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# **HUMAN RIGHTS IN NICARAGUA**

**YESTERDAY AND TODAY**

Report of a Mission for the  
International Commission of Jurists  
by  
Professor Heleno Claudio Fragoso, Brazil  
and  
Dr. Alejandro Artucio, ICJ secretariat

**INTERNATIONAL COMMISSION OF JURISTS**

RIGHTS IN NICARAGUA

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International Commission  
of Jurists (ICJ)  
Geneva, Switzerland

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## PREFACE

by

Niall MacDermot, Secretary-General of the  
International Commission of Jurists

During the period of the Somoza government, the International Commission of Jurists followed closely the violations of human rights occurring in Nicaragua. It was, however, handicapped by the fact that permission could not be obtained to send a mission to the country to study the situation on the spot. The last request was made in January 1977, at a time when military courts were being set up to try political prisoners. No reply was received from President Somoza.

Early in 1980 the International Commission of Jurists approached the Junta of the National Reconstruction Government to see if it could send a mission to the country with the dual purpose of studying the present situation concerning human rights in Nicaragua, and of gathering further information about the repression under the former regime. The Minister of the Exterior replied with a warm invitation, and accordingly a mission visited the country from 9-23 April 1980. It was led by Professor Heleno Claudio Fragoso of Brazil, a distinguished penal lawyer, Vice-President of the Brazilian Bar Association (Council of the Order of Advocates of Brazil) and a Member of the Executive Committee of the International Commission of Jurists. He was assisted by Dr. Alejandro Artucio, a Uruguayan advocate and a legal officer on the headquarters staff of the International Commission of Jurists.

The mission was given every facility to meet with those they wish to see and to travel to any part of the country. They were provided with copies of relevant legislation and had access to relevant government documents, including the files of cases against members of the former regime. Among others they had meetings with:

- The Under Secretary-General of the Junta of the National Reconstruction Government,
- The Director of the Division of International Organisations and Conferences in the Ministry of the Exterior,
- Lawyers and officials in the Ministry of the Exterior,
- The Military Commander of the Sandinist Popular Army in Esteli,
- Judges of the Supreme Court of Justice, including both the President and the Vice-President, who is a woman,
- Judges of the Court of Appeal in Leon,
- Practising lawyers in Managua and Leon; some of them had undertaken the defence of 'somocists' and former National Guardsmen on trial,
- Members of the Board of the Nicaraguan Permanent Commission on Human Rights (CPDH),
- The Special Prosecutor of Justice for the trial of 'somocists' before the Special Tribunals, who is a woman, and some of the 'Specific' Prosecutors,
- The General Coordinator of the Special Tribunals,
- Some of the members of the Special Tribunals,
- The Commander of the Revolution responsible for the National Penitentiary System,
- Journalists in Managua from "La Prensa", "Barricada", and the radio,
- Trade unionists in Managua,
- Officials responsible for the National Literacy Crusade,
- Members of youth brigades who were working for the Literacy Crusade in a rural area in Esteli, and another in the popular market of Managua.

The mission visited the former Modelo prison near Managua, in which some 2,000 'somocists' and former National Guardsmen are being held. It is now called the "Jorge Navarro Readaptation Centre". The mission was able to interview alone prisoners and families visiting them.

The mission was also able to visit Esteli, Leon and Masaya to see the destruction caused by the war and the task of reconstruction. The places to be visited were selected by the mission. In all these towns the mission had impromptu discussions with people in the street.

A visit was also made to the National Autonomous University (UNAN).

The International Commission of Jurists wishes to express its appreciation for the warm welcome given to its mission and for all the trouble taken and assistance given by the authorities at every level to facilitate its work.

As will be seen the mission was in general favourably impressed by the efforts being made to establish a genuinely democratic regime and to ensure the full protection of human rights. The new government face immense problems following the prolonged struggle needed to overthrow a hated dictatorship which clung tenaciously and ruthlessly to power. It was perhaps inevitable that some excesses occurred during the early days after the fall of Somoza, but the Junta of the National Reconstruction Government soon established its authority and determined that the criminals of the previous regime should be dealt with according to law. The abolition of capital punishment so soon after the revolution indicates the humanitarian approach of the government.

The mission found that its comments and suggestions were received with serious interests by those with whom it spoke. A special examination was made of the system of Special Tribunals to try the former 'somocists', and the mission had a number of detailed recommendations to make concerning these trials. These are the subject of a special report which is being submitted to the government.

The International Commission of Jurists also wishes to thank the Commission of the Churches on International Affairs of the World Council of Churches and the US National Council of Churches for their generous grants which made this mission possible. The publication of this report has been financed from a grant by the Ford Foundation.

Niall MacDermot  
Secretary-General

International Commission of Jurists  
Geneva  
July 1980

## INTRODUCTION

19 July 1979 marks the victory of the revolution in Nicaragua and the fall of a ruthless, corrupt and brutal regime that ruled the country for 45 years. The regime is commonly known as the "Somoza dynasty". 19 July also marks the end of a civil war. At the vanguard of this popular insurrection was the Sandinista National Liberation Front (FSLN, in spanish), which eventually brought military defeat to the army of Anastasio Somoza Debayle. Some fifty thousand people were killed during the 45 years of Somoza rule, 35,000 of them in the last two years, and some 100,000 were wounded.

During the Somoza regime, the rule of this unscrupulous family reached limits of exploitation that are difficult to portray. It even abused relief aid sent by the international community to Nicaragua to assist the victims of the 1972 earthquake. Without any popular support the family remained in power during all these years, sustained by the pitiless repression of its National Guard and by open and widespread corruption. The National Guard acted as the army, navy, air force, police and even in some cases, as the judiciary. It received international support, particularly from the United States of America, because the Somozas were considered as a barrier against communism in the continent and as defenders of American security.

For many years, the regime was supported by financial and business interests in Nicaragua, which shared in the profits generated by the system, often through fraud or corruption. In exchange for this participation, they had to renounce the exercise of political or military power, which remained in the hands of the Somozas. But this family's cupidity gradually curtailed the economic gains of the business community. Then the excesses of the repression struck their conscience and they withdrew their support from Somoza. Finally, Anastasio Somoza Debayle remained alone with his National Guard to confront the FSLN guerrillas, who had been fighting in the mountains clandestinely in extremely difficult conditions and with great loss of



human life. Many political groups of different ideologies, trade unions, peasants, women's associations, students, the church, and popular organisations in general also took part in the struggle and they too incurred casualties. During the last two years of the regime, 1978 and 1979, the people massively joined the FSLN struggle, turning it into a war between Somoza and his National Guard on the one hand and the whole of the population on the other.

#### Some basic facts

The country has extensive coasts on the Pacific and Atlantic oceans and land boundaries with Honduras and Costa Rica. Its 16 departments have an area of 130,000 sq. km. and a population of 2,235,000 of whom about 60% live in the Pacific region, 31% in the North and Central regions (both being rugged mountainous areas with several active volcanos) and 9% in the Atlantic region, largest in territory and wholly covered by tropical forest. 52% of the population is rural and 48% urban.

Since the time of the Spanish conquest, there has been continuing mixing between European and indigenous people. At present, there remain only a few indigenous groups which are not integrated into the population and who maintain their cultural values, including their language and their own life style. Examples are the Miskitos, the Sumos and the Ramas, all of them are living in the isolated Atlantic region. There are no precise figures available, but their number is estimated to be less than five per cent of the total population.

The weather is warm and tropical with only two seasons, winter and summer, and only slight variations in temperature. The summer is dry and it rains almost daily during the six months of winter.

The main commodities earning foreign exchange and generating employment are coffee, cotton, meat, sugar and chemicals. There is no oil or other source of energy except for small scale hydro-electric power. The foreign debt is estimated at 1.6 billion US dollars in 1980.

The social services are markedly inadequate, as the previous regime had done little to raise the standard of living of the population, while it brought about an immense concentration of wealth in the hands of a few. The health situation is serious and large rural areas lack hospitals and other health centres. In 1978 there were 6.8 doctors and 18.2 beds for each 10,000 inhabitants. Infant mortality reached 13%. Sanitation is absent in 47% of homes, and in the country 81% of them lack drinking water. In the capital, 80% of homes have no running water. In 1977, before the civil war, unemployment reached 17% in Managua and underemployment amounted to 30.4%.

Illiteracy affects over 50% of the population.

A huge area in the centre of Managua was almost completely destroyed by an earthquake in 1972. The capital was never rebuilt by the Somoza government despite substantial international relief aid received for this purpose.

PART I - THE SOMOZA REGIME

HISTORICAL SURVEY

Like other Latin American countries, Nicaragua has throughout its history been characterised by the underdevelopment of most of the population and by external domination, at first by Spain, and later by the United States. The spanish settlers achieved their political independence from Spain in 1811, but the lot of the poor and illiterate peasants, mostly indians, remained unchanged. United States interest in the country was increased by its strategic situation.

At one time there was a proposal to build an inter-oceanic canal through Nicaragua to replace the Panama Canal. The United States was determined to avoid a potentially hostile government in Nicaragua, and this led to military interventions, and in time to support for a dictatorship which made itself hated by almost the entire population.

The first US military intervention occurred in 1909 to overthrow the liberal President Jose Santos Zelaya. Supported by the conservatives, it led to numerous insurrections. In 1926 US marines occupied the "neutral zones" during the so-called Constitutional War between the conservatives and liberals, then the only effective political forces on the scene. From this time on, the United States lent its support to the liberals, abandoning their former conservative allies. The declared purpose of the US intervention was to "guarantee the peace", and an armistice imposed by the United States resulted in the termination of the war. However, this action led to the formation of an incipient army of peasants and workers, known as "The Defender of National Sovereignty", formed under a peasant leader, Augusto César Sandino, to oppose the US intervention.

Sandino's political platform was strongly anti-imperialist, nationalist and revolutionary, with detailed proposals for economic transformation of the country, aimed at greater social justice. His portrait, which had been banned for 45 years under the Somozas, has

now been popularised again by the Sandinista National Liberation Front, which, claims to carry on his struggle. Using guerrilla warfare tactics Sandino fought the American troops until December 1932, when the US marines eventually withdrew. Before their withdrawal, however, they had created and trained the National Guard under Anastasio Somoza Garcia, founder of the 'Somoza dynasty'.

During the 45 years of Somoza rule the National Guard and its several special corps played a leading role in the government of the country, and was the main pillar supporting the regime. In some ways it was seen as a prolongation of the foreign interventions. Especially during its first years the Guard was organised, financed, trained and controlled by the United States.

Following the withdrawal of the US troops an agreement was signed between Somoza and Sandino, but a year later, as Sandino and several of his generals were leaving a dinner given by the President, Juan Sacasa, Somoza's forces arrested and assassinated Sandino and two of his generals. A fierce campaign of repression by the National Guard against the 'sandinistas' followed, in which over 300 peasants, including women and children, were killed. A coup by Somoza to overthrow his uncle, President Sacasa, marked the beginning of the dynasty which held power by force and fraud for 45 years. Methods employed included military coups, pacts with opposition parties, constitutional amendments to extend the president's term of office, appointment of relatives or military colleagues in the President's office, rigging of elections and, at all times, maintaining a Somoza in command of the National Guard.

In 1936 Somoza was for the first time elected President in rigged elections organised by the National Guard. During the Second World War Somoza embarked on an unrestrained course of amassing wealth through fraudulent means, including the expropriation for his personal profit of coffee estates owned by german citizens, the control of illegal business such as alcohol, gambling and prostitution, the

use of government funds for his own business, and imposing commercial and credit restrictions on his competitors.

In 1947 there was a brief return to a nominally civilian government, but President Argüello, who had been placed by Somoza at the head of his national liberal party, was deposed by him after only 27 days. In 1950 the liberal and conservative parties reached an agreement by which the conservatives gained a number of government posts in exchange for leaving the military power in Somoza's hands, supporting a number of constitutional amendments (including one authorising Somoza's relatives to be appointed to the Presidency), and excluding any other groups from the political scene.

Factors which enabled Anastasio Somoza Garcia to remain in power were his complete control of the armed forces and police, international support from the United States, the existence of his nationalist liberal party, in which corruption was rampant, and which gave him control of state and public agencies (all government officials had to support the nationalist liberal party to maintain their posts). His period of government from 1934 to 1956 was marked by varying forms of repression, including arbitrary detention, torture, rape, killing of opponents, especially peasants and indians, and the corruption and consolidation of the Somoza family fortune.

From time to time uprisings occurred which were ruthlessly suppressed. An attempted uprising in 1943 led to a repressive campaign known as the massacre of the Indian mine. In 1954 Nicaragua's territory was used to plan an attack on Guatemala resulting in the overthrow of Jacobo Arbenz, whose government was carrying out agrarian and other reforms.

In 1956 Somoza Garcia was assassinated by a young poet named Rigoberto Lopez Perez. Somoza's elder son, Luis Somoza Debayle succeeded to the Presidency by the usual fraudulent means, and his brother Anastasio Somoza Debayle became the commander of the National Guard. Between 1956-60 there were over 20 attacks by guerrilla forces, all organised abroad, but none succeeded in consolidating their position.

The 1961 Bay of Pigs invasion of Cuba was in part organised from Nicaraguan territory. In the same year the Sandinista National Liberation Front (FSLN) was born. It adopted the political platform of Augusto César Sandino, with his anti-imperialist and revolutionary stance, and sought to continue his struggle to win power. The FSLN strategy was to engage in a popular revolutionary war aimed at achieving an armed insurrection of the people that would overthrow the "somocismo" and establish a revolutionary government charged with carrying out profound structural changes in Nicaraguan society.

