

NICARAGUA 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Nicaragua is a multi-party constitutional republic, but in recent years political power has become concentrated in a single party, with an increasingly authoritarian executive exercising significant control over the legislative, judicial, and electoral branches. In November 2011 the Supreme Electoral Council (CSE) announced the re-election of President Daniel Ortega Saavedra of the Sandinista National Liberation Front (FSLN) in elections that international and domestic observers characterized as seriously flawed. International and domestic organizations raised concerns regarding the constitutional legitimacy of Ortega's re-election. Observers also noted serious flaws in conduct of the November 2012 municipal elections. Authorities generally maintained effective control over the security forces. In several instances elements of the security forces committed human rights abuses or acted independently of government control.

The principal human rights abuses were restrictions on citizens' right to vote, including significantly biased policies to promote single-party dominance; widespread corruption, including in the police, CSE, Supreme Court of Justice (CSJ), and other government organs; and societal violence, particularly against women and lesbian, gay, bisexual, and transgender (LGBT) persons.

Additional significant human rights abuses included police abuse of suspects during arrest and detention; harsh and life-threatening prison conditions; arbitrary and lengthy pretrial detention; erosion of freedom of speech and press, including government intimidation and harassment of journalists and independent media; government harassment and intimidation of nongovernmental organizations (NGOs); trafficking in persons; discrimination against ethnic minorities and indigenous persons and communities; societal discrimination against persons with disabilities; discrimination against persons with HIV/AIDS; and violations of trade union rights.

The government rarely took steps to prosecute officials who committed abuses, whether in the security services or elsewhere in government. Impunity remained a widespread problem.

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

a. Arbitrary or Unlawful Deprivation of Life

There were reports that the government or its agents committed arbitrary or unlawful killings; however, a lack of clear and impartial investigations into deaths made attribution difficult. Human rights organizations and independent media alleged that some killings during the year were politically motivated. Both the Nicaraguan National Police's (NNP) Office of Internal Affairs and the Inspectorate General of the army carry out investigation of complaints and abuses.

On January 8, an inebriated NNP member in the municipality of El Realejo allegedly killed Gerald Jose Videa Bonilla. According to media reports, the officer was detained and under official investigation, but no charges were filed by year's end.

On April 16, four civilians – including former Contra leader Joaquin Torres Diaz, or “Cascabel” – were killed in an armed confrontation with the army in the town of San Rafael de Escalera. Independent human rights organizations alleged that these were politically motivated killings. Government officials stated the victims had links with criminal groups and were responsible for various crimes, including a March assault on a military outpost, resulting in the death of one soldier. There were no investigations by year's end.

On October 9, Yairon Diaz Pastrana was killed in Pantasma, allegedly during a firefight with military forces. The Nicaraguan Association for Human Rights (ANPDH) claims he was an innocent bystander whose body presented signs of beatings and torture. The national media reported at least five other killings in towns across the North and sparked similar questions on military confrontations between the army and alleged criminal groups led by former Contra leaders. There was no official investigation in Diaz' death by year's end.

There were no developments in the 2012 death of former Contra member Santos Guadalupe Joyas Borge (“Pablo Negro”) or in the 2012 case of community leaders Pedro Ramon Castro and Miguel Angel Oliva, who allegedly were killed by four NNP members in the municipality of Pantasma. The Nicaraguan Center for Human Rights (CENIDH) asserted that the NNP was accountable for the Pantasma deaths and unsuccessfully petitioned the NNP to examine the case.

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, there were reports that police frequently abused suspects during arrest, used excessive force, and engaged in degrading treatment. Between January and June, CENIDH received 332 complaints against the NNP for excessive force, arbitrary detention, and cruel or degrading treatment, including in prisons. Conditions at El Chipote Prison were of particular concern. In June the NGO Permanent Commission on Human Rights (CPDH) formally requested the Nicaraguan National Assembly to close El Chipote. On February 9, police arrested 47 protesters while they were demonstrating against an open-air mine in Santo Domingo, Chontales. Police took 12 of these detainees to El Chipote, where they were kept in solitary confinement and denied access to legal representation, human rights groups, and family members.

During the year there were numerous claims of torture by agents of the Directorate of Judicial Assistance (DAJ), especially during high-profile arrests related to organized crime. Human rights organizations claimed that the DAJ, a special police investigations unit, operated outside of the normal NNP chain of authority and was not accountable to normal internal affairs procedures of the NNP. The CPDH received numerous reports of torture during the year.

On April 28, 19-year-old Luvi de Jesus Perez died while detained in the District Six offices of the NNP in Managua. Perez' body showed signs of severe bruising and bone fractures, and relatives did not receive an official report on cause of death. The CPDH publicly questioned the lack of clear information from the NNP, which the family and NGOs claimed provided three differing versions of the prisoner's death. There was no known official investigation by year's end.

There were no further developments or investigations in the alleged NNP abuses of citizens in Nueva Guinea amid political protests over contested results from the 2012 municipal elections. Authorities detained more than 50 individuals, a number of whom claimed they were threatened, beaten, sexually assaulted, and tortured by police. The alleged abuses include the beating of a 13-year-old boy and the sexual assault of a 17-year-old girl.

Prison and Detention Center Conditions

Prison conditions were harsh and life threatening. Overcrowding, poor sanitation, difficulties obtaining medical care, and violence among prisoners remained serious

problems in prison facilities. Security and administrative staffing were insufficient, and the needs of prisoners, including personal safety, were not met.

Physical Conditions: According to the Ministry of the Interior, the country's eight prisons, designed for fewer than 5,000 inmates, held approximately 8,850 prisoners in 2012; during the year approximately 3,500 additional prisoners were held in police cells. There reportedly were approximately 4,000 inmates in La Modelo, the largest national prison facility, which had a capacity of 2,800. The press reported that prison cells with the capacity of eight to 10 detainees held on average 20 prisoners. Authorities incarcerated approximately 500 prisoners in the North Atlantic Autonomous Region (RAAN) and the South Atlantic Autonomous Region (RAAS) in 2012, where prison facilities had a capacity for 150 prisoners.

CENIDH reported that police regularly left suspects in holding cells during their trials due to negligence or a lack of government funds to transport them to court. Pretrial detainees often shared cells with convicted prisoners. Juvenile prisoners also shared cells with adults due to overcrowding. A 2011 National Human Rights Institute (PDDH) study of eight departmental penitentiary facilities reported that approximately 74 percent of incarcerated adolescents surveyed claimed to share cells with adult prisoners. On April 2, the press reported that a female inmate was raped in the District Eight prison facilities in Managua, a common violation according to human rights groups; however, no charges were reported.

Prison conditions continued to deteriorate due to antiquated infrastructure and increasing inmate populations. Inmates suffered from parasites, inadequate medical attention, frequent food shortages, contaminated water, and inadequate sanitation. Family members, churches, and charitable organizations supplemented the national budget of 10 cordobas (\$0.42) per prisoner per day for food. There was no budget allocation for health or personal care. Poor conditions led to several prison riots throughout the year, most notably in Granada, Nueva Guinea, and Jinotega.

