of the Yatima political party were granted use of government and military transportation staged in the RAAN and the RAAS to facilitate movement of ballots and poll watchers, while opposition members were not. Opposition party members and poll watchers stated that CSE officials denied them access to voting stations on election day. Voting fraud was widely reported in the elections, and the ruling FSLN won a majority of council seats.

In addition to being threatened by an FSLN sympathizer on April 20 with surveillance and claiming that her telephone calls were recorded (see section 1.f.), opposition leader Eduardo Montelegre's wife, Eliza Maria McGregor Raskosky, declared she was threatened by Sandinista party members on April 30. She reported that a truck--bearing CSJ markings, displaying party colors, and occupied by FSLN supporters--forced the car she was driving off the road, blocked her exit, and pointed homemade mortars at her. They ordered her to move her vehicle, as did a police officer with no badge displayed, who appeared but refused to provide his name or badge number. She reported the harassment to CENIDH and the CPDH; both labeled the actions as FSLN efforts to silence opposition.

On April 20, FSLN supporters led by FSLN-member Supreme Court justices Rafael Solis and Armengol Cuadra gathered outside the National Assembly--in support of the January 9 presidential decree that extended their terms of office and the terms of other government officials including those on the CSE--and prevented opposition deputies from convening inside the building. The crowd forced the deputies to assemble at a local hotel, later attacked that hotel, fired homemade

mortars, and held the deputies hostage for several hours. The next day FSLN supporters again prevented the deputies from convening at the National Assembly. The deputies took refuge at an opposition party office that FSLN supporters also mortared. Demonstrators burned several deputies' vehicles and held them hostage for approximately seven hours. Witnesses claimed that FSLN members who worked for several government sectors took part in the demonstrations. Police did not act to disperse the crowd or stop the violence.

There were 21 women in the 92-seat National Assembly, three women in the 16-member CSJ, and 12 women in 29 cabinet-level posts. Eight persons from indigenous and other ethnic groups were deputies in the National Assembly.

Section 4 Official Corruption and Government Transparency

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

In the executive branch, officials dispensed funds outside the normal budgetary process controlled under law by the legislature. Officials who drew these funds, from the equivalent of hundreds of millions of dollars in economic and developmental assistance loaned by the Venezuela-led multigovernmental Bolivarian Alliance for the Peoples of Our America (ALBA), claimed they were administered by a joint venture between the state-owned oil companies of Venezuela and Nicaragua. That arrangement prevented public oversight or basic accounting to track the money. Government explanations of ALBA-related spending were often contradictory. Media reported that ALBA-funded contracts were awarded to companies run by individuals with ties to President Ortega's family. Media sources estimated these funds from Venezuela total the equivalent of approximately \$500 million annually and referred to this sum as a separate budget tightly controlled by the FSLN and not subject to the normal oversight and scrutiny.

An IEEPP study released on February 16 raised concerns about the government's food-assistance/poverty-reduction program "Zero Hunger"--a program to grant livestock, seeds, and tools to poor citizens that was administered through government-controlled CPCs. The NGO study presented evidence that the FSLN used the program to direct assistance to areas with higher FSLN party affiliation,

rather than to the poorest areas. The IEEPP claimed the program rewarded party loyalty and was a potential election tool.

Independent media, human rights groups, and opposition political parties reported that the Ortega administration blurred distinctions between party and government by using FSLN-directed CPCs. The government administered subsidized food and other government benefits directly through CPCs, which reportedly coerced citizens into FSLN membership. During the severe flooding of September and October, the government dispensed the majority of aid strictly through CPCs and not through an existing government disaster-response agency. Additionally, persons seeking to obtain or retain public-sector employment were obliged to obtain recommendation letters from CPC block captains. Civic groups complained that government agencies required CPC recommendation letters from persons seeking voter registration and national identity documents.