Luis Somoza, who was succeeded as President by René Schick in 1963, died of a heart ailment in 1967. Increasing labour and popular agitation led his brother Anastasio Somoza to take power as President while continuing as Chief Director of the National Guard. This latter function he exercised until the end of his regime in 1979.

The scandalous rigging of the elections in 1967 led to popular protests which were brutally suppressed causing the death of over 100 persons. During this year the FSLN carried out a propaganda campaign accompanied by armed actions in urban areas including attacks on banks and Somoza businesses, and on known torturers. In the mountains, they executed "jueces de Mesta"<sup>(1)</sup> and others accused of being para-military collaborators of the dictatorship. Clashes with the army in the Pancasan region resulted in a military setback for the FSLN. Whole districts were devastated. In the long run, these government excesses provoked a greater popular resistance and a swelling of the ranks of the guerrillas. At this time the Central American Defence Council (CONDECA) was already operating in Nicaragua. Signed in 1964 by the Defence Ministers and Army Commanders of El

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(1) Juez de mesta: the judicial authority at the level of the rural comarca (the smallest administrative division). Their role was comparable to that of justices of the peace. They were appointed by the mayor and were part of the "somocista" machinery. Their jurisdiction included theft of livestock and firearms. They were not versed in the law, and were accused by peasant families of resorting to killings and other abuses, acting in association with the National Guard.

Salvador, Guatemala, Honduras and Nicaragua, this military assistance agreement provided for military experts from the four countries and from the United States to assist the National Guard in its combat against the FSLN.

The 1960's were marked by a considerable industrial growth made possible by and dominated by foreign investment, and the introduction of modern technology aggravating unemployment in both the industrial and rural areas. This development led to the growth of the middle class, many of whom found employment in the expanding state bureaucracy. These factors, and the failure to tackle problems of housing, health and education, led to increased labour struggles, sustained by the trade unions which continued to be active despite the force of repression.

In December 1972 a violent earthquake shook Managua, destroying completely a very large area in the centre of the capital. Social and health problems were extremely serious. Somoza formed a National Emergency Committee over which he presided. From this position he controlled the plans for a revival of the economy, while the country witnessed an unprecedented unleashing of official corruption.- Somoza had no qualms about using international relief and for his own profit and that of his associates, for example by acquiring land in Managua and then reselling it to the State at a tenfold profit. Somoza even refused to allow cans of powdered milk supplied by the Swiss government to be distributed free of charge to the population. It was suggested that the Swiss milk might be infected with foot and mouth disease. The real explanation was that the milk would compete with the milk monopoly owned by the Somoza family. Despite international aid for the purpose, the centre of Managua has never been rebuilt and remains today a devastated area.

In 1974 there began a period of intense guerrilla activity by the FSLN in the northern mountains. The National Guard unsuccessfully attempted to encircle and annihilate them, but over 500 peasants were killed by the Guard and by para-military groups who devastated

areas where the guerrillas were thought to have received shelter or support.

From 1971-74 Somoza allowed a triumvirate to head the Executive, following a pact with the Conservatives. In December 1974 he was re-elected, again by rigged elections, following a Constitutional amendment giving the leading party 60% of the seats in the Congress. The Conservatives were the only opposition party allowed to contest the election, nine others being banned. A few days after the election, in a dramatic coup, the FSLN took hostage a number of ministers, members of congress, and relatives and associates of Somoza. Somoza was forced to accept their conditions, paying the kidnappers a sum of money, releasing all political prisoners (who numbered only 18 as all others had 'disappeared'), publishing an FSLN manifesto and providing a plane for the guerrillas concerned to leave the country.

Immediately following this a state of siege and martial law were declared and remained in force until September 1977, when they were lifted largely as a result of international and internal pressures. During this period constitutional rights and guarantees were suspended and the powers of the executive increased without judicial control. A contemporary document prepared by a group of Nicaraguan lawyers described the state exception in these terms:

"Martial law and the state of siege have been used by Somoza to suppress any citizen dissent in the political, business, cultural and social fields. Repression is widespread, characterised by indiscriminate persecution and imprisonment, censorship of the mass media, banning of political and labour organisations, surveillance of the mail, raiding of homes, torture, illegal trials and sentences, and the razing of small farms, compelling an exodus of peasants to the mountains".

In 1977 a group of Capuchin friars published a report on the assassination by the National Guard of 44 men, women and children in the village of Varillal in January of that year. The patrol was accompanied by seven local jueces de mesta. The victims included



seven members of the Gonzalez family, six of the Perez family and 23 from the Maldonado family. All but five of these were women, children or youths.

The brutality of the repression was counter-productive, swelling the ranks of the FSLN, whose activity increased, as did agitation by the trade unions and other political groups, including dissident factions of the liberals and conservatives.

In January 1978 a leading opponent of Somoza, Dr Pedro Joaquin Chamorro Cardenal, editor of "La Prensa" was machine-gunned to death. This crime unleashed massive and spontaneous popular protests and over 50,000 people attended his funeral. A new coalition of a united political opposition which included moderates and representatives of private business called a general strike, supported by both the workers and employers. The strike was supported by the Catholic church, and the conservative party, breaking the coalition, called for Somoza's resignation, as did the "Group of Twelve", a group formed abroad of leading personalities, businessmen, lawyers, priests and intellectuals, who had not previously been engaged in politics.

During 1978 several insurrections occurred, beginning with one in Masaya, which were suppressed by the National Guard with their customary ferocity. In August an FSLN commando made another sensational coup seizing the National Palace and kidnapping some 600 legislators, military guards, bodyguards, ministers and government officials. Once again Somoza had to yield to similar demands. In the same month another employers' and workers' strike took place bringing the economy largely to a standstill. At the end of the month a popular insurrection broke out in the largely Indian city of Matagalpa. Following air attacks, the National Guard regained control of the city and proceeded to execute in cold blood large numbers of mainly young people alleged to have participated in or supported the uprising. This led the FSLN to advance its plan to overthrow the dictatorship. In September, uprisings occurred in eight of the main towns of the country. The FSLN army was mobilised, and joined by

thousand of volunteers. There were fierce combats throughout the country, and the towns were bombed and shelled by the National Guard. The people as a whole, including workers, students, indians, women and especially the youth, joined in building barricades and supporting the FSLN in every way they could. The National Guard, supported by soldiers from El Salvador and Guatemala succeeded, however, in regaining control of the cities, compelling the FSLN forces to withdraw. There then followed the worst massacre yet experienced by the people. Soldiers raided house after house, arresting anyone between 14 and 20 and, without questioning or enquiry, shooting them in the street, while their parents and relatives watched in horror. The mission met in Leon residents in one street 300 metres long who described how 30 youths had been executed from that street alone. The mission also visited Esteli and Masaya and saw the havoc and destruction caused by the National Guard. Casualties in the September clashes are estimated at 7,000, most being civilians killed by shelling and air raids.

Martial law and the state of siege were reimposed for three months in September 1978. The Inter-American Commission on Human Rights carried out an "in loco" investigation. Its report published in November 1978 concluded that "the Government of Nicaragua has incurred responsibility for ... serious, persistent and generalised violations" of human rights. It added that "these violations have awakened ... an intense and general feeling among the Nicaraguan people for the establishment of a system which will guarantee the observance of human rights". This was followed next month by a UN General Assembly resolution condemning the repression and urging the authorities to protect the human rights of the people (GA Res. 33/76).

The September repression led to a massive exodus of refugees. Some 57,000 fled to Costa Rica and Honduras.

On 15 December 1978 a broad amnesty for political offences, in-

cluding common law crimes committed for political reasons, was granted in a decree approved by the Nicaraguan Congress. The decree also applied to exiles who wished to return to the country. This measure, intended to pacify the country while Somoza retained power, failed to achieve its objective. On the one hand, the political prisoners had already been released on 24 August following the FSLN seizure at the National Palace. On the other hand, after the September clashes few prisoners had been captured by the Guard and most of these were executed before reaching prison. A list of some 200 prisoners to be released was published in the press, but at the same time the Nicaraguan Permanent Commission on Human Rights (1) published a list of 1,600 missing persons whose disappearance had not been explained.

A Broad Opposition Front (FAO) made an unsuccessful attempt at mediation supported by the US government, but in face of FSLN opposition it collapsed. Early in 1979 a new National Patriotic Front (FPN) was formed.

Examples of the continuing repression were the machine-gunning in February by the National Guard of five youths on hunger strike in a church in Leon (described as an 'operation against subversive elements') and the discovery in March in a mass grave of the corpses of 13 peasants arrested by the National Guard and of further unidentified corpses in a Managua lake in June.

The violations of human rights were further condemned in March by the UN Commission on Human Rights and in May at a meeting of the Andean Pact Countries.

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(1) The Nicaraguan Permanent Commission of Human Rights is a non-governmental organisation formed in April 1977. It publicised crimes committed by Somoza and provided legal assistance to political prisoners and their relatives and became an important instrument for the defence of human rights. Its members were harassed by the government. It is still active monitoring the respect for human rights under the revolutionary government.

In June the FSLN called a general strike and made an appeal for an armed insurrection against the regime. Uprisings occurred in Esteli, Leon, Managua, Matagalpa, Chinandega, Diriamba, Jinotepe, Masaya and other towns. Somoza responded by dawn and dusk air raids. Within a few days Costa Rica, Ecuador, Grenada, Mexico and Panama broke off diplomatic relations. On 23 June the Foreign Ministers of the Organisation of American States called for the 'immediate and definite replacement of the Somoza regime' and the 'installation in Nicaraguan territory of a democratic government'.

Fierce fighting followed throughout the country but the military situation evolved in favour of the Sandinista front at the cost of numerous dead and wounded. Thousands fled to the country to escape the bombing. Food stores were looted both by the population and the National Guard. Many districts had no electricity or water.

At the end of June the FSLN were forced to make a tactical retreat from Managua. They were followed by an exodus of 5,000 civilians fleeing from the National Guard revenge, and giving their support to the FSLN. Soon large areas came under FSLN control and deserters from the National Guard began to flee to neighbouring countries, looting and killing as they went. High ranking officers, ministers, officials and associates of the regime sought asylum in foreign embassies, but Somoza still refused to resign. Eventually on 16 July he submitted his resignation and one of his associates, Francisco Urcuyo Maliano, President of the House of Deputies, succeeded him as President. Some hours later Somoza fled to the United States taking with him money and gold from the national treasury. Urcuyo sought to remain in power, but when the FSLN threatened to attack the bunker and the Intercontinental Hotel where the government was stationed, he fled to Guatemala.

Managua was occupied by the FSLN and thus ended a war which had cost nearly 35,000 dead and many thousands injured, with substantial damage to the towns and the country's infrastructure, leaving an empty treasury, the economy in ruins, factories idle and crops abandoned.

On 19 July a five man Junta of the National Reconstruction Government was installed composed of:

- Violeta Barrios de Chamorro, widow of Dr. Pedro Joaquin Chamorro and co-owner of the daily "La Prensa";
- Sergio Ramirez Mercado, writer, member of the Group of Twelve;
- Moises Hassan Morales, mathematician, FSLN leader;
- Daniel Ortega Saavedra, FSLN commander; who had spent 7 years in Somoza prisons; and
- Alfonso Robelo Callejas, president of the Nicaraguan Democratic Movement, representing the private sector.

#### THE NATIONAL GUARD

The above brief historical survey shows how the cruel and corrupt Somoza regime had made itself hated by all sectors of the population, condemned both by national and international opinion. Nevertheless Somoza and his close associates hung on firmly to power and to their riches, supported only by the utterly ruthless National Guard. It may be wondered how the National Guard remained loyal to Somoza. The answer lies in the way they were conditioned during their training to hate those they were supposed to defend. Incredible as it may seem, numerous witnesses told the mission how they had overheard training sessions. "Who is the enemy of the Guard", the instructor would yell at them. "El pueblo" (the people), the soldiers would shout in unison. "Who is the father of the Guard?" "Somoza" came the answer. "Up with the Guard", yelled the instructor, and the soldiers would roar back "Down with the people".

The National Guard was the true foundation of the regime. Always headed by a member of the Somoza family, it numbered some 15,000 men and included the army, navy, air force and police, and even had some judicial functions. Within the army the repressive activities were mainly in the hands of the EEBI (a specialised

counter-insurgency corps), the General Somoza Armoured Battalion and the Special Brigades against Terrorist Actions (BECAT). Within the police, the Office of National Security (OSN) was concerned with political and labour affairs and a semi-clandestine body, the Anti-Communist Service (SAC), worked under it. Another clandestine para-military body participating in the repression was the Retired Servicemen, Workers and Peasants (AMROCS), used by Somoza to suppress demonstrations and public meetings.

The National Guard were paid very low salaries, but were all assured extra income from payments made by those engaged in drug traffic, smuggling, gambling, alcohol and prostitution. Loyal officers were rewarded by Somoza with a share in his businesses. Honest officers were either dismissed or relegated to lower administrative posts. Drugs were also supplied to soldiers before combat, helping to account for their ferocity and contempt for human life.