Conditions in jails and temporary holding cells were also harsh. Most facilities were infested with vermin, physically deteriorated, lacking in potable water, and equipped with inadequate ventilation, electricity, or sewage systems. Many prisoners suffered mistreatment from prison officials and other inmates. The PDDH reported receiving 80 complaints related to prison conditions in 2012, the most recent statistics available. According to the PDDH, resolutions were issued in 11 cases, and authorities complied with recommendations in six of these cases. Authorities did not make public the number of deaths in prisons.

On March 12, prisoners began a three-day hunger strike in prison facilities in Granada. The prisoners protested the alleged denial of freedom to 20 inmates who had been officially cleared for release, as well as what they claimed were overcrowded and unhealthy conditions in prison cells and abuse by prison officials. The press reported that the facility, built for 35 prisoners, held more than 80.

Conditions for female inmates were generally better than those for men but were nevertheless overcrowded and unhygienic. The National Women's Prison reportedly held approximately 253 women in 2012.

Administration: Recordkeeping on prisoners was inadequate, and the government took no steps to improve it during the year. The problem was particularly serious in the RAAN and the RAAS, where the NNP estimated in 2010 that 93 percent of inmates in preventive holding cells should have been in the National Penitentiary System. In certain instances the government restricted prisoners' access to visitors, attorneys, physicians, and human rights officials. Although prisoners and detainees could submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions, authorities often ignored or did not process complaints. The extent to which the government investigated allegations of prison conditions was unknown. The government ombudsman could serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders, although this generally did not occur. The government permitted religious observance. There are no known alternative sentencing programs on a national level.

Independent Monitoring: The government frequently denied prison visits by local and international human rights groups as well as the media. The government denied CENIDH access to all prison facilities when the organization attempted to investigate reports of hazardous conditions. NGOs generally received complaints through family members of inmates and often were unable to follow up on cases until after the release of the prisoner due to lack of access.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but the government and its agents did not always comply with or enforce these laws.

Role of the Police and Security Apparatus

The constitution establishes the NNP as an apolitical, nonpartisan institution protecting all citizens equally under the law. The Office of Internal Affairs is responsible for investigating complaints and abuses. The Ministry of Governance administers the NNP with the president as commander in chief, and it forms a single force responsible both in law and in practice for enforcing the law throughout the country and maintaining internal security. The army is responsible for external security but also has some domestic responsibilities, including countering illicit trafficking in narcotics and the transportation of election-related materials, including ballots. While the army falls under the Ministry of Defense, many informed observers believed that the ministry's control has been limited since 2007 and the army functions as an autonomous force responding directly to the president. The Inspectorate General is responsible for investigating abuses and corruption, but limited public information was available on its activities.

There were instances in which civilian authorities failed to maintain effective control over the NNP, and the government lacked the will to investigate and punish abuse and corruption. There continued to be numerous reports of impunity involving security forces.

The NNP Office of Internal Affairs, and to a lesser extent the Office of the Inspector General, are responsible for investigating police abuse; however, corruption, inefficiency, and lack of transparency of the justice system contributed to a public perception of police impunity. The NNP did not provide statistics by year's end. In 2012 the Office of Internal Affairs registered 2,549 complaints, investigated 1,922 cases of alleged abuse of authority or breach of duty, and dismissed 39 officers for police misconduct. There were two convictions related to complaints filed in 2012. Of complaints filed against police in 2012, approximately 64 percent pertained to human rights violations and 36 percent to a failure to adhere to police procedure and regulations. The Office of Internal Affairs reported investigating 85 percent of the claims received. The government generally did not take action on complaints against security forces.

NGOs reported that President Ortega's use of his position as commander in chief had politicized the NNP and led many to question its professionalism. For instance, the president's 2011 extension of the term of the national chief of police, Aminta Granera, through executive decree allegedly violated term limits prescribed in law. NGOs and the press also alleged that the NNP continued to provide preferential treatment for progovernment and FSLN rallies (see section 2.b.). There was no further investigation regarding numerous allegations of corruption related to a high-profile 2012 narcotics and money laundering scheme

involving high-ranking NNP officials, at least one of whom remained on active duty at year's end.

During a June 19-22 protest, authorities arrested approximately 15 senior citizens and supporters who were demonstrating in front of the Nicaraguan Social Security Institute (INSS). Police released all individuals within the week with no official explanation given for their detention. NNP officers in collusion with FSLN-aligned mobs beat a number of the demonstrators (see section 2.b.).

Arrest Procedures and Treatment of Detainees

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. While the law also stipulates that a prosecutor accompany police making an arrest, the CPDH claimed irregularities in arrest procedures led to arbitrary arrest and detentions. Police may hold a suspect legally for 48 hours before arraignment, when they must bring the person before a judge. A judge then must order the suspect released or transferred to jail for pretrial detention. After the initial 48 hours, the suspect has access to bail and family members. In most instances detainees were informed of charges against them, although at times there were delays. Detainees have the right to an attorney immediately following their arrest, and the state provides indigent detainees with a public defender.

Arbitrary Arrest: According to NGOs and other human rights groups, arbitrary arrests occurred regularly (see section 1.d.). On July 18, in the municipality of Pantasma, Jinotega, the army detained Miguel Angel Peralta. During his detention he received an accidental shot to the head that left him partially paralyzed. Official reports claimed the detainee was arrested after an exchange of gunfire that left one soldier dead and another wounded. CENIDH, in contrast, claimed Peralta was arrested without cause a day later. A court sentenced Peralta to 37 years in prison for various charges including murder, organized crime, and theft. The statutory maximum is 30 years, leading some observers to claim the legal process was politicized.

Pretrial Detention: Lengthy pretrial detention continued to be a problem, especially in the RAAN and the RAAS, where detainees often waited an average of six months for their cases to be presented to a judge. Observers attributed delays to limited facilities, an overburdened judicial system, judicial inaction, and high crime rates. No information was available on the percentage of the prison population in pretrial detention or the average length of time held.

Amnesty: During the year the National Assembly received 47 pardon requests, but unlike in previous years, granted none. Approximately 300 requests were pending.

e. Denial of Fair Public Trial

Although the law provides for an independent judiciary, the judicial system did not function independently. The law requires vetting of new judicial appointments by the CSJ, a process unduly affected by nepotism, personal influence, or political affiliation. Once appointed, many judges submitted to political and economic pressures that compromised their independence. As of September all active CSJ magistrates had constitutionally expired terms. NGOs complained of a delay of justice caused by judicial inaction and widespread impunity, especially regarding family and domestic violence and sexual abuse. In 2012 the PDDH reported receiving 477 complaints concerning due process of law and 173 complaints related to access to justice that involved the NNP or various government ministries. Authorities occasionally failed to respect court orders.

Trial Procedures

Defendants are presumed innocent until proven guilty. Under the law defendants have the right to be fully informed of the charges against them and the right to a fair trial. Where the law establishes specific time periods for cases to come to trial, most encountered undue delay. Trials are public, and the law provides defendants with the option of a jury trial. Defendants have the right to legal counsel, and the state provides public defenders for indigent persons. Defendants have the right to adequate time and facilities to prepare a defense and 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. Defendants can confront and question witnesses and have the right to appeal a conviction. Defendants may present their own witnesses and evidence in their defense and have the right to not confess guilt or be compelled to testify. The law extends these rights to all citizens regardless of gender, ethnicity, disability, or other status.