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

On August 11, the governing Sandinista party replaced seven boycotting Supreme Court justices affiliated with the opposition, thereby consolidating FSLN control of the judiciary. Five of the seven alternate justices appointed by the National Assembly were members of the Sandinista party; the other two were Constitutionalist Liberal Party (PLC) members. Media sources reported that the FSLN paid the two PLC justices a bribe of 1,088,000 cordobas (approximately \$50,000) each plus the salaries of the two boycotting justices they replaced. Many constitutional scholars declared the actions illegal; civil society NGOs claimed the actions were part of a Sandinista campaign to control the judiciary to legitimize the president's coming reelection campaign. Following the installation of these alternate justices, the CSJ on September 30 reaffirmed the October 2009 decision of its Constitutional Chamber that allowed the president to run for reelection, despite what many interpreted as a constitutional ban. Also in September, without obtaining the mandated supermajority in the National Assembly, the government published a revised version of the constitution so as to allow high-level public officials to remain in their positions beyond the expiration of their terms.

The law requires that cash seized in antinarcotics operations remain under judicial-system control, until a conviction sentence is issued, but it does not clearly specify how seized cash should then be distributed. Cars seized by the NNP in drug cases reportedly were given to members of the judiciary contrary to the law requiring seized assets to be distributed equally among five government agencies.

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

Although the law mandates public access to government information and statistics, it was rarely applied. Generally no reason was given for denial of access, or government agencies stated they would respond later with the information but rarely did. Government Web sites frequently did not contain this information, or the information was not current. An appeal mechanism existed if authorities denied or ignored an appropriate information request, but its processes were slow and burdensome. The CPDH, unable to obtain information from the CSE about its actions during 2008 municipal elections, filed a case in 2009 with the Court of Administrative Disputes to compel information release. At year's end the CSJ had not provided any information on the case status nor responded to CPDH information requests.

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

A wide variety of domestic and international human rights groups operated in the country. Civil society organizations that focused on humanitarian activities generally operated without government restriction. However, government officials harassed and intimidated domestic and international NGOs that criticized the government or the FSLN. Civil society organizations continued to report governmental confrontations with NGOs, adversarial conditions, and a climate of fear created to suppress organizations critical of the government. The government continued to prevent non-FSLN-affiliated NGOs and civil society organizations from participating in government social programs, such as Zero Hunger and Programa Amor.

The CSE made the resignations of Roberto Courtney and Mauricio Zuniga--outspoken critics of the government--from Ethics and Transparency and the Institute for Democracy and Development, respectively, a requirement for their accreditation as election-monitoring organizations.

Domestic NGOs and their members who were under investigation reported problems in access to the justice system and delays in filing petitions with courts. Many believed that comptroller and tax authorities audited their accounts as a means of intimidation. NGOs reported encountering severe problems scheduling

meetings with authorities and an unwillingness to reveal any information due to a growing culture of secrecy.

There were fewer death threats against members of civil society and human rights NGOs during the year; however, many NGOs reported being met with hostility or aggression when questioning or speaking with government officials on subjects such as corruption and rule of law. During the August CST demonstrations against *La Prensa*, progovernment demonstrators threatened CENIDH workers, including Executive Director Bayardo Izaba, with death.

The government generally cooperated with international organizations and permitted visits by the UN Development Program and other UN representatives. However, on September 1, the government reportedly forced the transfer of UN Children's Fund director Maria Jose Conde after she brought attention to the level of the country's infant mortality.

The government maintained a human rights ombudsman in the National Human Rights Institute (PDDH). However, the presidency, without apparent constitutional authorization, extended the terms of the ombudsman, as well as those of the 25 members of the PDDH, and new elections to replace them were not held. This led the NGOs CPDH and CENIDH and several National Assembly deputies to label the PDDH as an illegitimate, highly partisan body.

The PDDH, which is required to present an annual report to the National Assembly, stated that it did so in December for the first time since 2007. The institute reported receiving a total of 3,672 complaints, an 11 percent increase from 2009, as well as investigating and ruling on 1,471 of those cases (and referring the remainder to other agencies). Of those investigated, the PDDH claimed to have found proof of violations in 495 cases and that public institutions complied with 114 resolutions (23 percent) of the total resolutions it issued. It also maintained a weekly newsletter that detailed some activities and recommendations.