In their indoctrination the soldiers, who mostly came from the poorest classes, were cut off from the reality of the country. Reading newspapers or listening to foreign broadcasts was forbidden, and offenders were severely punished. The troops were told that they were battling against "Sandinista communists supported by invading countries", of which a list of 22 was read out. The following evidence was given during one of the current trials of Somoza elements:

"In September 1978 in Chinandega, Anastasio Somoza Portocarrero, Commander of the EEBl, explained to his boys how they should proceed with captured Sandinista prisoners. He chose four prisoners at random, and slowly slid his knife between the fingers and toes of the four victims. He then sprinkled them with gasoline and set them on fire, alive, saying: 'this is what should be done with these sons of bitches'. He climbed into his helicopter and left ..."



### STATE OF SIEGE AND MARTIAL LAW

Under the Constitution, the President, with the agreement of the cabinet, had the power to suspend or restrict in the country as a whole or in some part of it the enjoyment of rights and guarantees recognised by the Constitution. This provision was contained in article 197 of the Constitution and is known as the State of Siege. He could exercise this power:

- (i) when the country was at war, whether foreign or civil, or in danger of war;
- (ii) in the event of an epidemic, earthquake or other public catastrophe;
- (iii) when necessary for the defence, the peace or the security of the nation, its institutions or its system of government.

Article 197 set limitations on the exercise of this exceptional power. The suspension or restriction of rights could not affect the functioning of the government, and under no circumstances could the following rights be affected: the inviolability of human life; the right to be judged by lawful judges; the right not to be subject to any act of cruelty, torture or degrading treatment or punishment; the right not to be taxed except as provided in the Constitution. Moreover, the President and his ministers were to be "held responsible" for any declaration of a State of Siege other than in the permitted circumstances or for any abuses committed during the emergency. However, no remedy was provided and the 'responsibility' was a somewhat theoretical political one.

A State of Siege involved the automatic application of Martial Law. This conferred numerous additional powers without the normal safeguards: arrest without warrant; indefinite detention without trial; suspension of habeas corpus and amparo; house searches without warrant; banning meetings and demonstrations; prior censorship of the mass media, suspension of radio and television broadcasts; closing of

newspapers; military possession of land and movable property; prohibition of residence in a particular place or restriction to another; and military courts for alleged crimes against domestic and foreign security of the State and against public order. Martial Law empowered the President to delegate the powers of the state of exception to civilian and military authorities.

A state of siege and martial law were in effect for 3 1/2 of the last 4 1/2 years of Somoza rule. Thus the state of exception became the norm, nullifying many constitutional rights and guarantees. In spite of the supposed restrictions and safeguards, the violations of human rights and abuses became even worse under the state of siege and martial law. Arrests without trial, torture, assassinations, house searches without warrant, confiscations, censorship and persecution of political and trade union activities became common practices, resulting in a rule of terror and intimidation.

Under martial law the system of military justice operated at four levels:

- Military Courts of Permanent Investigation were the first echelon. These were entrusted with preparing the charges to be brought against the accused, and making recommendations for sentencing. In rural areas this function fell upon Departmental Commanders of the National Guard in each of the 16 Departments. In less serious cases no trial was held and a sentence was passed directly by the Commanders. This represented a dangerous convergence of executive and judicial powers in one person. When Guard officers acted as magistrates the maximum penalty they could impose was 6 month's imprisonment.
- Extraordinary Councils of War. These were composed of four members, one military prosecutor and one legal adviser, all being National Guard officers in active service who did not have to be versed in the law. On occasion, one or more members of the Council of War were trained in military law, but



this was not the rule. Councils of War were charged with pronouncing sentence based on the recommendations of Military Courts of Permanent Investigation or Departmental Commanders.

- A high-ranking National Guard officer had the task of confirming, revoking or modifying the sentence pronounced by the Council of War. This was the officer who had convened the Council.
- Finally, sentences could be reviewed by the Supreme Court of Justice to correct any possible errors. Unfortunately, the Supreme Court did not exercise this power. It took no action in relation to many trials in which there had been errors of law or fact.

The laws applied by military tribunals were the ordinary (civil) Penal Code of 1974, the Rules of Government and Discipline of the National Guard, the Instructions concerning Councils of War and Investigation Courts, the Military Legal Code for Government and Discipline of the National Guard, and the Rules of Procedure for Councils of War of the National Guard. With the exception of the ordinary Penal Code, these rules and regulations were not statutes in a formal sense since they had not been submitted to or enacted by the National Congress, and had not even been published in the official gazette. They were promulgated by order of the then Chief Director of the National Guard and founder of the dynasty, Anastasio Somoza Garcia. For the most part they were a translation of the U.S. Navy codes of the 1920s, and as such were alien to the Nicaraguan legal system.

The result of this system of military justice was, in the majority of the cases, a denial of justice, making illusory the right to a fair trial.

Nicaraguan lawyers and notaries played an outstanding role in the struggle for human rights. On many occasions, notaries took statements from victims of abuses by the National Guard and certified

them for submission to the courts. Several lawyers acted as defence counsel before military courts. Both notaries and lawyers were harassed by the regime. An example is the case of Dr. Mario Mejia Alvarez, current Coordinator General of Special Courts, who after defending several Sandinistas in a Council of War in 1977, was charged with the crime of "falsifying documents affecting the dignity and prestige of institutions". To escape arrest he sought asylum in a foreign embassy, and was able to leave the country. Dr. Mejia had certified the allegations of torture and ill-treatment of his clients and had tried to submit them in court. When possible, lawyers filed writs of habeas corpus and amparo on behalf of illegally detained or disappeared persons, but usually with no success.

#### HUMAN RIGHTS UNDER THE SOMOZA REGIME

It would be beyond the scope of this report to attempt to give a comprehensive account of the violations of human rights under the Somozas. Many have already been mentioned in the brief historical section and in the description of the National Guard. Others are described in harrowing terms in the statements published in Appendix I.

The following is a short summary of the principal violations.

- Right to life and security of the person; protection against torture and other cruel, inhuman or degrading treatment or punishment; right of all prisoners to be treated with humanity and with respect for human dignity; right of juveniles to special and preferential treatment

The scale of the assassinations and torture of opponents and, in many cases, of ordinary citizens who were not politically engaged (e.g. the peasants), was such that they cannot be regarded merely as the result of overzealous or abusive acts by the National Guard. Rather, they were part of a system of government dictated and administered by the Head of State.

The most serious violations took place during the last two years of the regime. Vivid examples of the ruthless cruelty of the National Guard, and evidence of the direct responsibility of Somoza's son, head of the EEBl, will be found in the statements and testimonies contained in Appendix I.

The savagery of the National Guard was particularly evident during the "mopping-up" operations when it regained control of cities occupied by the FSLN in the course of several uprising. The practice of rounding up and executing youths between 14 and 20 has already been described. In the rural areas hundreds of peasants "disappeared" over the years, usually after having been arrested by the Guard.

Torture was regularly used in the interrogation of political prisoners. Common practices included blows, hanging from the wrists, electric shocks, immersion of the head in water, hooding or blindfolding, exhausting physical exercises, keeping naked detainees in air-conditioned rooms at very low temperatures, and food and drink deprivation. In some cases, prisoners with bullet wounds received no medical attention. In many cases, prisoners died as a result of torture. The nails and eyes of some victims were pulled out while others had their tongues cut off. Prisoners were kept in crowded and insanitary conditions. Minors and adults lived indiscriminately in the same detention centres, although the Constitution provided that minors should be detained in rehabilitation centres.

- Right to liberty and security of the person; right to justice and due process of law before an impartial and independent tribunal; protection against arbitrary detention (habeas corpus); right of defence during trial; right to be presumed innocent until proved guilty; right not to be compelled to testify against oneself; right to have a lawyer; right to an effective remedy for arbitrary acts (amparo)
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Persons were arbitrarily detained in violation of all constitutional and legal provisions; the law was capriciously interpreted by the National Guard; the Supreme Court of Justice did not exercise its

Constitutional powers to protect fundamental rights. Detainees were not taken before a judge within the terms specified by law. When they were, the judge was usually a National Guard commander, since in the interior of the country they acted as police magistrates, thus concentrating executive and judicial functions. Commanders often imposed sentences without trial or without allowing the defendant to defend himself, and this situation became even worse under the State of Siege and Martial Law. Generally speaking, the right to a fair trial was non-existent.

- Freedom of opinion, expression and information

Although guaranteed by the Constitution (articles 71 and 72), these rights were not protected, especially in times of states of siege and martial law. The Code of Radio and Television of August 1960, repealed by the new regime in article 1 of Decree 8 of 20 July 1979 (Repeal of Repressive Laws), contained 11 different prohibitions for the enjoyment of these rights (article 47). The vagueness and generality of this Code led to abuses and self-censorship. Any criticism of the government could result in the closing of a journal with civil and criminal penalties. Censorship was under the jurisdiction of the Chiefs of Staff of the National Guard. It was enforced more drastically for radio than for the press, probably because of the high illiteracy rate. There was a list of banned books and authors, which could not be imported or sold in Nicaragua. Theatre plays and other artistic performances were banned or mutilated. In the later years several journalists working for "La Prensa" were assassinated, detained, harassed or threatened. Two radio stations were destroyed in September 1978. In June 1979, the "La Prensa" building was set on fire.

- Freedom of thought, conscience and religion

These rights were nominally guaranteed by article 120 of the Constitution, but in practice were seriously violated. In the later

years of the regime the Catholic church adopted a firm stand in defence of the people, which led to several attacks from the government. In January 1977 a pastoral letter signed by Mgr. Miguel Obando Bravo, archbishop of Managua, and six other bishops, stated: "The people of Nicaragua endure abuses ranging from torture and rape to executions without civil or military trial. The state of terror forces many of our peasants to flee in desperation from their own land and crops towards the mountains ..." In 1978 and 1979 several churches in Diriamba, Esteli, Jinotepe, Leon, Managua and Masaya were machine-gunned, raided and seized for several days by National Guard units. During this period, many priests and ministers were assaulted, beaten, detained and prevented from exercising their ministry. Others were expelled from the country.

- Right of assembly; freedom to form labour, political, cultural and professional associations; trade union rights; right to strike; right to a just remuneration ensuring an existence worthy of human dignity

The right of assembly established in article 3 of the Constitution was ignored, particularly in times of state of siege and martial law. This provision became meaningless and the government treated this right as a grace to be conferred whenever it saw fit.

In the Labour Code normal trade union rights, including the right to strike, were nominally granted. However, rights related to the formation of trade unions were severely restricted if not ignored. Several trade unions were dissolved or otherwise not granted the right to legal personality. Owing to their harassment many trade unions were forced to close down and other continued only in name. Numerous labour leaders were arrested and detained without trial; others were assassinated, or forced to abandon their trade union activity. Under the state of siege and martial law freedom of association became as meaningless as the right of assembly. Nevertheless, some labour organisations stayed active and courageously opposed the "somocismo".

The right to form political associations was asserted in article 3 of the Constitution, but article 316 of the Constitution restricted political action to only two parties: Somoza's majority Liberal Party and the minority Conservative Party. This restriction was confirmed by the Election Law of November 1974 which granted the status of "parties" only to the winning and runner-up parties in the last election. The Communist Party and any other party organised on an international basis were outlawed by article 74 of the Constitution. Only two parties, the Somoza National Liberal Party and the Conservative Party, were allowed to have representatives supervising the voting and the counting of the votes. This contributed to election rigging and to the political domination of the Liberal Party.

In spite these restrictions, the following political organisations were active in Nicaragua, often without legal recognition, at the time the dictatorship fell: Democratic Liberation Union (UDEL); Independent Liberal Party (PLI); the Christian Social Party (PSC); the Nicaraguan Socialist Party (PSN); the Nicaraguan Democratic Movement (MDN); the Nicaraguan Christian-Social Party (PSC); the Constitutionalist Liberal Movement (MLC); the Conservative Party (ANC); the Authentic Conservative Party (PCA); the Conservative Party of Nicaragua (PCN); and the Group of Twelve. Many of these groups had belonged to the Broad Opposition Front (FAO) and to its successor, the National Patriotic Front (FPN).

- Social, cultural and economic. Right to social welfare; to health; to education; to property; to adequate standards of living
- 

Deficiencies in the health field were notorious. Large areas of the country lacked hospitals, dispensaries or medical services. Education was lacking especially in the rural areas. The illiteracy rate was over 50%. In guerrilla areas, National Guard patrols frequently razed or confiscated peasant property such as crops and livestock as a means of instilling terror and preventing support for

the FSLN. The poverty was such that large numbers of people lived below the poverty line.

The effects of this neglect of economic, social and cultural rights will be considered in the following section of this report.



## PART II - THE PRESENT REGIME

The Junta of the Government of National Reconstruction was installed in Managua on 19 July 1979.

### GOVERNMENT INSTITUTIONS

On 20 July 1979 the Junta adopted a Basic Statute implementing the undertakings it had formulated in exile.

The Basic Statute abrogated the 1974 Constitution and other Constitutional Laws (article 3). It dissolved Parliament, the Supreme Court of Justice, the Courts of Appeals and the High Labour Court (article 4).

It provided that, pending the adoption of a new constitution, the executive and legislative powers of the State would be exercised by a Government Junta of five members, appointed in June by the forces opposed to Somoza. Municipal juntas were created in every town after the enactment of the Statute. A Managua Reconstruction Junta was created in the capital. The decrees of the government junta are subject to veto by two thirds of the members of the Council of State. This body was installed on 4 May 1980.