Political Prisoners and Detainees

There was no reliable information available on the number or treatment of political prisoners. Angel Antonio Gomez Matamoros, convicted in 2012, remained under house arrest for his alleged involvement in an antigovernment protest in the

northern city of Ciudad Dario. The NNP claimed that Gomez incited the violent riot, but the press and human rights organizations claimed his arrest and imprisonment were politically motivated due to his status as the Ciudad Dario coordinator for the opposition Independent Liberal Party (PLI).

Civil Judicial Procedures and Remedies

The law provides that individuals and organizations can file lawsuits with civil courts to seek damages for human rights violations and also provides for litigants to use mediation to resolve civil claims. Many members of the judiciary did not render impartial judgments in civil matters and were not independent of political or other influence. Due to systemic inefficiencies, litigants unable to resolve claims through mediation often had to wait months or years for courts to process their claims.

The lack of an effective civil law system resulted in civil matters being pursued as criminal cases.

Property Restitution

The government regularly failed to enforce court orders with respect to seizure, restitution, or compensation of private property. Illegal land seizures continued, and property owners could not always rely on government authorities to protect their interests.

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

While the law prohibits such actions, several domestic NGOs alleged that the government monitored their e-mail and telephone conversations and seized property without due process.

Certain community members in northern towns, particularly in the departments of Matagalpa, Jinotega, Nueva Segovia, and Madriz, as well as the RAAS and the RAAN, alleged repeated government interrogations and searches without cause, related to supposed support for alleged armed groups, while government officials claimed they were confronting common criminals (see section 1.a.). The CPDH called for the formation of a military commission to investigate the army's actions in the North and stated that many citizens feared reporting human rights violations. On October 26, Bishop Juan Abelardo Mata and colleagues from the ANPDH publicly denounced alleged government interference in their investigation of

abuses related to violence between the army and groups labeled as criminal elements by the government (see section 1.a.). The ANPDH claimed telephones were tapped, private meetings were photographed and filmed, and they were followed by government agents.

No conclusion was reported in the 2012 seizure by the Office of the Attorney General of approximately 20 acres of what community leaders claimed are historically indigenous lands in Sebaco, Matagalpa.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and press, but 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 subjected to censorship, it also establishes retroactive liability, including criminal penalties for libel and slander.

Press Freedoms: Independent media were active and expressed a variety of views. The government, however, sought to restrict media freedom through harassment, censorship, arbitrary application of libel laws, use of national security justifications, and selective review of immigration status of foreign journalists and correspondents. Private individuals also harassed the media for criticizing the government. President Ortega frequently used a law that allowed for government broadcasts of emergency messages to force national networks either to broadcast his speeches or to cease other programming temporarily during those times.

The government continued to use direct and indirect means to pressure and seek to close independent radio stations and cancel opposition television programs, allegedly for political reasons. Independent media owners continued to report incidents of vandalism, the seizure of privately owned broadcast equipment, and criminal defamation charges against their outlets and staff to limit freedom and diversity of the press. Independent news outlets reported that generally they were not permitted to enter official government events, were denied interviews by government officials, and received restricted or no access to public information. Since 2008 the General Law (Law 200) on Telecommunications has been in review in the National Assembly. Until the final reforms to the law are approved or denied, media outlets are unable to apply for new broadcasting licenses. While the validity of existing broadcasting licenses was extended indefinitely, human

rights groups and the media criticized the legal insecurity created by the lack of telecommunications legislation.

There were no further developments in the 2012 closure of Somoto-based Television Channel 13, which the ANPDH claimed the NNP forcibly closed due to the station's reporting on government corruption.

The government continued to enforce the controversial Law 528, or "Ley Arce," which print media owners and international NGOs claimed restricted the public's access to independent and opposition newspapers through the establishment of high tariffs and bureaucratic delays on the importation of ink, paper, machinery, and other printing necessities.

The Communications Research Centre of Nicaragua (CINCO) reported that control over television media by the FSLN and President Ortega strengthened throughout the year. National television increasingly was controlled either by business associates of the president or directly owned and administered by President Ortega's family members. Eight of the nine basic channels available were under direct FSLN influence or controlled by entrepreneurs with close ties to the government.

In general media outlets owned by the presidential family limited programming to progovernment or FSLN propaganda and campaign advertisements. Press and human rights organizations claimed the use of state funds for official media, as well as biased distribution of government advertising dollars, placed independent outlets at an unfair disadvantage. Independent media asserted that the moratorium on granting new government broadcasting licenses, combined with the uncertainties of the National Assembly's protracted telecommunications review, contributed to legal insecurity and shrinking opportunities for private investment. Independent media owners also alleged that the government exerted pressure on private business firms to limit their advertising in the independent media. On May 7, authorities deported Agence France-Presse photojournalist Hector Retamal for alleged violations of migration law, breaching the security perimeter around President Ortega's home, and lacking proper press credentials. Authorities held Retamal for four days without the ability to communicate with friends, family, or legal counsel and was never formally charged before being forced to leave the country. Press and civil society organizations considered the case emblematic of the general insecurity faced by foreign journalists.

On October 28, Carlos Fernando Chamorro, director of the online newsweekly *Confidencial* and television program *Esta Semana*, publicly accused the army of harassment, intimidation, and surveillance directed at one of his journalists and his family. Army officials reportedly followed, questioned, and monitored investigative journalist Ismael Lopez Ocampo, as well as his family, on numerous occasions. The law prohibits domestic surveillance, and media rights advocates claimed the army's activities were a deliberate attempt to intimidate. The army did not publicly respond to the allegations, and there was no further information by year's end.

Violence and Harassment: One of the largest daily newspapers, *La Prensa*, claimed that government officials and supporters regularly intimidated journalists and that CSJ and CSE officials responded aggressively or refused to respond to questions about a variety of problems, especially those involving the constitution, rule of law, and corruption. During the year there were several reported cases of threats and violence against the press. On May 24, *La Prensa* journalists Martha Vasquez and Manuel Esquivel were forcefully, physically expelled from a hearing at the Central Judicial Complex in Managua, despite receiving prior authorization to report on the proceedings. Media observers considered the expulsion politically motivated.

Censorship or Content Restrictions: The government continued to penalize independent media outlets by excluding them from official media events and public announcements. Government advertising contracts worth millions of dollars were directed to official media outlets owned or controlled by the Ortega family and supporters. Many journalists practiced self-censorship, fearing economic and physical repercussions for investigative reporting on crime or official corruption. In addition, media outlet owners exercised self-censorship by choosing not to publish news that affected public perceptions of the government or the FSLN. Slander and libel are both punishable under the law with fines structured around the minimum wage. The penalties for slander and libel range between 120 to 300 days' salary.

Internet Freedom

There were no government restrictions on access to the internet or internet chat rooms; however, several NGOs claimed the government monitored their e-mail without appropriate legal authority. Individuals and groups engaged in the expression of views via the internet, including by e-mail and social media. The International Telecommunication Union reported that 6 percent of households and

13.5 percent of individuals used the internet in 2012. Connectivity was much higher in urban areas, where InterMedia reported 48 percent of citizens regularly used the internet.

Academic Freedom and Cultural Events

There were some government restrictions on academic freedom, and many academics and researchers reported pressure regarding self-censorship. There were no government restrictions on cultural events.