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

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, disability, language, or social status. In practice the government often did not enforce these legal

prohibitions, and aggrieved persons filed few discrimination suits or formal complaints.

Women

The law criminalizes all forms of rape, regardless of the relationship between the victim and the accused, and the government generally enforced the law. However, many women were reluctant to report abuse or file charges due to the social stigma attached to rape, fear of retribution, and loss of economic security. NGOs reported that both sexual and domestic violence increased. During the year the NNP listed a total of 25,803 reported cases of violence against women, encompassing 2,737 cases of sexual crimes that included 1,276 cases of rape, 407 cases of rape of a minor, and 188 cases of attempted rape. There were no statistics available as to prosecutions, convictions, or punishment.

On May 9, rape victim and former government worker Fatima Hernandez began a hunger strike in front of the CSJ to protest the release from prison of her alleged rapist, Farington Reyes, her former co-worker at the Ministry of Migration and a Sandinista supporter. On June 8, a court convicted Reyes of the July 2009 attack and sentenced him to eight years in prison; throughout the proceedings, Hernandez claimed that family members of Reyes threatened her repeatedly. On October 18, the scheduled appeal date, family and friends of Reyes, carrying knives and stones, threatened and verbally assaulted Hernandez and forced her to shelter nearby and miss the trial. At the rescheduled trial on October 25, without receiving any new evidence, the appellate court dismissed the case and set Reyes free, based on his defense that a prior romantic relationship existed between Hernandez and him. She resumed her hunger strike shortly thereafter and, on November 8, was hospitalized for malnutrition and dehydration. The next day an appellate court in Managua sentenced Reyes to a reduced sentence of six years; he appealed the decision to the CSJ, which postponed the case until January 2011.

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

Rape and sexual abuse of adolescent girls continued. According to the NNP, approximately 24 percent of rape cases during the year involved minors. A June

study by the IML showed that 74 percent of rape victims were between the ages of 11 and 17 and persons known to the victim committed 88 percent of the rapes. A November Amnesty International report noted that incidents of rape and sexual abuse in the country were "widespread...endemic," that the majority of victims were young, that young women faced many obstacles in reporting sexual violence, that the government did not provide girls sufficient protection, and that many victims did not have access to comprehensive support services.

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

During the year the NNP reported 2,943 cases of domestic violence. NGOs and the NNP asserted, however, that domestic violence remained widespread and underreported, primarily due to cultural attitudes. During the year the IML released a study that showed total domestic violence cases rose from 10,208 to 11,313 in the period 2005-09 and concluded that more than 70 percent of women in the country were victims of domestic violence, with the majority between the ages of 25 and 36.

The NNP reported that 34 women were killed during the year due to domestic and sexual violence, 41 percent of these killings were committed by spouses, and 27 percent of the victims were sexually abused before death. Many victims were often raped, beaten, maimed, or mutilated. According to the IML and the Center for the Prevention of Violence, as of October, 80 women were killed, eight of whom were young girls. Courts convicted seven individuals of the killings, while another 29 awaited trial.

Recent increases in the reporting of domestic violence and violence against women were attributed in part to a higher frequency of occurrence, in part to a greater public willingness to come forward, and in part to the NNP's continued campaign ("A Home Cannot Be Built Out of Violence...Give Love To Your Family") aimed at raising public awareness of such violence and helping domestic-abuse victims. Also, local organizations such as the Women's Network against Violence and the Center for Prevention of Violence were instrumental in raising awareness.

During the year 38 NNP women's commissariats operated in the country, three more than in 2009. Commissariats provided social and legal help to women, mediated spousal conflicts, investigated and helped prosecute criminal complaints, and referred victims to other governmental and nongovernmental assistance agencies. Although the government and the NNP intensified media and community outreach campaigns to encourage women to report spousal abuse and other violence, commissariats lacked sufficient government-provided equipment and funding to discharge their responsibilities adequately. There were no government-operated shelters dedicated to female victims of violence or abuse, although there were seven nongovernment-operated women's shelters, two less than in 2009--a number the NNP labeled as insufficient.