It was originally to have been composed of 33 members appointed by the "political, socio-economic and labour organisations" listed in the Basic Statute (article 16), but in April 1980 the government junta decided to enlarge the membership of the Council to 44. This led to a political crisis and to the resignation of a junta member, Mr. Alfonso Robelo Callejas, President of the Nicaraguan Democratic Movement and spokesman for the private sector of the economy. On resigning, Mr. Robelo strongly criticised the Sandinistas through the radio, television and press. A few days before, Mrs Violeta Barrios de Chamorro, also a member of the Junta, had resigned for health reasons. This crisis was resolved on 18 May when both vacancies were filled with the appointments of Dr. Rafael Cordoba Rivas,



member of the Supreme Court of Justice and former leader of the Conservative Party, and Mr. Arturo Cruz Porras, an economist, President of the Central Bank and member of the "Group of Twelve".

The membership of the 44-member Council of State, which includes 22 Sandinistas, is as follows:

Political parties and movements

Sandinista National Liberation Front	- 6 members
Independent Liberal Party	- 1 member
Socialist Party of Nicaragua	- 1 member
Christian Social Popular Party	- 1 member
Nicaraguan Democratic Movement	- 1 member
Conservative Democratic Party	- 1 member
Christian Social Party	- 1 member

Labour organisations

Sandinista Central of Workers (CST)	- 3 members
General Labour Confederation (CGT)	- 2 members
Central of Workers of Nicaragua (CTN)	- 1 member
Labour Unification Confederation (CUS)	- 1 member
Central of Action of Labour Unification	- 1 member
Health Workers Federation	- 1 member

Other organisations

Sandinista Defence Committees (CDS) (2 from Managua, 1 from Leon and Chinandega, 1 from Matagalpa and Jinotega, 1 from Esteli, Nueva Segovia and Madriz, 1 from Chontales, Boaco and Rio San Juan, 1 from Zelaya, 1 from Masaya and Carazo, 1 from Granada and Rivas)	- 9 members
19 July Sandinista Youth	- 1 member
Association of Women "L. Amanda Espinoza"	- 1 member
Armed Forces	- 1 member
National Clergy Association	- 1 member
National Council of Higher Education	- 1 member
National Association of Teachers of Nicaragua	- 1 member

Nicaragua Union of Journalists	- 1 member
Association of Miskitos, Sumos and Ramas (MISURASATA, Indians from the Atlantic coast)	- 1 member
National Confederation of Professional Associations	- 1 member

Private enterprise organisations

Nicaraguan Development Institute	- 1 member
Chamber of Industries of Nicaragua	- 1 member
Confederation of Chambers of Commerce	- 1 member
Chamber of Construction	- 1 member
Union of Agricultural Producers	- 1 member

The power of the Council of State are: (a) to prepare a draft Election Law; (b) to prepare a first draft of the Constitution; and (c) to act as a co-legislative power by submitting bills to the Government Junta or by vetoing laws adopted by the Junta (articles 14, 17 and 18).

The Judiciary. The seven members of the new Supreme Court of Justice and the judges of the Courts of Appeals and the Superior Labour Tribunal are appointed by the Junta. The remaining judges and officers are appointed by the Supreme Court (article 21).

The Armed Forces. The Basic Statute dissolved the National Guard and all its corps, including the Office of National Security (OSN), and repealed all laws, decrees and regulations relating to it. The Sandinista Popular Army (EPS) took over the military powers of the National Guard. Its members are the FSLN troops, any opponent of Somoza wishing to join, and former National Guardsmen free from crime or corruption and having shown an honest and patriotic conduct. The army is expressly "devoted to the defence of the democratic process, sovereignty and the independence of the Nation, and its territorial integrity" (article 24). A Sandinista Police, resembling the Army in its composition, was created after the enactment of the Basic Statute. Within it operates the Department of State Security.

Elections. When the "conditions of national reconstruction will permit" (article 28) elections will be held for a National Assembly charged with adopting a new constitution based on the draft prepared by the Council of State.

This institutional framework will remain in effect until the new Constitution comes into force, for which no date has been announced.

### HUMAN RIGHTS

The new government has expressed its intention of establishing a genuine Rule of Law and full observance of human rights. On 21 August 1979 the Government Junta adopted Decree No. 52 entitled "Statute on the Rights of Nicaraguans" <sup>(1)</sup>. This is a remarkable document affirming and recognising a series of important fundamental rights in its 52 articles. Its authors have followed, frequently verbatim, the provisions incorporated in the International Covenants on Economic, Social and Cultural Rights, and on Civil and Political Rights (December 1966), and in the American Convention of Human Rights (November 1969). The Basic Statute of 20 July had already affirmed all the rights recognised in these international instruments, as well as rights contained in the Universal and American Declarations of Human Rights (article 6 of the Basic Statute).

It would take too long to list all the rights contained in the Statute on the Rights of Nicaraguans. Suffice it to say that it includes the great majority of rights and freedoms currently recognised by the community of nations. Attention shall, however, be drawn to some of its provisions in view of their importance at the present time.

The rights of the people to self-determination of their political status, and to pursue freely their economic, social and cultural development by disposing freely of their natural wealth and resources, is

(1) See full text in Appendix II

recognised in articles 1 and 2.

The death penalty, contained in article 53 of the Penal Code, was abolished (article 5). Thirty years is the maximum period of imprisonment (article 6). Torture and cruel, inhuman or degrading treatment or punishment are outlawed, even under exceptional circumstances of public emergency (article 49). Also guaranteed are the right to access to the courts, to a fair trial with due process of law, to legal representation and adequate remedies, including, in particular, the remedy of 'personal appearance' (i.e. habeas corpus) in cases of arbitrary detention or imprisonment (article 8) and the remedy of amparo in the event of violations of rights and freedoms (article 50).

All Nicaraguans may freely leave or return to their country (article 15). The right of asylum is guaranteed to victims of political persecution and to persons who have been harassed for working for the defence of human rights (article 16). Extradition will not be granted for political crimes or for related common law crimes.

The right of assembly, freedom of association, freedom of speech and information, the right to strike, and political rights are fully recognised. Science and culture must also be oriented toward "strengthening the respect for human rights (article 46).

The only provisions which we would criticise are to be found in certain aspects of article 49 regarding the suspension of rights during a state of exception. This section presents some dangers. A suspension may be decreed in circumstances threatening the life or stability of the nation, such as international war, civil war or a danger of it, public catastrophes or the aftermath of war. This is acceptable and in accordance with international human rights instruments. But a suspension may also be declared "on grounds of public order and security of the State", a vague and general phrase which

could open the way to possible abuse. No specific limitation is set for the suspension, which may last "for a limited time" but is subject to extension. This power is vested exclusively in the hands of the Government Junta and no control by any other organ of the State is contemplated. It is to be hoped that these provisions will be omitted or amended in the new Constitution, as being detrimental to institutional stability.

It should be added that this article, following the example of the International Covenant on Civil and Political Rights, declares that certain specified rights are not liable to suspension even in an emergency.

#### State of exception

Under the revolutionary government, the state of exception (suspension of rights) which has just been mentioned (article 49), was imposed on 21 August 1979. The rights of persons facing trial for crimes committed "during the 'somocista' regime" were suspended for 60 days. By Decree 116 of 20 October 1979, the Government Junta extended the suspension. In mid-May 1980 the suspension was lifted and all persons are now protected by the Statute on the Rights of Nicaraguans.

Another important piece of legislation adopted by the Government Junta is Decree 232 of 4 January 1980, called "Law of Amparo for freedom and personal security" (1). Its objective is to safeguard the effectiveness of rights recognised by the Basic Statute and by the Statute on the Rights of Nicaraguans by laying down the circumstances and procedures by which the right of amparo may be exercised. The new law provides that the right of amparo may be exercised by any person without any formalities. It includes the remedy of habeas corpus, and is available in the event of detention

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(1) The remedies of 'personal appearance' (habeas corpus) and amparo are contained in articles 8 and 50 of the Statute on the Rights of Nicaraguans

or restriction of personal freedom by private individuals or the threat of such detention or restriction (article 1). The District Criminal Judges and the Courts of Appeals are competent to examine writs of amparo (article 4), and there is a right of ultimate recourse to the Supreme Court of Justice (article 16). In the event of illegal detention (habeas corpus) the Court of Appeals concerned will appoint a "juez ejecutor". This may be any citizen although lawyers will be preferred (article 6). The post is compulsory and not remunerated and any omission of duties is punishable with fines or a contempt proceeding. The "juez ejecutor" is invested with broad powers to interview the detainee, to examine the dossier, if any, and to order that the detainee be brought before the competent authority or else released. His rulings carry the same weight as a judicial ruling and must be observed by the officers and officials concerned who otherwise face punishment for contempt (articles 8, 11 and 12). The appointment in this way of a "juez ejecutor" follows a long Nicaraguan tradition.

The mission had occasion to observe the operation of this procedure. All the appointed "jueces ejecutores" are registered lawyers. According to one of them, a few problems have arisen with military and police authorities, stemming from their lack of judicial experience, but these problems have always been resolved in accordance with orders given by the "juez ejecutor".

#### Accession to international instruments

The new government ratified or acceded to the American Convention on Human Rights in september 1979 and to the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Optional Protocol, and the Convention relating to the Status of Refugees and its Protocol in 1980.

### Enforcement of human rights

From the point of view of practical compliance with national law and international instruments, which is far more important than formal accession, the mission was impressed by a genuine dedication to respect of human rights on the part of the government. At the time of the change of government, Sandinista authorities had to adopt strict measures to avoid a blood bath in Nicaragua, since the hatred of the 'somocistas' and members of the National Guard was such that there was a widespread feeling that they should all be executed to pay for their crimes. The government succeeded in preventing a massacre, helped by its decision to abolish the death penalty shortly after taking over power. Nonetheless, some executions of Guard members and informers did take place during the first few days of confusion following the revolutionary victory, and contrary to the wishes of the government. These executions usually occurred in remote areas where revolutionary groups outside the FSLN captured and killed several people. In a well-known case, a Guard colonel and commander of the surrendered Puerto Cabezas garnison, was taken away by a group of militiamen and summarily executed.

It is difficult to make an estimate of the number of executions, but fortunately they were relatively few in number. The last case was reported on 15 August 1979. The FSLN authorities gave strict orders to its units in this regard and tried to assemble prisoners in safe places guarded by the Front.

During the war against Somoza, popular tribunals had been in operation in FSLN occupied areas. These tribunals deliberated and passed judgments in the same zone, village or place where the events had taken place. Some of their sentences resulted in executions.

The government has also engaged in a campaign against torture and ill-treatment of prisoners. The impression of the mission confirmed after interviews with several prisoners, is that cases of ill-treatment have been exceptional. Of those that have occurred



most were during the aftermath of the overthrow of Somoza and due to the inexperience of the Sandinista Police and Popular Army in the treatment of prisoners. Government courses and lectures for police staff have emphasised the importance and meaning of human rights. It must be remembered that the police and the army were completely restructured after the revolution and six months is barely sufficient to train a police officer or investigator. The Minister of the Interior of the new government had to dismiss nearly 500 people from the Sandinista Police (mostly former FSLN militants) because of disciplinary problems and unfitness for police functions. Concerning allegations of torture the attitude adopted by the authorities is to be commended. Allegations are not concealed. Instead, they can be and are publicised in the mass media and measures are taken to investigate them and to prevent a recurrence. It can be stated that torture and ill-treatment as a matter of policy or of systematic practice have been banished from Nicaragua. Any isolated cases, from which no country is wholly exempt, will be dealt with by legal means and redressed, and those responsible will be punished.

### The Judiciary

A day after its installation in power, and following the enactment of the Basic Statute, the Government Junta by Decree No. 9 appointed the members of the Supreme Court of Justice and of the Courts of Appeals.

The mission had the opportunity to meet the members of the Supreme Court of Justice in Managua and the Court of Appeals in Leon, who furnished valuable information. In these conversations, the following points were made:

- Under the Somoza regime, the independence of the judiciary existed only in name. In practice, it was dependent on the authority of the government. A certain apparent contempt of the regime for the judiciary was evident even in the premises assigned to



the Supreme Court of Justice and several Managua courts following the destruction of the Palace of Justice in the 1977 earthquake. The mission visited these premises and saw improvised offices in a small adapted school, and saw their inadequacy, without space for library or archives and lacking the minimum facilities compatible with the proper administration of justice.

- Supreme Court justices were appointed by the National Congress, where the "somocismo" dominated 60% of the seats.

- Some instances of judicial corruption were patent and outrageous, to the point that some judges charged a sum of money for a favourable decision.

- All trials of officers of the Office of National Security (OSN) for abuses affecting detainees, or even for assassinations, ended in acquittals. The present justices described numerous cases of assassinations and brutalities perpetrated by the National Guard, particularly in 1978 and 1979.

- The judges who were interviewed maintained that a careful analysis of the situation prevailing under Somoza was essential to a proper understanding of the present circumstances. They said that on the triumph of the revolution great efforts were made by the government to stop an armed people from executing the members of the National Guard. They added that on 19 July 1979 the country found itself without a government, a judiciary or a legislature and with few experienced government officials.

- They added that rights and freedoms were slowly being restored and that the country now enjoyed a climate of freedom and protection of rights. A member of the Court of Appeals remarked: "The revolution is the rebuilding of the devastated fatherland".