Independent press and teachers' unions reported that since 2006 approximately 3,139 teachers had been fired (an estimated 19 during the year) and approximately 110 unions eliminated for political reasons. These groups voiced concern about the degradation of educational freedom and quality due to political activities conducted in schools during the year.

Human rights NGOs and civil society groups reported that authorities required students in K-12 public schools to participate in progovernment rallies during school. Teachers organizations and NGOs, including the Nicaraguan Educational Forum and the Democratic Federation of Public Sector Workers (FEDETRASEP), alleged continuing FSLN interference in the school system through the firing of non-FSLN teachers and their replacement with party loyalists, use of school facilities as FSLN campaign headquarters, favoritism shown to members of FSLN youth groups or children of FSLN members, politicized issuance of scholarships, and use of pro-FSLN education materials.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law recognizes the right to public assembly, demonstration, and mobilization but requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. CENIDH and the CPDH reported that police generally protected or otherwise gave preferential treatment to progovernment FSLN demonstrations while disrupting or denying registration for opposition groups. In many cases on-duty police did not protect opposition protesters when progovernment supporters harassed or attacked them. NGOs and the media reported several incidents of police abuse against opposition rallies and civil society events.

On June 19 through 22, a senior citizen protest at the INSS turned violent, with clashes between police and protesters, as well as between protesters and progovernment demonstrators. The NNP prevented civil society and youth supporters from donating food, water, medications, and supplies to the senior citizen protesters occupying the INSS building, and authorities cut off electricity and running water to the building, preventing access to sanitary services, while a restrictive security cordon prevented supporters from entering or leaving the area. Numerous allegations of police abuse, including beatings and excessive force, were reported. There was no NNP investigation into the reported theft of private property by FSLN-aligned mobs using official Managua Mayor's Office vehicles. The NNP arrested at least 15 individuals without providing an official explanation for their detention. Despite video and photographic evidence of NNP misconduct, there were no official investigations and no reported reprimands or dismissals of NNP members by year's end.

On March 18, in Chichigalpa, Chinandega, a protest by approximately 170 former sugarcane workers, who were suffering from chronic kidney disease and seeking medical compensation from their former employer, ended in a violent clash with antiriot police. The NNP detained 25 protesters, and the group alleged excessive force on the part of the NNP, including the use of tear gas. No investigations were reported by year's end.

Freedom of Association

The law provides for freedom of association, including the right to organize or affiliate with political parties; however, the CSE and National Assembly used their accreditation powers for political purposes. National Assembly accreditation is mandatory for NGOs to receive donations.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

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

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) through humanitarian organizations, such as the International Organization for Migration (IOM), in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

According to the IOM's Migration Profile for Nicaragua, Nicaragua was mainly a country of origin for migrants who migrate to North America and Costa Rica, and to neighboring countries in search of better economic opportunities. The country also hosted a small number of migrants, mainly from Honduras and El Salvador, and extraregional migrants in transit to North America.

Protection of Refugees

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

Durable Solutions: According to the UNHCR, the government granted refugee status to 129 persons.

Stateless Persons

Citizenship is derived from birth within the country's territory and from one's parents. Local civil registries register births within 12 months; however, many persons, especially in rural areas, lacked birth certificates. The government continued to register newborns through service desks in public hospitals and through "social-promoter" programs that visited rural neighborhoods.

Persons without citizenship documents were unable to obtain national identity cards (cedulas). An August 2012 study by the Institute for Development and Democracy of Nicaragua (IPADE) estimated that 15 percent of the eligible population lacked identity cards, while government officials stated that 2 percent of the eligible population lacked identity cards. Persons without identity cards had difficulty participating in the legal economy, conducting bank transactions, or voting. Such persons also were subject to restrictions in employment, access to

courts, and land ownership. Women and children lacking identity cards were reportedly more vulnerable to sexual exploitation by traffickers.

Civil society organizations, including Ethics and Transparency (EyT), continued to express concern about the high cost and politicized distribution of identity cards, alleging that these barriers were an FSLN attempt to manipulate past elections and that the CSE failed to provide identity cards to opposition members while widely distributing them to party loyalists.

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.

On October 31, the Ortega administration formally introduced sweeping constitutional reforms with broad human rights implications. The reforms would give presidential decrees the force of law; allow uniformed military and police officials to hold public office; greatly expand government control over communications, including the internet; allow indefinite re-election; institutionalize FSLN-led Citizen Power Councils (CPCs), which would be re-named Family Cabinets (see section 4); and model government after the state-sanctioned values of “Christianity, Socialism, and Solidarity.” Legal experts, NGOs, and opposition politicians, who characterized the reforms as an overhaul of the political system, questioned the transparency and efficacy of the consultation process, in which government officials met with hand-picked representatives from the government and the private sector. The reform initiative passed an initial vote in the National Assembly on December 10.

Elections and Political Participation

Recent Elections: The 2012 municipal elections were widely considered lacking in transparency. Opposition political parties, NGOs, and the media complained of numerous irregularities in the CSE’s management of the electoral process, including CSE decisions that gave undue advantage to the government’s FSLN party. Among the irregularities observed on election day were preventing citizens from voting, violating the right to a secret vote, and complaints that some individuals were allowed to vote more than once.

International observers and domestic civil society groups claimed significant irregularities marred the 2011 national elections. In its final report, the EU noted a number of problematic findings, including a severe lack of transparency, the CSE's lack of neutrality and independence, ambiguous and cumbersome regulations within the electoral law, a failure to accredit experienced national election observation organizations, and outright obstruction of the opposition. The final report from the Organization of American States election observer mission noted structural flaws in the electoral process and issued a number of recommendations to strengthen the country's electoral system.

Political Parties: The FSLN used state resources for political activities to enhance its electoral advantage in recent elections. Several opposition political parties, as well as national election observation organizations such as IPADE and EyT, alleged the use of these resources and the electoral conditions created by the highly partisan CSE made it impossible for the opposition to compete fairly against the FSLN in the 2012 municipal elections.

There were no further developments related to a pending 2011 CSJ case on the legal status of the main opposition party, the PLI, stemming from the 2011 national elections.

The FSLN made party membership mandatory for most public sector employees. The CPDH and FEDETRASEP reported that employees in various state institutions were required to affiliate with the FSLN and that to apply for a government position, an applicant must receive a written recommendation from the FSLN (see section 7.a.). FEDETRASEP also received reports that the FSLN automatically withdrew party dues from the paychecks of certain state employees.

On June 21, the CSE revoked the accreditation of FSLN National Assemblywoman Xochilt Ocampo Rocha, which observers considered in violation of the law. While no justification was given, the media and political analysts reported the move was reprisal for Ocampo's abstention in a National Assembly vote to grant a 50-year interoceanic canal concession to a private enterprise, a project heavily promoted by the government. On July 26, the CSE revoked Christian Democrat legislator Agustin Jarquin Anaya's accreditation as a deputy in the National Assembly. One month prior, Jarquin had left the FSLN caucus in the National Assembly to join the opposition Nicaraguan Democratic Caucus. The CSE stated that Jarquin's change of allegiance was a betrayal to voters and put at risk the stability of the FSLN caucus.