The law imposes a penalty of five to seven years' imprisonment for convicted sex-tourism offenders. The country was a source, destination, and transit point for sex tourism. A December 23 NNP report listed 11 reports received of sex trafficking, of which four had judicial proceedings opened, and the Prosecutor General's Office reported 13 cases of sex trafficking during the year, with no information available to determine if those trafficking cases were related to sex tourism. Government efforts to combat sex tourism reportedly were inadequate. Several NGOs reported that sexual exploitation of young girls was common, as was the prevalence of older men (often foreigners) who exploited young girls under the guise of providing them support. Generally NGOs provided care and rehabilitation to victims trafficked for sex tourism. Casa Alianza reported caring for 27 such victims during the year and referring 13 cases to the NNP for investigation (two were initiated).

The law prohibits sexual harassment, and those convicted face between one- and three-year prison terms, or three- to five-year sentences if the victim is under age 18. By year's end there were no statistics on sexual harassment cases or related prosecutions available from the Public Ministry.

The Ministry of Health's family-planning norms provide couples and individuals the right to decide the number, spacing, and timing of their children and to have the information and means to do so free from discrimination. Access to information on contraception and skilled attendance at delivery and in postpartum care were more available in urban areas but have improved in remote areas, such as the Atlantic coast. Women generally received better access than men to diagnostic services and treatment for sexually transmitted infections, including HIV, because NGO efforts and government campaigns focused on women's reproductive health. Health centers and hospitals provided information on the benefits of family planning and breast feeding and generally had programs in place to address problems. A 2010

Population Reference Bureau report indicated that 70 percent of married women ages 15-49 used a modern contraceptive method and that the gap between urban and rural users had decreased.

Women in some areas, such as the RAAN and the RAAS, did not have widespread access to medical care or programs, and maternal death was generally more likely to affect poor rural women than their urban counterparts. The Ministry of Health reported 70 maternal deaths per 100,000 live births during the year, while in 2008 the UN Population Fund estimated the maternal mortality rate at 100 deaths per 100,000 live births. Most of the women who died in childbirth were older than 35 years or adolescents who lived in rural areas and had low education levels.

The law provides that women enjoy the same rights as men, including in the family and the workplace and regarding property. However, women generally experienced economic discrimination in access to employment, credit, and pay equity for substantially similar work, as well as in owning and managing businesses. A 2010 World Economic Forum survey estimated that women earned approximately 45 percent less than men for comparable work. 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 Human Rights Ombudsman's Special Prosecutor for Women and the Nicaraguan Women's Institute, the principal government entities responsible for protecting the legal rights of women, had limited effectiveness.

Children

Citizenship is derived by birth within the country's territory and from one's parents; the Ministry of the Family, Adolescents, and Children (MiFamilia) is responsible for registering births (see section 2.d.), but did not make statistical data available.

"Programa Amor," the child-welfare program launched in 2007 by the president's wife, was designed to end child labor and child homelessness, but questions were raised regarding organizational transparency and information accuracy. For example, a 2009 MiFamilia estimate of 25,000 homeless children in Managua differed significantly from the estimate of 238,000 such children in a 2005 National Child and Adolescent Labor study, and a 2009 CENIDH investigation reported that the situation concerning homeless children in the country had not changed significantly since Programa Amor's inception. On May 24, *La Prensa* questioned the program's effectiveness and the government's reluctance to make

public its funding sources, budget, and statistics about progress, and there was no information on Programa Amor's effectiveness available on MiFamilia's Web site.

The NNP reported that approximately 13 percent of the victims of domestic and sexual violence were children, the majority of whom were between the ages of 15 and 17. Save the Children reported that both child abuse and violations of children's human rights increased most notably in poor rural areas. The NNP conducted a public-outreach campaign to raise awareness of domestic violence.