- In the opinion of many, it will take some time before the citizens, the military and the police come to understand and accept the

fact that the judiciary must assert its authority and independence from the executive in judicial matters and in supervising the observance of human rights. Some problems had already arisen as to government compliance with judicial decisions, particularly regarding the release of detainees. The judiciary must assert its own powers, act independently of the political power and make sure that whenever the armed forces break the law or disobey judicial orders they will be judged by ordinary courts. There now exists no system of military justice in Managua. This the judges thought was positive.

### Lawyers

The mission also met with lawyers in Leon and Managua. Generally, they considered that the Supreme Court justices had been well chosen. Their integrity and qualifications were not questioned.

Defence lawyers representing former "somocista" and National Guard elements were usually very critical of these special trials. The mission also had a meeting with the members of the Nicaraguan Permanent Commission of Human Rights (CPDH) to examine the current situation. They complained of the lack of government cooperation with their organisation, which had played an important role in denouncing the crimes of the Somoza era. They added that certain government officers were hostile to the organisation.

### Freedom of opinion, expression and information

These freedoms are protected and exercised in Nicaragua. Two newspapers are published in Nicaragua: "Barricada", the official organ of the FSLN, which took over the offices and machinery of the expropriated Somoza daily "Novedades", and "La Prensa", by tradition an independent daily. The two television services, one belonging to Somoza and the other to one of his associates, were nationalised.

There is no censorship and any type of criticism of the government may be published. On 16 August 1979, prior to the Statute on

Rights, a "General Provisional Law on the Mass Media" was enacted which defines freedom of information as "one of the fundamental principles of genuine democracy". Besides guaranteeing freedom of information, the law established guidelines for professional journalists, who are required to be affiliated with the Nicaragua Journalists Union (UPN) or the Managua Radio Journalists Trade Union. The law also regulates radio and television stations, which require a government licence. Any offences committed by the media (e.g. criminal libel, obscenity etc) will be tried before the ordinary courts (article 8). Since the ending of the period of emergency there are no provisions restricting the right to criticise or comment adversely upon the government's policy or actions. Finally, Decree No. 8 of 20 July 1979 on "Repeal of Repressive Laws", apart from repealing the 1960 Radio and Television Code, contains safeguards for freedom of opinion and expression for all persons (article 2). These rights are not subject to prior censorship.

Rights of assembly and association, political and labour rights

The mission received no indication of any interference in the exercise of the rights of assembly or association in any sphere, whether cultural, professional, political or labour. Several political and labour meetings took place in Managua at the time of the visit.

As to political rights, the government has on different occasions reiterated that elections will be held for a Constituent Assembly that will examine the first draft Constitution prepared by the Council of State. Once the Constitution is promulgated, elections will be held to elect the higher authorities of the State. These government statements have been reaffirmed in article 20 of the Basic Statute of 20 July 1979.

Only the Somoza party has been outlawed. Anyone "persisting in restoring" the "somocismo" will be subject to imprisonment, according to article 1 of the Law on the Maintenance of Order and Public Security of 20 July 1979. Article 5 of the Basic Statute repealed all

provisions relating to the majority and minority parties.

However, difficulties have arisen in regard to the Workers Front (Frente Obrero), a Trotskyist group which published the newspaper "El Pueblo". This group had participated in the uprising and in the anti-Somoza struggle. Its newspaper has been closed and its members have been detained and sentenced to 10 and 11 months of hard labour in public works, as provided in article 4 of the Law on the Maintenance of Order and Public Security (20 July 1979). This law constitutes one of the few amendments introduced to the basic penal legislation. It established certain new offences and created Emergency Tribunals. However, these tribunals were never convened and finally they were abrogated by Decrees 148 of 9 November and 195 of 5 December 1979. The new crimes were maintained and jurisdiction was assigned to ordinary courts. The nature of these new offences is indicated by the case against members of the Workers Front. They were tried by ordinary penal courts, and were convicted of trying to "accelerate the revolutionary process, diverting it from its course". The charges included instigating and forcibly effecting land occupations and other armed actions, and illegal possession of weapons.

The installation of the Council of State on 4 May 1980 inaugurated the restoration of political rights and representative democracy. However, the Council has faced some difficulties. Groups such as the Nicaraguan Democratic Movement objected to the composition of the Council and refused to take their seats; others, including representatives of the private sector, stopped attending the sessions. At any rate, it is too early to make a final assessment. Time will tell whether the process will continue its course until representatives are chosen directly by the electorate.

The principal trade union organisation is a confederation known as the Sandinista Central of Workers (CST). During the fighting, the Sandinista Front encouraged labour activities. Several trade unions followed its orientation and after victory became affiliated with the CST, which now comprises over 300 trade unions.

Economic, social and cultural rights

The government has been developing intensive activities in this field, in accordance with its political programme announced in Costa Rica on 9 July 1979. The question of the right to property calls for special comment.

In one of its first measures, the government confiscated all property of the Somoza family. In fact, Decree No. 3 of 20 July 1979 empowered the Attorney-General, who was appointed on that date, "to audit, requisition and confiscate all property owned by the Somoza family and by military and government officers who had left the country after December 1977".

Article 27 of the Statute on the Rights of Nicaraguans states that property performs a social function. As a consequence, the capacity to own property, its enjoyment, use and disposition are subject to limitations for reasons of public utility or social interest, including agrarian reform. Similar provisions are nowadays found in the Constitutions of other democratic governments. The right to private property, as is true of other rights, is no longer considered absolute and must be subordinated to the public interest.

On 26 May 1980, the Government Junta passed a law guaranteeing the right to property and submitting confiscations and expropriations to the decisions of ordinary courts in accordance with legal procedures.

The great fortune acquired by the Somoza family through corruption and other illegal means facilitated the government's economic plans. Large areas of farmland were available to be incorporated in agrarian reform programmes. Other property could be used to establish the foundations of a state economy and to create mixed-ownership enterprises with private and public capital.

A number of enterprises came under State ownership or control,

such as the country's only airline (LANICA), a shipping company, coffee farms, cotton plantations, timber companies, banks, supermarkets, a beer factory, etc.

Confiscation has been defined in article 47 of the Statute on the Rights of Nicaraguans, as "the recovery of property usurped or illegally acquired during the dictatorial 'somocista' regime or under its aegis".

It is not clear why military and government officers who left the country after December 1977 are covered by the confiscation pensions of Decree No. 3. These provisions could easily result in excesses. The exact meaning of "Somoza family" has likewise not been determined. The mission received no information about the application of the Decree in these cases.

At the end of the war, Nicaragua was a bankrupt country. Since 50,000 people had been killed, the conflict touched virtually every family. And war devastated or severely damaged 60% of all industries. The banks were emptied of "somocista" deposits. Anastasio Somoza took with him even gold bullion. In several cities some 75% of the houses were destroyed or badly damaged. 80% of trade was paralysed. Crops were not planted or harvested. The unemployment rate rose astronomically causing more poverty.

In its 11 months in power, the government has taken several measures aimed at overcoming the crisis:

- A short term objective for 1980 is to attain the production and export levels of 1978 before the september uprising. To this end, an Economic Reactivation Plan has been put into operation.

- Reconstruction is a priority. Public works projects and housing construction and repairs are under way.

- External trade has been "nationalised" in the sense that all import, export and foreign exchange activities are controlled by the Ministry of Commerce.
- Several banks and financial institutions have been nationalised, while other private national and foreign banks are still in operation.
- One sector of the economy is under State control, while another is a mixed private and State capital system. Fundamental areas of the economy have been identified and will be brought under State control. Other areas are open to private and public investment.
- The Nicaraguan Agrarian Reform Institute has been established and given appropriate means to achieve its objectives.
- Special attention will be given to social problems. Rents have been regulated by the government. Until the question of ownership is settled, persons occupying houses abandoned by fleeing "somocistas" have been permitted to stay and pay rent.
- In the health field, a plan is under way to build hospitals and medical centres in remote areas of the country where these services are lacking.
- The foreign policy platform includes the respect of commitments, relations with all States regardless of political or social regime, and a policy of non-alignment.

#### NATIONAL LITERACY CRUSADE

In March 1980, the government launched the National Literacy Crusade, which will last until mid-August 1980 <sup>(1)</sup>. Illiteracy

- (1) In January 1980 the Director General of UNESCO appealed, with the unanimous support of the Executive Board, to all governments, public and private institutions, international foundations and organisations, churches, trade unions and people throughout the world to make available to the Nicaraguan authorities financial and material resources to enable them to achieve the objectives of the literacy crusade.



affects more than 50% of all Nicaraguans above the age of 10. For this reason, literacy has become a government priority, although it is unrelated to an increase in production. Political considerations influenced this decision. Sandinista leaders have sensed the opportunity to integrate nearly one million people involved in the crusade in the revolutionary process through political awareness.

A literacy programme was prepared based on texts concerning of 28 subjects related to the revolutionary process and the government platform. The literacy campaign will be implemented by: a) all teachers, who must compulsorily take part, and some foreign teachers from Costa Rica and Spain; b) all secondary school and university students above the age of 12 wishing to participate voluntarily. Medical students will be responsible for the health of instructors and pupils. To allow the students to spend five months in the country, the school term has been suspended two months ahead of the holiday period. Special schools, pre-school centres and agricultural schools have been exempted from the suspension in view of the importance of their work; c) government employees, workers, professionals, housewives and anyone else able to participate as instructors only a few hours a day.

The mission was told by the administrators of the Crusade that it will contribute to a better contact between city and country; that brigade youths will become acquainted with peasants, share their modest life for some time and assist them in farm work. Anyone above the age of 10 may attend the 2 hour a day teaching sessions, which will be scheduled at times convenient to the pupils.

It was apparent that the response of the population was enthusiastic. A great number of people began to mobilise in April, marching to remote areas where access is difficult. Alerted by the radio, the peasants welcomed the young instructors and received them in their homes. Many difficulties have arisen. For instance, a very high number of peasants could not learn because of failing eyesight. They needed glasses but had never been examined by an ophthalmologist.



In a rural area near Esteli the mission visited a group of 14 students aged 13 to 16 working under the supervision of 4 teachers. There were no university students in this group. The students lived in modest peasant dwellings, one or two to a house. They did farm work and taught two hours daily. No classrooms were available, so lessons were held in iron sheds or in the houses. The students spoke enthusiastically of their new responsibilities.

Crusade managers reckon that this five month campaign will have provided an elementary ability to read and write. Later, an Adult Permanent Education programme will be started at the Education Ministry to prevent a recurrence of illiteracy caused by disuse. Schools will also be created where none exist.

Nicaragua faces serious national security problems. Over 3,500 former National Guardsmen are living in exile in Honduras, close to the Nicaraguan border. Around 1,000 live in El Salvador and several hundreds in Guatemala. Mountains and forests make the Honduran border easily vulnerable. Sandinista units fighting Somoza often crossed this border to enter into Nicaragua. On 10 April 1980 newspapers, radio and television in Nicaragua widely reported the arrest of 20 former National Guardsmen who had entered from Honduras. Some of them said on television that they were part of a larger group whose objective was to engage in sabotage and obstruction of the economic reactivation plans. They stated that training exercises under National Guard officers were being held in refugee camps. They lacked weapons but were told by their superiors that they would receive them soon. In May, there were several isolated armed attacks against patrols of the Sandinista Popular Army (EPS) and an attack was made on a Junta member who is also member of the FSLN National Directorate.

This situation has forced the government to station EPS forces in border areas. The Honduran government has officially promised to investigate these reports and quell any threats.

The Sandinista Popular Militias, a military corps of volunteers who may be summoned should the need arise, was created in December 1979. Its officers are EPS officers.

The government has also established civilian Sandinista Defence Committees (CDS) in city districts, places of work, etc. Their goal is to defend the achievements of the revolution.

#### THE SITUATION OF FORMER NATIONAL GUARDSMEN AND CIVILIAN COLLABORATORS OF THE SOMOZA REGIME

On 20 July 1979, Decree No. 1 of the Government Junta empowered the Attorney-General to request the immediate extradition of Anastasio Somoza Debayle, Anastasio Somoza Portocarrero, José Somoza "and other members and associates of the Somoza family, as well as all government and military officers who left the country after December 1977 and who would be found guilty of illegal profits by the courts". The above criticism of the confiscation decree is also valid here. It is not clear who should be extradited, and the meaning of "Somoza family and associates" is not defined.

To erase all Somoza memory, Decree No. 2 of the same date outlawed statues, effigies, plaques or other representations of Somoza or members of the family. Family names for towns, streets, buildings or projects were similarly banned. Existing names will be replaced by those of opponents who lost their lives fighting the dictatorship.

#### Prison conditions

Many former Guardsmen were released following a period of detention, but the majority is still in prison. Most are military, and the rest are civilian collaborators. Such a high number of prisoners presents substantial social and political problems. Apart from the difficulties in providing proper accommodation for such large

numbers, most of them are the breadwinners of their families, who suffer accordingly from their detention.

The mission had occasion to visit one of the main prisons, the "Jorge Navarro Readaptation Centre" (formerly the Modelo prison) located in Tipitapa, near Managua. Some 2,000 prisoners are held there. Men and women are separated. All are suspected of having had close links with the deposed regime. The mission spoke in private and without witnesses with many of the prisoners and their visiting relatives. Visits are held in the open air in a large ground where prisoners and relatives commingle. The protests and complaints of the prisoners referred mostly to prison conditions, including overcrowding of up to 4 prisoners to a cell, having to sleep on the floor, difficulties in receiving gifts from the families (every 15 days), quality of food, family visits only once a month, etc.