Participation of Women and Minorities: There were 34 women in the 92-seat National Assembly, 10 women in 29 cabinet-level posts, 66 female mayors, and four women in the 16-member CSJ. Eight persons from indigenous and other ethnic groups were deputies in the National Assembly. In 2012 the National Assembly amended Municipal Law 40, reforming a number of electoral processes and mandating that women constitute at least half of all candidates on political party candidate lists.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption; however, the government did not enforce the law effectively, and officials frequently engaged in corrupt practices with impunity.

Executive branch officials continued to dispense economic and developmental assistance funds lent by the Venezuelan-led Bolivarian Alliance for the Peoples of Our America (ALBA), which averaged more than 12 billion cordobas (\$500 million) annually, outside the normal budgetary process controlled by the legislature. The media reported that ALBA-funded contracts were awarded to companies with ties to the Ortega family and noted that the funds from Venezuela served as a separate budget tightly controlled by the FSLN with little public oversight.

Independent media, human rights groups, and opposition parties reported that President Ortega's administration blurred distinctions between the FSLN and the government through its use of FSLN-led Citizen Power Councils (CPCs). The government administered subsidized food, housing, vaccinations, and other government benefits directly through the CPCs, which reportedly often coerced citizens into FSLN membership and denied services to opposition members. Persons seeking to obtain or retain public sector employment, national identity documents, or voter registration were obliged to obtain recommendation letters from CPC block captains. In January the government began forming Family Cabinets, community-based bodies operating in the same fashion as CPCs and characterized by observers as a more formalized version.

Corruption: The courts remained particularly susceptible to bribes, manipulation, and other forms of corruption, especially by the FSLN and drug cartels, and there were reports that the FSLN heavily influenced CSJ rulings.

Whistleblower Protection: The law does not specifically protect whistleblowers, and there was no available information on legal protections to public and private employees for disclosures of evidence of illegality.

Financial Disclosure: Public officials were subject to financial disclosure laws. The law requires these declarations be made public and provides for sanctions in cases of noncompliance. The media reported that 28 percent of public officials elected in the 2012 municipal elections did not file financial disclosures, and 80 percent of mayors did not file financial disclosures when finishing their terms. The Office of the Comptroller is responsible for combating corruption within government agencies and offices. Observers, however, questioned the impartiality of the comptroller, especially in regard to the lack of oversight of ALBA funds given directly to the government. Since 2007 the comptroller has not investigated any government office or mandated sanctions due to noncompliance as required by law.

Public Access to Information: Although the law mandates public access to government information and statistics, lack of transparency and access to information remained serious problems. Delays and denial of information were common, while appeals mechanisms were overly burdensome and slow. Control over government information is centralized through the Communication and Citizenship Council, headed by First Lady Rosario Murillo, although there is no provision for that office in the law. Media and civil society organizations, such as CINCO and Foundation Violeta Barrios de Chamorro, reported that requests for official information without express authorization from the council were often refused. The law provides for exceptions to disclosure in cases related to national security and trade secrets. There are no mandated timelines for compliance with disclosure requests.

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

A variety of domestic and international human rights groups operated in the country. Although organizations dedicated to humanitarian activities generally operated without restriction, government officials harassed and intimidated domestic and international NGOs that were critical of the government or the FSLN. Some NGOs continued to report that intimidation by government officials created a climate of fear intended to suppress criticism. The government continued to prevent non-FSLN-affiliated NGOs and civil society groups from participating

in government social programs, such as Programa Amor and Hambre Cero, and frequently used FSLN-controlled CPCs to administer these programs.

Government actions regarding accreditation of domestic election observation groups were highly partisan. IPADE, which was denied accreditation during the 2011 national elections, joined EyT in deciding not to apply for accreditation in the 2012 municipal elections. In previous elections these two organizations had been critical of government and FSLN actions.

On October 3, authorities deported the chief of party of Dexis Consulting Group, an international organization that implements democracy and governance programs in the country, citing unspecified migration violations.

Domestic NGOs under government investigation reported problems accessing the justice system and delays in filing petitions, as well as subjection to pressure from state authorities. Many NGOs believed that comptroller and tax authorities audited their accounts as a means of intimidation. NGOs reported difficulties in scheduling meetings with authorities and in receiving official information due to a growing culture of secrecy. On September 9, the INSS conducted an unannounced audit of Global Communities, an international NGO with development programs in the country. While legally permitted, these audits were a common form of harassment and often used selectively, according to NGOs.

NGOs reported encountering hostility or aggression when questioning or speaking with officials on subjects such as corruption and rule of law.

Government Human Rights Bodies: In 2010 the administration extended indefinitely and without constitutional authorization Omar Cabezas Lacayo's term as head of the PDDH and similarly extended the terms of 25 of the office's staff. This led the CPDH, CENIDH, and the general public to view the PDDH as politicized and ineffective. The CPDH stated that PDDH employees were required to attend FSLN campaign rallies, and CENIDH claimed that PDDH observers in the 2012 municipal elections were not impartial.

In 2012 the PDDH reported receiving 3,503 complaints and investigating and ruling on 1,752 of those cases. Of those investigated the PDDH claimed to have found proof of violations in 443 cases and that public institutions complied with 295 resolutions of the total issued. The PDDH reported conducting 336 workshops and other training on human rights to both government workers and the general

population, a 72 percent increase over 2011. Statistics for 2013 were not available at year's end.

The National Assembly operated a human rights committee focused primarily on amnesties and pardons. Civil society organizations viewed the committee as deadlocked by partisan political forces and lacking credibility.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination on the basis of race, gender, sexual orientation, disability, language, or social status; however, the government did not regularly enforce these legal prohibitions. Those subject to such practices filed few discrimination suits or formal complaints due to a belief that their complaints would not be addressed and could lead to negative outcomes for those filing.

Women

Rape and Domestic Violence: The law criminalizes spousal and all forms of rape, regardless of the relationship between the victim and the accused. Sentences for those convicted of rape are a minimum of eight years and a maximum of 12 years, or 15 years in cases of aggravated rape. The government failed to enforce the law effectively, however, leading to widespread impunity and increased violence. Many women were reluctant to report abuse due to enforced medical examinations for survivors of rape and other sexual crimes, social stigma, fear of retribution, impunity for perpetrators, and loss of economic security. During the year observers reported a general increase in sexual crimes against women compared with 2012. The NNP reported 1,659 cases of rape and aggravated rape and 3,087 cases of sexual abuse in 2012, the most recent data available. There were no statistics available on investigations, prosecutions, or convictions. The Women's Network Against Violence (RMCV) found that in 2012 more than 60 percent of crimes against women went unpunished, and it claimed that attackers and abusers with political connections enjoyed impunity.

On September 25, the National Assembly passed substantive reforms to the Comprehensive Law (Law 779) on Violence against Women, which went into force in 2012. The reforms reversed the law's mediation clause, which previously prohibited mediation between victims of gender violence and their abusers, and revised the law's procedural underpinnings. Judges can now recommend mediation processes in crimes that carry a maximum sentence of less than five years' imprisonment, rather than automatically send aggressors to face prosecution.

Women's rights advocates asserted that with mediation, there is less incentive on the part of victims to pursue formal justice and fewer violent aggressors will be punished for their crimes.