NGOs stated that, while child marriage was uncommon, it existed in rural areas. There were no reported government efforts to combat it.

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

The law also prohibits promoting, filming, or selling child pornography. The penalty for an individual convicted of inducing, facilitating, promoting, or using a minor younger than 16 years for sexual or erotic purposes, or forcing such a person to watch or participate in such an act, is five to seven years in prison. If the victim is older than 16 years, but younger than 18 years, the penalty is reduced to four to six years in prison. The NNP reported no new cases of child pornography during the year. In February a court convicted three individuals in a 2009 case involving child pornography, trafficking in persons, and abuse of minors and sentenced them to imprisonment terms ranging from seven to 37 years.

According to the IML midyear report, 76 percent of sex crimes were with minors younger than 17 years old. The country was a destination for child sex tourism, primarily in Granada and Managua Departments; however, there were no officially reported cases during the year.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance with

the convention at

http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

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

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* 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. Laws related to persons with disabilities did not stipulate penalties for companies noncompliant with its provisions, although penalties may be issued under the general labor inspection code. MiFamilia is responsible for the protection and advancement of rights for persons with disabilities. The government did not effectively enforce the law with regard to the protection of such individuals, did not mandate accessibility to buildings for them, and did not make information available on efforts to improve respect for their rights. The PDDH reported that less than 1 percent of public sector employees were persons with disabilities and that public institutions lacked coordination with the Ministry of Labor (MITRAB) regarding rights for persons with disabilities.

On November 13, representatives of several organizations of citizens with disabilities demonstrated in front of the Managua mayor's office and called for implementation of the budget for accessible public works projects. The demonstrators lamented the lack of government attention to such problems, but at year's end there was no reported execution of projects to create or improve accessibility for persons with disabilities.

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

At year's end there was no information available, and none was expected, on the remaining three cases from 2007 regarding abuse of children with disabilities.

National/Racial/Ethnic Minorities

Various indigenous and other ethnic groups from the RAAN and the RAAS attributed the lack of government resources devoted to the Atlantic coast to discriminatory attitudes toward the ethnic, racial, and religious minorities in those regions. In contrast to 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 the RAAS, along with foreigners assumed to be from those areas, experienced social discrimination in the interior and Pacific areas and were denied access to private clubs and restaurants in Managua. Persons with darker skin claimed that authorities at the Managua airport targeted them for extra security measures; that police stopped them to conduct illegal searches; and that while travelling through the RAAN and the RAAS, authorities frequently stopped and searched them but not Mestizo persons from the Pacific coast.

There was no information available on government efforts to address discrimination based on skin color, race, or ethnicity.

Indigenous People

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

Indigenous group members often lacked birth certificates, national identity cards, and land titles. Although they formed political groups, these often held little sway over politics and were ignored or used by major national parties to advance their own agendas. Most indigenous persons in rural areas lacked access to public services, and deteriorating roads made medicine and health care almost

unobtainable for many communities. The rates of unemployment, illiteracy, and absenteeism of school-age children were among the highest in the country. By year's end there continued to be no information available regarding any government action to meet the 2008 request, by the UN Committee on the Elimination of Racial Discrimination, to develop a national strategy to combat racism and forge a new relationship with indigenous and ethnic minority communities.

On March 20, a group of Creole citizens protested in front of the NNP station in Bluefields in response to the arrest and reported beating of Charles Sanders, who claimed that local business owners discriminated against him and harassed him because of his skin color and that local police responded to the incident and arrested and beat him. There were no developments in the case by year's end.

Human rights organizations and indigenous rights groups claimed that the government failed to protect the civil and political rights of indigenous communities, including their rights to land, natural resources, and local autonomy. The PDDH reported receiving 26 complaints related to indigenous rights during the year.

There were no significant developments regarding the April 2009 declaration of independence from the central government by the Miskito Council of Elders in the RAAN.