Their main concern was the delay in being brought to trial and settling their situation.

Later the mission had a useful meeting with the administrator of the National Penitentiary System, which includes all prisons, Commander of the revolution José Maria Alvarado. He explained that the Penitentiary System assumes that all prisoners can be rehabilitated. As a result of this, several services are already in operation or planned. The "Penal Re-education" service is concerned with prisoner and family welfare and will assist in solving specific problems. Another service is charged with teaching prisoners how to write and read. Upon conclusion of the trials, the authorities plan to transfer convicted prisoners to other prisons where they will be able to do remunerated work. Our impression is that the administrators of the Penitentiary System are honestly concerned with penitentiary problems and will seek the reintegration of the greatest possible number of prisoners into society. Given the circumstances, our impression of the treatment of prisoners was also positive. Although material needs are substantial, to a great extent they reflect the country's general situation. Prison administrators seemed to be doing their best to

improve the situation of prisoners. The mission did not have time to visit other prisons and form a general view of the problem.

The International Committee of the Red Cross (ICRC) has been authorised to visit all places of detention in Nicaragua and has been effectively assisting in the improvement of prison conditions.

### Criminal trials

Only a brief account will be given here about trials against former National Guardsmen and civilian collaborators of the regime, since this aspect is being dealt with separately and more fully in a special report which the International Commission of Jurists is submitting to the government.

On 29 November 1979, a procedure was established for the trial and punishment of former "somocistas" convicted of crimes. On that date, Laws No. 185 and 186 created 9 Special Tribunals and 3 Tribunals of Appeal, each formed by 3 civilian members. At the same time, a Special Prosecution Office consisting of a Special Prosecutor with nine "Specific" Prosecutors, all of them civilians, was established. As pointed out, the provisions for Special Emergency Tribunals under Decree No. 5 of 20 July 1979 were repealed in November 1979. The tribunals were intended to hear cases arising from crimes committed after 20 July 1979, but they never functioned.

A Coordinator General of Special Tribunals has been appointed to supervise the organisation and work of these tribunals. Like the Special Prosecutor he is responsible directly to the Junta. The Special Tribunals are independent of the Supreme Court, which has no jurisdiction over them. The administrators of these tribunals explained to the mission that their existence was justified by an emergency situation. Public opinion demanded that justice be done rapidly and a flexible procedure was necessary which would nevertheless safeguard the rights of the defendants under the Statute on the Rights. Given the scale and urgency of the problem, it was contended that the trials could not be entrusted to the ordinary courts. The

authorities added that swift justice was essential to punish the "somocista" crimes, but also to prevent the people from taking the law into their own hands.

These special tribunals will try only 'somocistas' and upon completion of the trials they will be dissolved. Law 185 defines as 'somocistas' those military officers, government officers or civilian employees of the former regime and their associates who are charged with committing any of the offences listed in the Penal Code either as perpetrators, accomplices or accessories. The law applies to alleged offenders being held on 29 November 1979 when the law was enacted, and to those who may be detained during the life of these tribunals. The only exceptions are minors and extradited persons, the latter being tried by the ordinary courts.

The government Junta consulted the Supreme Court of Justice before enacting Laws 185 and 186. The Court expressed its firm view that no new offences should be created, that existing law should be applied and that the right to a legal defence and to a fair trial should be adequately safeguarded.

On the question of the Special Tribunals, the Supreme Court said that, whilst it understood the present difficulties, it considered that former 'somocistas' charged with offences should be tried by the ordinary courts, and that the number of judges should be increased accordingly, with an appropriate distribution of courts throughout the country.

Under Laws 185 and 186 a preliminary investigation is made by the Interior Ministry before committing a case for trial before the Special Tribunals. The Ministry may order the release of a detainee if no grounds exist for trial. Once a case is committed for trial only the Special Prosecution Office or the Tribunals may order the release of persons in detention.

The defendant may appoint a defender in court, who need not be a lawyer. For economic reasons, defendants frequently do not exercise this right. In such cases the Tribunal appoints a defender, who is then obliged to act and may not withdraw from the case.

The government has imposed on itself a deadline of 20 months to complete the trials. Special Courts first met on 17 December 1979 and by 5 June 1980 had decided 367 cases. Of these 349 persons were sentenced to different prison terms while 18 were acquitted. 126 trials were in progress and over 6,000 detainees were awaiting trial. Each of the nine tribunals now deals with about 20-30 trials per month, and each case lasts on average one month from the beginning of the preliminary proceedings.

The mission was able to attend many examinations of witnesses and read the statements of others, as well as to study many completed or pending files. It also had meetings with members of the tribunals, prosecutors, defence lawyers and on more than one occasion with the Coordinator General, who was very courteous and extended all necessary facilities to the mission.

#### Minors

One final question is that of minors detained for their involvement in 'somocista' crimes. It should be remembered that the National Guard recruited youths over 15 years of age and in more recent times lowered the minimum age to 12. At present, some 200 minors between the ages of 12 and 17 are under detention for having participated in atrocities against prisoners and the population. In the Penal Code at present in effect, criminal liability applies to persons above the age of 15, although in some cases the age limit is

lowered to 10 years of age <sup>(1)</sup>. Under current law, any person over 15 may be brought before the Special Tribunals. However, up to the time of the mission's visit no minors had been brought to trial. The Special Prosecutor explained that a solution was being examined to avoid the prosecution of minors by increasing the minimum age for criminal liability or through some other alternative.

As to persons under 15 years of age, Decree No. 111 of 22 October 1979, amending the Law on Tutelage of Minors, established that they are not criminally liable before the courts. The decree also created the Tutelage Centre for Minors, a branch of the Social Welfare Ministry in charge of the protection, reeducation and rehabilitation of minors suspected of having committed a criminal offence or living in abnormal circumstances such as abandonment or moral deviation.

Under this decree, minors under 15 years of age were transferred early in 1980 to the Rolando Carazo Zeledon Rehabilitation Centre operated by the Tutelage Centre for Minors.

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(1) Article 28 of the Penal Code of 1 April 1974 provides that:

"The following are exempt from criminal liability:

2. Minors under 10 years of age

3. Minors between 10 and 15 years of age, unless it is shown that they have acted with discernment".



### CONCLUSIONS AND RECOMMENDATIONS

Having regard to the situation prevailing in Nicaragua before and since the revolution the mission agreed upon the following conclusions and recommendations:-

(1) The Somoza family ruled Nicaragua from 1934 to July 1979 without interruption. Devoid of popular support, the regime employed different methods to maintain power, including coups d'état, political pacts, constitutional amendments, election rigging and, particularly, a ruthless repression carried out by the National Guard. For 45 years the Guard was headed by a member of the Somoza family. Widespread corruption was another outstanding feature of the regime. Encouraged by the head of State, corruption enabled the Somoza family to build a powerful economic empire.

(2) The Somoza policies resulted in a persistent and systematic denial of the civil, political, economic, social and cultural rights of Nicaraguans, notwithstanding the fact that most of these rights were supposedly protected by the Constitution. Human Rights violations included assassinations, disappearances, torture, illegal detention, rape, denial of legal remedies or protection, attacks on freedom of expression, restriction of trade union and political activities, and harassment and obstruction of the work of the churches.

(3) These human rights violations were not the result of excesses by the National Guard beyond the government's control. On the contrary, they were part of conscious policies originating at the highest levels of power. The government reacted to the people's uprisings in 1978 and 1979 by increasing its attacks on fundamental rights. This led to widespread feelings of hatred within the population towards the "Somocismo" and the National Guard. It also contributed to the fact that large segments of the people joined in the struggle that the Sandinista National Liberation Front was waging against Somoza.



(4) At the present time, these feelings of hatred have provoked demands for severe punishment of those responsible for crimes. In these circumstances there is a danger that the guilty are not properly differentiated from the innocent. Membership of the National Guard has in itself come to be regarded as a sufficient ground for convicting those under trial and imposing on them long sentences of imprisonment.

(5) In this regard, the holding in detention of some 7,000 persons who are suspected of "somocista" crimes creates significant political and social problems.

(6) The present Government of National Reconstruction has acted in accordance with humanitarian principles and has shown a genuine attachment to the observance of human rights. The Government has ratified a number of international human rights instruments, has enacted laws for the protection of these rights, and has been concerned that these rights should be effectively enjoyed. It has also abolished the death penalty. The government's concern to prevent torture and ill-treatment of detainees is manifest. The country is now enjoying freedom, and in general the legal rights declared in the laws can be effectively exercised. There is a vigorous freedom of expression and a free press. Rights of private property were at first overridden but are now safeguarded under the law. The repressive laws of the previous regime have been abrogated.

(7) Considering that after the civil war Nicaragua was a bankrupt country overwhelmed by crisis, the government's efforts in the economic, social and education fields are commendable.

(8) The government is open to dialogue and is willing to discuss in detail suggestions from human rights organisations. At the same time, it has opened its borders to observers from these organisations.

### Recommendations

(9) The government should continue its programme aimed at installing a democratic system in tune with the specific character of the country and its people, in which both the government and the governed will be ruled by law and citizens will freely enjoy their rights, including political rights. In this context, an important priority should be the adoption of a new Constitution guaranteeing rights and freedoms, setting clear boundaries to government powers and providing for the election of local and national authorities.

(10) The government should adopt a policy aimed at guaranteeing and strengthening the independence of the judiciary and ensuring its pre-eminence over the executive in judicial matters and in enforcing respect for human rights. It would be appropriate to disseminate and explain these principles to the population and in particular to the civilian and military authorities.

(11) The government should engage in renewed efforts to resolve the problem of the detained "somocistas". It is suggested that the following or similar measures should be adopted to this end:

- Accelerating the investigation by the Ministry of the Interior of the detainees' past activities. This step could lead to the early release of persons against whom there is no evidence that they were personally involved in unlawful conduct. The possibility of releasing without trial those who had only a secondary and minor involvement in "somocista" crimes could also be examined. The same approach could be adopted by the Special Prosecution Office.
- Conditional release (on bail) of persons under trial, or release on parole of persons already sentenced, should be introduced and applied in cases where it would be warranted by their background and prison conduct. To this end, the provisions of

the Penal Code dealing with conditional and early release might be revised so as to establish a more flexible system adapted to the present situation. It is believed that such measures might help to reduce the problems posed by these large scale detentions and gradually enable the return to their families and the integration into society of those who, although they appear to have had a secondary involvement in the crimes of the Somoza era, no longer represent a security risk.

(12) In the trials before the Special Tribunals of former National Guard members and civilian collaborators of the regime, the Tribunals should convict only where the specific criminal responsibility of the defendant has been established, thus avoiding even indirectly the application of some form of guilt by association.

(13) The possibility could be examined of instituting some form of review or control by the Supreme Court of Justice of the proceedings and sentences of the Special Tribunals. This could eventually include the power to review the sentences.

(14) The government should endeavour to ensure as soon as is practicable that all judicial powers are exercised by the ordinary courts, which are best qualified to administer justice independently and impartially.

Heleno Claudio Fragoso  
Alejandro Artucio

Geneva, July 1980

Appendix I

WITNESSES' STATEMENTS OF ATROCITIES UNDER SOMOZA

Matagalpa - August 1971

Statement by the widow of Bernardino Diaz Ochoa, president of the peasant General Workers' Confederation (Central General de Trabajadores, CGT), who was murdered by the National Guard.

"On 30 August 1971, my husband was dragged from our home in Latran, Matagalpa, in my presence. They beat him and cut his ears and his tongue. I myself was beaten with clubs until I bled at the ears. The following day, I saw my husband in the local jail; he had a blood-soaked handkerchief around his head, but was conscious.

The next day, I was not permitted to see him. I was told that he was dead and that his body was too horrible to look at. He was buried by the National Guard".

(Statement obtained by an Amnesty International mission in May, 1976)

Cases of torture, rape and killing committed  
by the National Guard in 1975

El Naranjo

Eight women were repeatedly raped during one week by a National Guard patrol. Two of them, named Margarita and Julia, were girls of 11 and 13 years old.

Ocotal

Elizabeth Ubeda was raped by Col. Sebastian Lopez, former commander of the National Guard in the department of Ocotal.

Cerro Grande

Clementina Hernandez was raped and then atrociously assassinated by a National Guard patrol launching high-calibre grenades. Eustaquia Hernandez, 70, was also assassinated with Clementina Hernandez. Benigna Hernandez, another family member who had escaped, was later captured and tortured. A finger of her hand was cut off. Pedro Aguilar was brutally tortured, hanged from his thumbs and beaten to unconsciousness. His eyes were punctured and his penis was pierced with a hypodermic needle. He was able to escape but having lost his eyesight he was again captured and then assassinated.

Waslala

National Guard forces repeatedly raped Juana and Francisca Cruz Paiz, whose brothers had been assassinated.

Concentration camps

The Rio Blanco and Waslala camps terrified the peasants. One saying became common: "if taken to Rio Blanco, I will not come back". In this laboratory, crude torture was supplemented by "scientific" torture inflicted by US, Brazilian and Vietnamese advisers (such as officer Lin Ge Vhan). New recruits of the Guard watched these torture sessions and would later practice on prisoners. The Waslala camp was more conventional. Prisoners were kept in mass latrines or immersed in mudholes. Men and women of all ages, including children, were kept in this camp.