Law 779, passed in response to increasing incidents of gender-based violence, imposes stricter sentences for gender-based offenses and codifies several new crimes against women, including femicide. The law also creates new positions for judges specializing in gender-based violence. Women's rights organizations claimed that the government did not allocate sufficient resources to carry out the stipulations of the law effectively.

The law requires female victims of sexual crimes to undergo a medical examination by CSJ forensic specialists before proceeding legally against alleged perpetrators, but the lack of female forensic physicians often deterred women from submitting to the examination. Rape victims often were unaware or uninformed about the procedures required to process their cases and therefore often did not receive the necessary examinations in sufficient time.

The law criminalizes domestic violence and provides prison sentences ranging from one to 12 years. In 2012 the NNP Women's Commissariat reported that only an estimated 17 percent of reported cases went to court, while most were resolved through mediation, which often was ineffective and led to patterns of abuse and impunity. While the law provides for the issuance of restraining orders, problems in the effective enforcement of such mandates continued, and they were not perceived as effective.

Violence against women remained high during the year, according to domestic and international NGO reports. The RMCV reported that 60 women were killed as of September, many of whom were also raped, beaten, or maimed. The RMCV reported that during the past seven years, the rate of such violence more than tripled with an increase in the severity of the crimes. Of the cases of violence against women filed with the judiciary in 2012, 62 percent were ruled petty crimes, even when the life of the victim was in danger. Between January and November of 2012, the NNP reported 3,839 cases of domestic violence, compared with 3,169 reported for 2011.

A court convicted two of the six men accused of the 2012 kidnapping and rape of a 12-year-old girl with mental disabilities. The alleged perpetrators--five NNP officers and a private security guard – were part of President Ortega's personal

security team. While four of the five officers were expelled from the NNP, two were never formally charged.

On March 7, the Inter-American Commission of Human Rights agreed to study the case against the government for lack of due process in the 2010 death of Dina Carrion Gonzalez, who was allegedly shot by her husband in her home over a domestic dispute. The case had been pending in the CSJ for more than three years, a delay that some human rights organizations attributed to the political connections of the victim's husband. Women's organizations highlighted the case as a prime example of judicial impunity in gender-based violence cases. No official investigations or arrests in the case had been reported since 2010.

NNP 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. During the year 91 NNP women's commissariats operated in the country, 32 more than in 2012. Commissariats often lacked sufficient equipment and funding to discharge their responsibilities adequately. There are two government-operated and 11 nongovernmental shelters dedicated to female victims of violence or abuse. Women's groups asserted that the modest number of shelters did not adequately serve the population's needs, especially on the Atlantic Coast where only one shelter (nongovernmental) operated in the RAAN.

Sexual Harassment: The law prohibits sexual harassment, and those convicted face from one- to three-year sentences, or three to five years if the victim is under 18. Sexual harassment likely was underreported due to the failure of authorities to consider the abuse seriously and victims' fear of retribution.

Reproductive Rights: The Ministry of Health's (MINSAs) family-planning norms provide couples and individuals with 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, coercion, and violence. MINSAs reported that 69 percent of married women used modern contraceptive methods. Access to information about contraception, skilled attendance at delivery, and postpartum care were more available in urban areas but improved slightly in remote areas, such as the Atlantic Coast. According to an official 2011 MINSAs report, 95 percent of pregnant women had access to prenatal care and 79 percent to postpartum care in public facilities. According to the World Health Organization, skilled personnel attended 74 percent of births.

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 more likely to affect poor rural women than their urban counterparts.

Discrimination: The law provides equality for both genders, including within the family, workplace, and for property ownership, and the NNP Office of the Superintendent of Women is responsible for enforcement. Nevertheless, women often experienced discrimination in employment, credit, and pay equity for similar work, as well as in owning and managing businesses. According to the 2013 Gender Gap Report, women earned 43 percent less than men for equal work. Women were much less likely to be senior officials or managers. Authorities often discriminated in property matters against poor women who lacked birth certificates or identity cards. The Office of the Human Rights Ombudsman's Special Prosecutor for Women and the Nicaraguan Women's Institute, the government entities responsible for protecting women's rights, had limited effectiveness.

Children

Birth Registration: Citizenship is derived by birth within the country's territory and from one's parents. MiFamilia, the Civil Registry, and, to a lesser extent, the CSE are the agencies responsible for registering births but did not make data available.

Child Abuse: The NNP reported that during the first half of 2012, authorities received 2,852 complaints of sex crimes against adolescent girls and brought charges in 82 percent of those cases. By the end of 2012, the NNP's reported cases of sexual violence against minors accounted for approximately 7 percent of total sexual violence cases.

Human rights groups expressed concern over levels of child pregnancy throughout the country. The UN Children's Fund's (UNICEF) *2013 State of the World's Children* reported that 28 percent of women 20 to 24 years of age gave birth before age 18.

Forced and Early Marriage: The minimum legal age for marriage is 18 for girls and 21 for boys; with parental authorization it is 14 and 15, respectively. There were credible reports of forced early marriages in some rural indigenous communities. UNICEF's *2013 State of the World's Children* reported that 41 percent of women 20 to 24 years of age were first married or in union by age 18 (10 percent of them by age 15). No information was available on government

efforts to address or prevent forced and early marriage, and some advocates claimed the government did not enforce the law effectively.

Sexual Exploitation of Children: The law prohibits adults from promoting or participating in child prostitution. 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 or younger. Several NGOs reported that sexual exploitation of young girls was common, as was the prevalence of older men (including foreigners) who exploited young girls under the guise of providing them support. The NNP reported 422 cases of statutory rape and aggravated statutory rape in 2012. A 2011 study by the CSJ Institute for Forensic Medicine found that in cases of rape of a minor, persons known to the victim committed 80 percent of the violations.

The law also prohibits promoting, filming, or selling child pornography, and the government generally enforced this law. The penalty for an individual convicted of inducing, facilitating, promoting, or using a minor younger than 16 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 but under 18, the penalty is reduced to four to six years in prison.

The country was a destination for child sex tourism. The law imposes a penalty of five to seven years in prison for convicted child sex tourism offenders. While there were anecdotal reports of child sex tourism in the Granada, Rivas, Chinandega, and Managua departments, there were no officially reported cases during the year.

International Child Abductions: The country is a signatory to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

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

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities, but such discrimination was widespread in employment, education, transportation, access to health care, and the provision of state services. Laws related to persons with disabilities did not stipulate penalties for noncompliant companies, although penalties may be issued under the general labor inspection code. MiFamilia, the Ministry of Labor (MITRAB), and the PDDH are among government agencies responsible for the protection and advancement of rights for persons with disabilities. The government did not enforce effectively the law with regard to the protection of such individuals; did not mandate accessibility to buildings, information, and communications; and did not make information available on efforts to improve respect for the rights of persons with disabilities. Independent media reported that less than 1 percent of public sector employees hired were persons with disabilities, although the percentage is mandated by law, and that public institutions lacked coordination with the MITRAB regarding rights for persons with disabilities.