Although the law requires that the government consult with indigenous persons regarding the exploitation of their areas' resources, and give the indigenous population a percentage of profits, some indigenous communities continued to complain that government authorities excluded indigenous persons in the RAAN and the RAAS 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. On August 27, the government ratified the International Labor Organization (ILO) Indigenous and Tribal Peoples Convention of 1989 (No. 169), but there was no significant change in government behavior toward indigenous persons reported afterward.

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

Although sexual orientation is not mentioned specifically, the constitution states that all persons are equal before the law and have the right to equal protection. LGBT persons continued to face widespread societal discrimination and abuse, particularly in employment, housing, and education. In 2009 the human rights ombudsman created the position of a special prosecutor for sexual diversity to champion LGBT issues; the LGBT community generally regarded this position as ineffective and deficient in resources. It was difficult to measure trends, because LGBT human rights violations were underreported and often mischaracterized.

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

Other Societal Violence or Discrimination

The law provides specific protections for persons with HIV/AIDS against discrimination in employment and health services. However, persons with HIV/AIDS continued to suffer societal discrimination based on their alleged HIV/AIDS status. 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. Several NGOs worked to educate communities regarding HIV/AIDS discrimination.

Section 7 Worker Rights

a. The Right of Association

The law provides for the right of all public and private sector workers, with the exception of those in the military and police, to form and join independent unions of their choice. Workers exercised this right in practice. Workers are not required to notify their employer or MITRAB of their intention to organize a union. At year's end the government and private business leaders estimated the national workforce at approximately 2.5 million. In general labor unions were allied with political parties.

In March 2009 anonymous CPC members sent death threats to Alvaro Leiva Sanchez, the leader of the Ministry of Transportation and Infrastructure and Democratic Federation of Public Service Employee unions, because of his public lobbying for improved labor rights on behalf of the employees he represented. He

reported the threats to police, but by year's end there was no investigation because the police claimed a lack of evidence. The Ministry of Transportation and Infrastructure fired Leiva on September 30 without showing proper cause.

The constitution recognizes the right to strike, and the law allows unions to conduct their activities without government interference. However, there were reports of government interference in union activities. There were reports of illegal dissolution of unions not associated with the ruling FSLN party. The CPDH reported that since 2007 there have been 116 unions illegally disbanded by government ministries. Burdensome and lengthy labor code conciliation procedures impeded workers' ability to call strikes. During a strike employers cannot hire replacement workers. If a strike continues for 30 days without resolution, MITRAB has authority to suspend the strike and submit the matter to arbitration. The ILO noted that this provision limits the right to strike and called for amendment of the law.

MITRAB often declared strikes illegal, even when workers followed legal strike procedures. Wildcat strikes were common, the most notable being among taxi drivers and other transportation workers. In November municipal employees in Leon conducted a strike, claiming violation of their right to back pay in accordance with their collective bargaining agreement. Although the workers claimed legal exercise of their right to strike, MITRAB declared the strike illegal and fined the union leaders eight days' salary.

b. The Right to Organize and Bargain Collectively

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

The law establishes fines against employers who violate labor rights by engaging in antiunion discrimination, such as interfering with the formation of unions or strikebreaking. In practice many employers in the formal sector continued to violate worker rights with impunity by blacklisting or firing union members, or delaying payment of severance pay to fired workers. Employers also avoided legal

penalties by organizing "white unions" (employer-led unions) for their employees, which lacked independence. Labor leaders complained that employers routinely violated collective bargaining agreements and labor laws with impunity. The PDDH reported receiving 140 complaints related to labor problems.

Union leaders asserted that employers and union leaders who supported the Ortega administration continued to pressure workers affiliated with non-FSLN unions to resign and register with FSLN unions. Politically motivated firings of workers continued. According to the CPDH, since 2007, 21,000 public-sector employees were fired without just cause or due process of law. The CPDH reported that these firings were carried out for political reasons, such as refusal of the worker to join the FSLN or to participate in FSLN demonstrations.