(Based on information received at the time from Nicaragua by the International Commission of Jurists)

Translation of a signed open letter from priests of the Roman Catholic diocese of Matagalpa to the National Guard Commander of the Northern Zone, 1 January 1977

1 January 1977

FRANCISCAN FATHERS  
MATIGUAS

Senor Coronel Gustavo Medina,  
Commander General Headquarters,  
National Guard,  
Northern Zone, Rio Blanco

As lovers of peace and order, as this is the essence of Christian life, we permit ourselves to express to you our concern at tragic events which have profoundly affected the communities along the River Tuma and the area that lies between Las Bocanas de Muy Muy Viejo and Bilampi.

- 1) On 9 December, the Mincho-Chavelo patrol, without warning, destroyed the home of Gloria Chavarria in Bilampi and killed her, her three grown-up daughters and two children. All these people were completely defenceless. Four small children were left and they are being cared for by relatives. Afterwards, another patrol arrived. The soldiers ... continued the massacre in the surrounding area.
- 2) Santos Martinez and family: their house in the Ronda de Cuscas was near Bilampi was set on fire and all the members of the family, that is, the mother, father and two youths (reserve

members of the National Guard) were beheaded for no reason at all. The two small children fled.

- 3) Marcelino Lopez was killed by the National Guard a few months ago. Then, the so-called "Black Patrol" (Patrulla Negra) came and set fire to the house nearby and murdered his wife and four members of the family (Chilo and Dario were reserve members of the National Guard). Only two small children escaped.
- 4) Around Marcelino Lopez' house, that is, in the area of the Chapel of San José de Cuscawas, the National Guard had established a colony of eight families. The people, seeing how the "Black Patrol" were acting, all managed to escape and the patrol could only set fire to the houses.
- 5) Nearby was the house of Santiago Arauz. The same "Black Patrol" went and killed the eldest children, Arnolando and Antonio. The rest of the family fled, leaving behind them everything they possessed: their cattle and their land.
- 6) Near Ermita de San Antonio, still in Cuscawas, the same "Black Patrol" recently destroyed practically the whole colony of 18 houses, which the National Guard had established in the previous months, murdering several peasants. A large number of the inhabitants of the colony fled.
- 7) Near Capilla de San Antonio was the house of Santos Blandon. The "Black Patrol" killed him, his wife and a grown-up son, and set fire to the house.
- 8) At the same time, the "Patrulla de Reynaldo" went into action, going to the home of Bonifacio Martinez, killing him and three grown-up sons, although they had shown identity papers given them by other National Guard patrols. The women ran away.
- 9) Juan Arteta's family fled in the same way.

The flight of these people and their children through the areas of El Cacao Rosario and Cuabo has spread fear among the communities through the telling of these tragic events. Prominent members of the communities and others have been voiced their fears before the Colonel Commander of the General Headquarters, Northern Area, saying that if things continue like this they will have to abandon their homes and leave the area. The Cuscawas and Bilampi areas, which have suffered greatly in past months, have now been completely devastated. His Excellency President Somoza a short time ago gave his assurance that the National Guard would work in the defence of public order in the mountain areas and guarantee the safety and livelihood of the peasants. If this wave of terror and fear which currently holds sway in the mountains is not stopped, we shall see a massive exodus to the cities. The expanses of desolate uncultivated lands and of abandoned lands in the mountain region will grow even

larger, corn and other crops will become even more scarce in the cities to which these destitute women and children will take only their sorrow and misery.

Statement by the wife of a "disappeared" person in Alo village,  
Department of Zelaya - January 1977, illustrating the role of  
the Jueces de Mesta

"My name is Adelaida Calderon de Gutierrez, I am 35 years old, married, a housewife and resident in the Community of Alo, Department of Zelaya. ... I am married to José Gutierrez, 60 years old, farmer, by whom I have had four children, namely, Tomas, unmarried 22 years old, Madgaleno, married, 20 years old, Ezequiel, married, 19 years old, and Maria Celina, unmarried, 17 years old, all surnamed Gutierrez Calderon. We live together in a cottage in the Community of Alo situated at four hours' walk from Siuna. The Community is near the River Alo and consists of about 50 houses. My husband was taken away prisoner on the first day of January 1977. He was taken out the house by the Rural Magistrate of Alo, Agustin Gomez, accompanied by a civilian from the district, Cristino Torres by name. It was about 5 o'clock in the morning. The Magistrate said that he had been instructed to deliver him to the battalion at Kaskita, which is about one day's journey from Alo. On the same day, another man from the village called Cristino Lopez was also taken away prisoner. On the evening of the following day, Agustin Gomez, the Magistrate of Alo, returned from Kaskita and went as far as to accuse me saying: "Those people passed through here and, although we are neighbours, you did not let me know". Since I did not understand him, he explained that my husband was accused of having "harboured" (fed) the guerrillas. The only thing that I can remember is that one night, in August 1976, four men dressed in military uniform had passed by. The Magistrate told me that they had caught one of them and that he had declared that they were "harboured" in the houses of Cristino Lopez and José Gutierrez (my husband), which could not be true since they only passed through and we took them for guard patrols. If we had "harboured" them for any length of time, the Magistrate himself, who is our neighbour, would have known about it. As my husband did not come back, my son Magdaleno went to speak to the commanding officer at Siuna, whose name I do not know, together with Manuel Mairena, who was a friend of my husband and known to the commanding officer. The latter replied that "He could not get involved and it was better that Manuel Mairena should not get involved, since it was dangerous to speak up for that man" (my husband). We then applied to Father David Zywiec, Father Augusto Seubert and, in particular, Father Teodoro Niehaus, who approached the military authorities of Waslala and Rio Blanco, but without obtaining any reply.



Since then I have had no further news of my husband, except the following: according to what I was told by a friend in Kaskita called Cosme Diaz, who is now messenger of the patrol, the Kaskita Rural Magistrate said that he had seen my husband being tortured and that he saw him come out of a "pit" together with some other prisoners, with a plastic bag over his face, and that they took them away in a helicopter. After that they poured petrol into the pit where the prisoners had been. People in the district say that the prisoners who had died were left behind in the pit. There is now a patrol which, when it gets together, numbers up to 300 guardsmen quartered at Rosa Grande, where they have occupied the chapel and live in large thatched huts. Rosa Grande is about two leagues away from Alo. ... When the Guard arrives in the village they buy food, paying us 50 pesos for a quintal of kidney beans, 1 shilling (25 centavos) for a maize pancake and 10 pesos for a live hen. Beasts of burden are used for several days without any payment although, in the district, peasants who have no beast of burden pay 40 pesos a day to hire one when they need it.

The people who cause us most trouble are the Rural Magistrates. In order to travel from Alo to Siuna it is necessary to apply to the Magistrate for a paper in which are entered the name of the peasant who wishes to leave the village, the day of departure, where he is going and when he is going to return. Anyone who is asked for this paper and does not have it is taken away prisoner. The Alo Magistrate, Agustin Gomez, kept a "22" rifle and a "45" pistol which he had taken from my husband. Now my sons have "38" weapons with a licence issued by the commanding officer at Siuna. The Magistrate took them away from them and took Tomas away prisoner, but the patrol commander released him and returned the weapons.

A short while ago I learnt that, in October of this year, some members of the Guard, disguised as guerrillas, arrived at Silvestre Landero's place, further on than Rosa Grande, and asked him for food. He gave them banana and pancake. The next day the Guard passed by and tried to accuse him and take him away prisoner, but they could not get away with it because Landero recognised the faces of some of the guardsmen who had passed by in disguise the previous day. This gives me food for thought, because they did the same to my husband and he was unable to defend himself.

It will soon be one year since they arrested and took away my husband José Gutierrez, an honest and hard-working man who has committed no offence and who is known by everybody in the Alo district as a good man who, together with my children, earns us our living honourably, although we live in poverty. I have come to Managua for the purpose of applying to the authorities for information concerning the whereabouts of my husband and for his release. To that end, I have also come to apply for legal aid and support from the Standing Committee for the Protection of Human Rights in Managua



(CPDH). I also wish to state that I feel in danger, I myself and my children who have stayed behind in Alos, since, when travelling to Managua, I did not carry the paper which the Magistrate requires of us. I ask the authorities to protect me. ...I am ready to appear before any authority, civil or military, whether judicial or of any other nature, in order to repeat my present testimony and to request that justice be done".

Managua, this nineteenth day of November, 1977.

(Statement obtained by the Standing Committee for the Protection of Human Rights in Nicaragua (CPDH))

Torture methods used by the National Guard against a prisoner in Managua in June 1978

"I was arrested on Saturday, the 17th of June of this year (1978), at 8.30 a.m. at my workplace without a warrant from a duly constituted authority and brutally beaten. I was taken from my workplace along with the office equipment and my automobile which was undergoing repairs, as well as two cars belonging to clients. I was taken to the Security Offices where they began to torture me physically and psychologically, beating me with clubs and fists, kicking me, beating me with karate chops in the head and ribs, kicking me in the spinal column and subjecting me to intensive interrogations about things I knew nothing about. They also forced me to do physical exercise to the point of exhaustion, and when my stamina completely gave out, I was savagely beaten and they forced me by means of kicks and blows to continue the exercises. During the day they kept me in a cold cell and at night in a room with the air conditioning turned to the coldest temperature. For ten days I was kept without food and they did not give me water. Because of the torture I spent ten days urinating blood and without being able to have a bowel movement. I asked on a Friday that I be taken to the bathroom which they did not allow until Sunday. I urinated only with difficulty and could only defecate in a bucket when they wanted to pass it to me. I still have wounds from the blows and acts of torture on my genitals - I was made to lie mouth down, naked, and then someone stood on my buttocks forcing my genitals against the floor. The psychological torture consisted of being taken out and told that I was going to be shot Friday night. During thirteen days I was kept handcuffed and beaten, kicked and forced to do exercises, all this while I was not being interrogated. Then during each of the interrogation sessions which were long and tiring, I was again beaten and humiliated.

I remained in the basement of the jail three days. After having been there a week, I was made to wash the shirt which they had used as a blindfold, and then it was replaced, soaking wet, so that after three days with it over my eyes, my face was peeling because the soap they had provided was a detergent. Afterwards I had difficulties in urinating and defecating, passing blood in both cases.

I was obliged to sign a declaration without knowing what it contained. I was then taken on the 30th of June to the Police Judge where, under coercion, with false witnesses favourable to the Government, who were inebriated, a declaration was drawn up with which they sent me before the judge. The same day, the 30th, I was transferred to the Central Police prison where I was taken to a common cell where I was again stripped and beaten by the guards who had been put in charge of the cell by the penal authorities.

Once they had stripped me of what I was wearing, I was taken to a cell known as 'the tiny one', which does not have even the minimal conditions of hygiene nor the most basic services. I was kept in the cell from the 30th of June until the 28th of September when I was transferred to the 'Model jail'. During this time I was subjected to threats, psychological tortures, and direct death threats; was deprived of family visits, medical attention, and services of hygiene, such as potable water; was forced to urinate in a common can also used by 10 or 11 other persons, taken to the lavatory when the guard wanted to take me and not when it was necessary, and forced to put up with the need to defecate for up to two hours, and the often unhealthy condition of the can used for urinating.

Throughout all this time I was without drinkable water, without any circulation of air, without any sun, and with water leaking into the cell since it was located between two bathrooms.

During this entire period I never ate the prison food because it was totally unhealthy and of the worst quality, based on rice and beans, and sometimes noodles, all in a decomposed state and wadded into a single mass.

Whenever there was some activity in the street they kept me from going to the bathroom, and they placed guards in the doorway of the cell aiming their weapons at us, loaded and with the safety catch released, ready at any moment to fire, having previously threatened to do so, because they told us that they had orders to fire upon whatever movement or shots they heard. Often while I was in the Central Police Jail I was deprived of visits from my family.

My family was also threatened by the head guard of our prison section; furthermore, my entire family was subjected to a check, as were their houses, which resulted in a complete search by large bands of armed personnel three months later.

I was also under pressure from the constant watch set up at my business, my clients were frightened, and companies with which I was working were under a lot of pressure to fire me. The workers were threatened and I was forced to close the business, thus leaving my family completely without support.

In addition, legal steps involving the right to protection and legal guarantees were presented with no effect during the thirteen days of my unjust and arbitrary detention in the Security Center; the searching of my workplace; the actions against my own physical security; the taking of private goods such as three automobiles and office equipment; putting a wire-tap on the telephone; and the most serious abuse, being subjected to violent torture over a period of thirteen days. I was kept from sleeping, without food, without the elementary means of hygiene, without medical attention, and under subhuman conditions.

Furthermore, the delay in the functioning of justice due to judicial laws, because justice delayed is not justice. I am enduring the consequences of prison even now since my family has been thrown out of the house and I have been thrown out of work.

During all the time that I was handcuffed to the wall, and thrown onto the ground, someone stood on my stomach, chest, arms and legs pressing all their weight against me. Thirty days after leaving the Security Center my spinal column and my head still ache, and I still get fevers and headaches, at times not being able to exercise since my spinal column bothers me".

(Statement obtained by the Inter-American Commission on Human Rights)

#### Assassinations by the EEBI in Matagalpa, August 1978

"On August 30, at approximately 11.30 in the morning in Matagalpa, some thirty soldiers shot their way into my house, known as 'Hotel Soza', and said they belonged to the EEBI, (special forces commanded by General Somoza's son) and ordered all of us in the house towards the back, with our hands in the air, in the direction of the principal room in the house. In the house there was my elderly mother, Tina Arauz de Soza, my brother-in-law Harold Miranda, and the maid, Nubia Montegro, and a guest, Alfredo Lacayo Amador, and the undersigned. As they were coming out they were also being machine-gunned. I was behind my mother and I jumped to the neighboring house and I was able to hide in the trash bin, hidden by the body of my mother.