Persons with disabilities faced severe problems accessing schools, public health facilities, and other public institutions. Complaints continued regarding the lack of an accessible public transportation system in Managua. While some buses were accessible to persons with disabilities, reports continued that drivers of these equipped buses either refused to stop to allow persons with disabilities to board or intentionally broke lift and ramp equipment on their buses. The press reported that the Managua Mayor's Office sponsored relevant training for bus drivers through transportation cooperatives. The PDDH special prosecutor for disability rights was active throughout the year. Government clinics and hospitals provided care for veterans and other persons with disabilities, but the quality of care generally was poor.

The 2011 World Health Organization world report on disability estimated that only 0.4 percent of persons with disabilities attended compulsory elementary education.

During the 2012 municipal elections, the CSE accredited more than 200 volunteers to aid persons with disabilities in voting centers, along with maintaining the legal provision that allows the assistance of a family member in the voting process.

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 and racial minorities in those regions. While the racial makeup of the RAAN and the RAAS historically has been black and Amerindian, increasing migration from the interior and Pacific Coast of the country made these groups a minority in many areas.

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 others assumed to be from those areas, experienced discrimination, such as extra security measures and illegal searches by police.

Indigenous People

Indigenous people constituted approximately 5 percent of the country's population and lived primarily in the RAAN and the RAAS. They did not always participate in decisions affecting their lands, cultures, and traditions or the exploitation of energy, minerals, timber, and other natural resources on their lands. Individuals from five major indigenous groups – the Miskito, Sumo/Mayangna, Garifuna (of Afro-Amerindian origin), Creole, and Rama – alleged government discrimination through underrepresentation in the legislative branch.

Indigenous people from rural areas often lacked birth certificates, identity cards, and land titles. Although they formed political groups, these often held little sway and were ignored or used by major national parties to advance their own agendas. Most indigenous people in rural areas lacked access to public services, and deteriorating roads made medicine and health care almost unobtainable for many. The rates of unemployment, illiteracy, and truancy of school-age children were among the highest in the country. Some indigenous groups continued to lack educational materials in their native languages and relied on Spanish-language texts provided by the national government.

NGOs and indigenous rights groups claimed that the government failed to protect the civil and political rights of indigenous communities. Indigenous women faced multiple levels of discrimination based on their ethnicity, gender, and lower economic status. The National Commission of Demarcation and Titling, Attorney General's Office, and Nicaraguan Institute of Territorial Studies generally failed to demarcate effectively indigenous lands, and CENIDH denounced an atmosphere of impunity and corruption in the territorial demarcation process.

Some indigenous communities in the RAAN and the RAAS continued to report that authorities excluded them from meaningful participation in decisions affecting their lands and natural resources. Representatives of autonomous regions and indigenous communities regularly noted that the government failed to invest in infrastructure. Throughout the year indigenous leaders alleged that logging concessions were granted to private firms and government-affiliated businesses, such as ALBA-Forestal, by the regional and national governments in violation of national autonomy laws in the RAAS and the RAAN.

On June 29, Rama-Creole indigenous leadership filed a case in the CSJ against the government for granting a concession to a private enterprise to build an interoceanic canal that would cross certain parts of indigenous community territory. In 2012 the same group filed a separate claim protesting the formation of the Grand Canal Authority, which oversees the implementation of the canal project. While no land had been appropriated, the community alleged that the government did not follow required consultative procedures with the indigenous population before granting the concession or creating the administrative body. There was no known government response in either case by year's end.

Violations of indigenous lands in the Bosawas Biosphere Reserve, RAAN, continued during the year, according to press reports. The Mayangna indigenous group, who have territorial rights to much of the Bosawas Reserve, strongly criticized the government's unwillingness to prevent alleged land grabs by nonindigenous settlers, as well as illegal logging and other exploitation of natural resources. In March the government announced the formation of an interinstitutional commission charged with the protection of indigenous lands. The army's Ecological Battalion, created in 2011, is also responsible for patrolling the reserve. No public information on government activities to respond to indigenous claims was available.

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

Although sexual orientation is not mentioned specifically, the law states that all persons are equal before the law and provides for the right to equal protection. LGBT persons, however, continued to face widespread societal discrimination and abuse, particularly in employment, housing, and education. While the special prosecutor for sexual diversity was active throughout the year in education,

information collection, and collaboration with NGO efforts, the LGBT community generally believed that the office had insufficient resources.

On June 27, the NNP informed a consortium of LGBT civil organizations celebrating International LGBT Pride Day with a public awareness parade in Managua they could not proceed due to a NNP security perimeter surrounding an international summit. The NNP prohibited the activists from protesting the morning of the event, despite previously granting the necessary authorizations. Human rights organizations claimed the decision was discriminatory, since a progovernment rally took place later in the day at the same location.

Other Societal Violence or Discrimination

The law provides specific protections for persons with HIV/AIDS against discrimination in employment and health services, but persons with HIV/AIDS continued to suffer societal discrimination. A lack of awareness and education among health-care professionals and the public persisted regarding the prevention, treatment, and transmission of HIV/AIDS, leading to social stigma.

On May 24, an unnamed contractor of the military sought legal assistance from CENIDH, claiming he was given a blood test for HIV/AIDS without his consent in 2012 and was given employment notice when the test proved positive. The victim alleged that his supervisor informed him that in order to prevent an infection spreading, his contract would not be renewed. No official investigations in the case were reported by year's end.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

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 and bargain collectively. The constitution recognizes the right to strike, although it places some restrictions on this right. Workers are not required to notify their employer or the MITRAB of their intention to organize a union, and the law allows unions to conduct their activities without government interference. Burdensome and lengthy conciliation procedures impede workers' ability to call strikes. Additionally, if a strike continues for 30 days without resolution, MITRAB has authority to suspend the strike and submit the matter to arbitration.

A collective bargaining agreement cannot exceed two years and is renewed automatically if neither party requests its revision. Companies in disputes with their employees must negotiate with the employees' union, if one exists. By law several unions may coexist at any one enterprise, and the law permits management to sign separate collective bargaining agreements with each union.

The law prohibits employers from violating labor rights by engaging in antiunion discrimination, such as interfering with the formation of unions or strikebreaking. The law does not establish specific fines, and observers claim penalties were generally insufficient to deter violations. Although employers must reinstate workers fired for union activity, such reinstatement requires a judicial order. The law allows employers to obtain MITRAB's permission to dismiss any employee, including union organizers, provided the employer agrees to pay double the usual severance pay.

With some exceptions the government effectively enforced applicable laws and often sought to foster resolution of labor conflicts through informal negotiations rather than formal administrative or judicial processes. Although the law establishes a labor court arbitration process, long wait times and lengthy, complicated procedures detrimentally affected the court's deliberations, and many labor disputes were resolved out of court. MITRAB claimed 98 percent of cases resulted in a ruling favorable to the worker and reported 1,060 labor disputes in the courts over the first half of 2012. Labor and human rights organizations continued to allege that rulings were often unfavorable to workers. The International Labor Organization (ILO) noted that MITRAB imposed fines in only 0.84 percent of cases. According to some labor organizations, penalties are not sufficient to deter violations, especially in the informal sector.

During the year MITRAB held tripartite meetings to address labor issues in the free trade zone and signed a tripartite agreement that came into force in January to work jointly to address a range of labor issues, including the minimum wage, health and safety, and professional training. No additional information was available on specific actions of the tripartite partners during the year.