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

Although the law establishes a labor court arbitration process, long waiting time and lengthy, complicated procedures detrimentally affected court-mediated solutions, and many labor disputes were reconciled outside of court. The ILO worked with the government and labor leaders to reform this process and make it more accessible to employees in disputes. However, at year's end the government had not presented ILO recommended reforms to the Labor Code to the National Assembly for legislation.

There are no special laws or exemptions from regular labor laws in the country's 41 export processing zones, also known as free trade zones (FTZs). Approximately 10 percent of the estimated 75,000 FTZ workers were union members. Because a high proportion of FTZ unions had fewer than 50 members, many lacked effective collective bargaining power. MITRAB generally conducted inspections of companies that operated in the FTZ's and issued fines where violations occurred.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

Although the law provides for the protection of children's rights and prohibits any type of economic or social exploitation of children, child labor was a widespread problem. The government did not effectively enforce the law to protect children from workplace exploitation. The most recent available national survey of adolescent and child labor (2005) estimated that there were approximately 239,000 working children between five and 17 years old, of whom 36 percent were younger than 14 years of age. MITRAB reported conducting 205 special inspections into child labor.

The law establishes the minimum age for employment at 14 years and limits the workday for any child between 14 and 18 years of age to six hours and the workweek to 30 hours. Children between 14 and 16 years must have parental approval to work or to enter into a formal labor contract. The law prohibits teenage domestic workers from sleeping in the houses of their employers. It is also illegal for minors to work in places that MITRAB considers harmful to their health or safety, such as mines, garbage dumps, night-entertainment venues, and many agricultural sectors.

All employees older than age 14 must be enrolled in the national social security system. The law also provides for eight-year prison terms and substantial fines for persons employing children in dangerous work and permits inspectors to close those facilities. The government did not provide adequate resources for MITRAB to enforce the law effectively, except in the small formal sector.

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

Children working in agriculture suffered from sun exposure, extreme temperatures, and dangerous pesticides and other chemicals. Children working in the fishing industry faced polluted water and dangerous ocean conditions.

The government continued activities to incorporate working adolescents into the formal workforce by transferring children above the legal working age from the worst forms of child labor into nondangerous jobs. NGOs offered vocational training to help adolescents develop job skills for FTZ factory employment. During the first six months of the year, MITRAB reported that it removed 64 child workers from employment in hazardous conditions.

MITRAB has in place a 10-year plan (2007-16), *La Hoja de Ruta*, to end child labor. Its execution by the National Commission for the Progressive Eradication of Child Labor and Adolescent Worker Protection (CNEPTI) requires all government programs to include child-labor prevention and eradication initiatives. However, the organizations that comprised CNEPTI have not convened since September 2009, and most NGOs considered CNEPTI ineffective. The government continued its Programa Amor, which had a primary goal of eradicating child labor by reintegrating abandoned children into society; however, information on specific activities, funding, and effectiveness remained unavailable. *La Prensa* reported there was no concrete evidence that Programa Amor objectives were being reached (see section 6, Children).

e. Acceptable Conditions of Work

The national minimum wage law establishes statutory minimum wages for nine different economic sectors. It is calculated differently for each sector, and the average was 2,635 cordobas (approximately \$120) a month. An increase of 6 percent was implemented in August; however, the minimum wage was generally enforced only in the formal sector and was thus applicable only to approximately one-third of the working population. Several labor NGOs reported that the minimum wage did not cover the cost of inflation or provide a decent standard of living for a worker and family.

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

The law establishes occupational health and safety standards, but the government did not allocate adequate staff or resources to enable the Office of Hygiene and Occupational Safety to enforce these provisions. The law mandates the creation of

regional offices for the National Council of Labor Hygiene and Safety. The council is responsible for worker safety legislation and for collaboration with other government agencies and civil society organizations in developing assistance programs and promoting training and prevention activities. The government did not enforce the new law effectively. During the first eight months of the year, MITRAB conducted 2,097 health and safety inspections and 1,205 workplace accidents were reported, including one registered death. No end-of-year statistics were made available.

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