The National Assembly passed a revised Procedural Labor and Social Security Code in 2012, which includes significant changes to the labor justice system. The law, which came into effect in May, introduces oral testimony, simplifies judicial proceedings, allows for specialized judges, sets a timeline within which cases must be resolved, and establishes a minimum value for a labor dispute to move to court.

There continued to be reports that the government interfered in union activities, and some employers engaged in antiunion discrimination with impunity. Most labor unions allied with political parties. There continued to be reports of government interference in union activities in the public sector, including illegal dissolution of unions and firing of workers not associated with the ruling FSLN party. FEDETRASEP reported that since 2007 government ministries illegally disbanded 175 unions, including 19 during the year. Former ministry employees and human rights and labor organizations alleged that pro-FSLN public sector unions used intimidation and coercion to recruit new members, often pressuring workers to leave non-FSLN unions.

Politically motivated firings of workers continued to be a problem. FEDETRASEP reported that the firings were carried out for political reasons, such as refusal of the worker to join the FSLN or participate in FSLN demonstrations, and alleged that CPC coordinators or other party officials required a letter of recommendation to obtain a public sector job. Since 2007, according to FEDETRASEP, 26,691 public sector employees were fired without just cause or due process of law, including 2,361 workers during the year. FEDETRASEP reported more than 720 million cordobas (\$30 million) in unpaid severance benefits to these public sector employees. The Central American Court of Justice accepted four cases against the government in 2012 for not abiding by previous judgments in favor of five state workers who had not been paid severance. In 2012 the court ruled in favor of state workers in each of the four cases; however, no financial awards were paid by year's end. The court also ruled in favor of 10 former PDDH employees, fired in 2009 due to union affiliation. At year's end none of the state workers had been reinstated or received severance payment, despite the favorable ruling.

In the past MITRAB declared strikes illegal even when workers followed legal strike procedures. There were no known high-profile documented instances of strikes being declared illegal during the year. Wildcat strikes – those in which workers engaged without union authorization – have historically been common. During a strike employers cannot hire replacement workers, but unions alleged that this practice was common.

Employers often did not reinstate workers fired for union activity or pay the required severance. Labor leaders complained that employers routinely violated collective bargaining agreements and labor laws with impunity. Labor organizations deemed that the fines for antiunion discrimination were not severe enough to prevent abuses.

Many employers in the formal sector continued to blacklist or fire union members with impunity and delay severance payments to fired workers – especially public sector employees – or omit the payments altogether. Employers also avoided legal penalties by organizing employer-led unions that lacked independence and frequently using contract workers to replace striking employees. There were reports party dues were automatically withdrawn from paychecks.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. Penalties for violations ranged from five to eight years in prison but were generally insufficient to deter violations. There was no information available regarding government enforcement of these laws, but civil society groups and international organizations reported an increase in government activities against trafficking in persons, including labor trafficking, during the year.

There were cases of forced labor reported to the NNP during the year, as well as reports of men, women, and children subjected to forced labor in agriculture and domestic servitude.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law establishes the minimum age for employment at 14 and limits the workday for any individual between ages 14 and 18 to six hours and the workweek to 30 hours. Those between 14 and 16 must have parental approval to work or enter into a formal labor contract. The law prohibits teenage domestic workers from sleeping in the houses of their employers. It is illegal for minors to work in places that MITRAB considers harmful to their health or safety, such as mines, garbage dumps, and night entertainment venues, and to undertake certain agricultural work. The law 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 used its limited resources to concentrate on child labor violations in select sectors in narrow geographic areas, such as coffee-growing regions, and gave only limited attention to the large informal sector. Through August MITRAB

reported conducting 2,496 special child labor inspections, resulting in 1,854 children under 14 being removed from the workplace. MITRAB held tripartite meetings to address child labor problems, but no information was available on specific actions of the tripartite partners during the year.

The National Commission for the Progressive Eradication of Child Labor and Adolescent Worker Protection, a consortium of government agencies and NGOs, is charged with coordinating child labor policies. The commission was last convened in 2010, and most NGOs considered it ineffective. The government continued Programa Amor, which aimed to eradicate child labor by reintegrating abandoned children into society. Information on the program's activities, funding, and effectiveness remained unavailable (see section 6, Children).

Child labor remained widespread. During the year the ILO completed a national survey of adolescent and child labor that estimated there were 238,800 working children between five and 17 years old, of whom 80 percent performed high-risk labor and 36 percent were younger than 14. According to the National Institute of Development Information, almost 320,000 children worked in some form of child labor. A common feature of child labor was the prevalence of unpaid family work, and the institute stated that 80 percent of children and adolescents were unpaid workers.

Most child labor occurred in forestry, fishing, and the informal sector, including on coffee plantations and subsistence farms. Child labor also occurred in the production of dairy, orange, bananas, tobacco, palm, coffee, rice and sugarcane; cattle raising; street sales; garbage-dump scavenging; crushing stone; street performing; and transport. According to the ILO, children were engaged in the worst forms of child labor in agriculture, shellfish harvesting, pumice and limestone quarrying, gold mining, industrial manufacturing, construction, commercial/retail, hospitality, and domestic servitude.

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.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The law establishes a statutory minimum wage for 10 economic sectors. It is calculated differently for each sector, and the average was 3,863 cordobas (\$160) per month. According to MITRAB the average legal minimum wage covers 35 percent of the cost of basic goods.

In 2012 the National Assembly voted to broaden rights ensuring decent work for domestic workers, including expanding union rights, reducing the length of the workday, and assuring social security benefits. Since implementing legislation had not been passed at year's end, the legislation had not entered into force.

The standard legal workweek is a maximum of 48 hours, with one day of rest. The law dictates an obligatory year-end bonus equivalent to one month's pay, proportional to the number of months worked. There are 10 paid national holidays per year. The law mandates premium pay for overtime, prohibits compulsory overtime, and sets a maximum of three hours of overtime per day not to exceed nine hours per week. The law establishes occupational health and safety standards. Such standards were not current and appropriate for the main industries in the country.

The National Council of Labor Hygiene and Safety, including its departmental committees, is responsible for implementing worker safety legislation and collaboration with other government agencies and civil society organizations in developing assistance programs and promoting training and prevention activities. During the first six months of 2012, MITRAB reported conducting 1,276 health and safety inspections and registered 6,820 workplace accidents, including 13 registered deaths.

In general the minimum wage was enforced only in the formal sector. MITRAB maintained a hotline for complaints of labor violations and reported receiving 4,620 calls in the first six months of 2012. MITRAB is the primary enforcement agency, but the government did not allocate adequate staff or resources to enable the Office of Hygiene and Occupational Safety to enforce occupational safety and health provisions. Established penalties were generally sufficient to deter violations.

Health and safety standards were not widely enforced in the large informal sector, estimated to be between 60 and 70 percent of the economy. The informal sector included the bulk of workers in street sales, agriculture and ranching, transportation, domestic labor, fishing, and minor construction. Legal limitations on hours worked often were ignored by employers who claimed that workers

readily volunteered for extra hours for additional pay. Violations of wage and hour regulations were common and generally not investigated in the large informal sector, particularly in street sales, domestic work, and agriculture. Compulsory overtime was reported in the private security sector where guards often were required to work excessive shifts without relief.