I spent the whole day hidden in the trash bin, that is 24 hours hiding behind some rotten beans a few feet from the soldiers who continued shooting to break down the doors. I could hear them shouting, 'there were five, where is the other one ?'

And I could see how my mother was butchered after they machine-gunned her, opening her abdomen with a bayonet. My brother-in-law had his genitals cut off and put in his mouth.

They took my mother's clothes, my brother-in-law's watch and even the keys to his car. And from the house they took about 8,000

Cordobas that my mother had hidden under a mattress. After having looted the whole house and not finding any guerrillas or weapons, a member of the guard said, 'We screwed them for the fun of it'.

I was able to leave that day helped by some friends who brought some nurse's clothes so I would not be recognised. A few days later an order of massive arrest was received by the Commander of Police of San Dionisto, where my father was, against the whole Soza family.

Before they came to get us, my father took us to another place".

(Statement obtained by the Inter-American Commission on Human Rights)

#### Air attack on Chinandega, September 1978

"It was Thursday, September 14, when the airplanes began to strafe our houses in Barrio La Libertad. My husband, my 5 year old daughter and I were crouched in a corner of the house, crying and thinking that we would all die right then and there because the bullets and shrapnel were destroying our small wooden house. We decided to go out and seek shelter in a safe place; we left by the kitchen, my husband with our daughter in his arms. A plane flew very low, it seemed as if it was coming straight at us, and fired some rockets which hit my daughter's shoulder and my husband who was carrying her. Everywhere, I looked I could see the heart and intestines of my child; she was in pieces, destroyed. My husband, who had already lost his arm took about thirty steps with blood spurting everywhere, until he fell dead. He had a wound in the chest; he had part of a still-smoking rocket stuck in his leg. The left leg was bare to the bone.

I wanted to lift my child but she was in pieces; I did not know what to do. I ran and I got her little arm and tried to put it back on her, I tried to put everything that was coming out of her back in, but she was already dead. She was my only daughter, and I had a difficult time having her; and I used to dress her up for parties and spoil her. I do not know what I am going to do. I am going to go crazy".

(Statement obtained by the Inter-American Commission on Human Rights)

#### Three statements on Assassinations by the National Guard in Leon in September 1978

(1) "That day (September 15) all the people from the neighborhood (Guadalupe sector) went out on the street screaming: 'The Guard says that they are going to burn everything in this neighborhood, everybody out, leave your houses, the bombing is coming'. Right then and there, several Guard patrols appeared, shooting at the doors and using the rifle butts against the doors that were closed. 'Come out,

you bastards. We have orders to burn all this', the Guards kept saying, showing all the hate and arrogance which characterises them.

All the neighbors came out to the streets, mothers with children in their arms and some old people helped by the young. For a moment we did not know what to do, because we were afraid of crossing the railroad tracks, because on the other side, in the bushes of the empty lots, there was a whole army, with tanks and tractors that made us panic. Nevertheless, we had no alternative and we crossed to the other side of the railroad tracks, rather than being hit by a bomb or the bursts of machine gun fire which the helicopters were hurling against the civilian population.

Suddenly the Guard patrols came out from the bushes and stopped us, saying: 'Let's see, you, the men, give the children to the women and separate', pointing with their guns, indicating that the men should separate. They gathered a group of approximately eight youths and told them, 'you are going to tear down barricades', and they took them away. They formed another group of about 25 men, young and old, and made them lie on the ground, searched them and immediately took them towards the grass; they asked them to kneel and just one guard with all the hate and sadism, emptied his deadly machine gun on them.

The names and ages of the murdered young men are the following:

Carlos Hernandez Rivas	19	(two children)
Gonzalo Hernandez Rivas	30	(three children)
Miguel Centeno	32	(six children)
Julio Paiz Barrera	25	(three children)
Flavio Paiz Barrera	18	
Clemente Paiz Barrera	23	
Pedro Vargas Alvarez	29	(a daughter)
Luis A. Martinez Alvarado	24	
Hilario Martinez Ramirez	50	(seven children)
Julio Lezama Alvarez	30	
Salvador Vilchez Poveda	23	(three children)
Felix Pedro Vilchez Poveda	19	
Ernesto Luna Ruiz	22	
Gonzalo Luna Ruiz	20	
Porfirio Paiz Altamirano	29	
Victor Torres Pineda	19	
Pedro Perez Padilla	23	(one child)
Luis Vargas Parajon	24	(one child)
Roger Gonzalez Bermudez	29	(three children)
Jesus Padilla Reyes	19	
Martin Coca Salazar	40	(nine children)
Geronimo Alvarado Reyes	24	(three children)
Wilfredo Martinez	24	(two children)".

(Published by the Commission of the Churches on International Affairs/World Council of Churches, Geneva, July 1979)



(2) "At around 4 o'clock in the afternoon of Friday the 15th of September, after the aerial bombing which the citizens of Leon had suffered, a National Guard squadron approached, led by a tank that was shooting at the houses half a block north of the Fajas William Sector, and behind that tank there were groups of National Guardsmen knocking on the doors so the people would open them and those who did not open their doors had their houses machine-gunned. They went on like that until they came to my house, which already had a big hole from a tank shot. When they knocked on the door, I opened it because I was afraid and because they were ordering me to open it saying, 'Open, you son of a bitch'. Once the doors were opened four soldiers came into my house. All the people in the house gathered in the living room. Then the soldiers ordered the men and women to separate, then they ordered everyone out in the street, men and women, but at the door they stopped the women.

They took the first three young men to a wall on the other side of the street, with their hands over their heads and they killed them right then and there. Then they made three other young men leave, among them my 18 year old son, and when they were coming out of the door with their hands over their heads, the soldiers that were in the street machine-gunned them about their face and chests. Efrain was shouting, 'Do not kill me, do not kill me'. Miraculously, I was able to save myself and my five year old child whom I had by the hand. Immediately the guards who were inside the house ordered me and the others to stand next to the wall, pointing at us with their machine guns and one of the guards told me that they were not going to kill me because I resembled his wife, but to tell him where I had the weapons, and I repeated that I did not have any weapons in the house, and all the people there belonged to the same family even the one they had killed in the door of the house, whose name was Efrain, who was my son.

They then proceeded to search the house and to go through the furniture and every other object in every corner of the house, not finding any weapons and then finally the guard left my house".

(Statement obtained by the Inter-American Commission on Human Rights)

(3) "During an aerial bombing, the National Guard broke down the doors of Arnulfo Cepeda's family home in Leon and; ordered everyone into the patio. The women, after begging, were allowed to remain in the house. The men went to the patio. A military official then ordered the men, one by one, to go back into the house. Emilio Herrera, 16 years old, got up from where he was kneeling, made the sign of the cross, and as he was stepping through the doorway, they shot him in the back of the neck. Next they ordered Antonio Gonzalez to step up. They shot him in the jugular vein. The three other boys, seeing what was happening, ran to the back of the patio where they were shot ... They shot Juan Rodriguez and then shot at Arnulfo and his 14 year old son, Beniot, who were kneeling embracing one another. The shots hit some glass and the two pretended they

were dead ... Before leaving, the Guard went to the room of two old men and killed 70 year old Carlos Mardiaga, who was deaf, in his bed and 65 year old Juan Castillo in a chair.

(Statement obtained by the Nicaraguan Standing Committee on Human Rights, and published by the Commission of the Churches on International Affairs, Geneva, July 1979)

Murder and looting by the National Guard in Esteli,  
September 1978

"Dr. Uriel Morales, the middle-aged owner of several businesses in Esteli gave the following account of his experiences: By 18 September, about 55 people, including 23 young children, had taken refuge in the home of Morales family, one of the larger private residences in Esteli. At about midday on the 18th, 40 year old Senora Paula Ubeda de Morales, a teacher and director of the Alfonso Cortes School, left the house accompanied by an elderly woman servant and Oscar Rugama, the young son of a friend, intending to buy powdered milk for the children at a nearby pharmacy. Suddenly, without warning, the three were shot in the legs by a National Guard soldier who then walked towards them and shot them dead; Mrs Morales had been carrying a large white flag.

It was impossible to recover the three bodies until 22 September. On that day Dr. Morales and his friends and neighbours dug a grave for the three in the garden of his house. Dr. Morales and his daughter left the house shortly before the burial was scheduled to take place. While they were gone, National Guard troops forced their way into the garden and compelled the six mourners to hand over their money and valuables. They were then told they were all to end up in the grave they had just dug. The troops stepped back and sprayed the area with submachine gun fire.

Humberto Lacayo, a friend of Dr. Morales, was the only survivor. He fell into the open grave and was shielded by the bodies of his friends. He lay motionless until the guard left. Dr. Morales and his daughter returned to find five dead bodies, including that of his 14 year old son Fernando. Sr. Rodolfo Espinoza Briones, brother of the murdered priest Father Espinoza, was dead. The mother of the Rugama boy, Delfina Martinez, had made coffee for the mourners. She was killed with her remaining children, a girl and a boy, Rosario and Jorge. Dr. Morales himself pulled Humberto Lacayo from among the bodies heaped in the grave. The surviving members of the Morales family subsequently fled to Honduras. Dr. Morales said that only a few days after his departure the man he had asked to watch his house was murdered by the National Guard. The Guard then sacked and burned Dr. Morales' home and his businesses".

(Statement obtained by Amnesty International in Honduras)

Murder and rape by the National Guard in Veracruz village,  
October 1978

This statement was taken in person by the undersigned José Esteban Gonzalez Rappaccioli, National Coordinator for the Nicaraguan Standing Committee on Human Rights (CPDH); the name of the person who made the statement has been withheld for the sake of his personal safety. The facts are as follows: On Monday, 2 October, at approximately 5.30 pm four persons were travelling in a red Datsun van, bound for the town of Veracruz which is situated six kilometres to the left of the 14 1/2 kilometre sign on the road to Masaya. The travellers were: the driver, Adan Martinez Garcia, 31 years, married, chauffeur; Humberto Rodriguez Martinez, 20 years, unmarried, book-keeper with the Batahola highway authority; Silvia Antonia Rodriguez Martinez, 17 years, unmarried, student at the Managua Teacher Training College; and William Rodriguez, 13 years, pupil in the sixth grade at the Maximo Jerez School. At the very entrance to Veracruz, a lady asked them to give her a lift to La Concepcion (Masaya District), to which they agreed. On the way to La Concepcion, and a little beyond Ticuantepe, the van broke down and as it could not be repaired they left it at a nearby house and decided to return home to Veracruz. That was at approximately 6.30 pm. Shortly afterwards, they ran into a patrol, coming from Ticuantepe in the direction of La Concepcion, which stopped them and, although they showed their employment papers and despite their pleas, they were arrested and taken off in the direction of La Concha. When they reached an isolated hill, they stopped and everybody was made to get out. They put Humberto Rodriguez Martinez up against a wall and then fired several shots at him with a Garand which shattered his face and one of his arms as well as other parts of his body. They then machine-gunned him. They next ordered Adan to throw the body into a ditch. Adan told them he would but pleaded with them not to kill him. At that, they fired at him, wounding him seriously. They then fired at the boy, William Rodriguez, but the bullet grazed his chin and he pretended that he had been killed, rolling down to the bottom of the ditch where they shot at him again but without wounding him. Adan, who was only wounded, tried to stand up and was praying aloud. When they saw that, the guardsmen shot him again, wounding him fatally.

When they wanted to carry off the girl, Silvia Antonia Rodriguez, she begged them to kill her there on the spot but the guardsmen took her away to an unknown destination. The following day, the relatives of the youths who had been killed heard what had happened through William and went to fetch the bodies, which were interred on the morning of Wednesday, 4 October. After much searching, the relatives found the body of the girl, Silvia Antonia in the Retiro morgue. She had been raped, her hair cut, her breasts cut and her throat slit; her whole body was bruised and riddled with bullets. She was interred today 9 am.

(Statement received by the International Commission of Jurists from the Nicaraguan Standing Committee on Human Rights (CPDH))



Savagery and murder by the National Guard in Esteli, April 2, 1979

"My husband Julio Cesar Lopez Lopez, 30 years old ... and his brother Jesus Lopez Lopez 34 years old ... were taken captive on the way to their father's farm. The Guard removed them from their pick-up and beat them with their rifles ... The next day, my husband's other brother, Doroteo, went to the command post in Esteli and asked about their whereabouts. The answer he received was a death threat. The Guard said they were guerrillas and if he did not leave immediately they would kill him too ... That same day the bodies ... were discovered in a field ... later ... I went to the morgue to identify them. My husband had been castrated. There was a large cavity where his genitals had been, his legs had been completely broken, he had a deep wound in his neck and another deep laceration that criss-crossed his ribs. His body was covered with countless bullet holes, both hands were fractured. His arms were tied and his face showed signs of being dragged over the ground. The body of my brother-in-law showed the same kinds of wounds ... and his boots had numerous knife or bayonet punctures in them.

The Colonel would not let us have a wake. We had to bury them immediately. My husband leaves two children orphans and I am five months pregnant. My brother-in-law leaves 10 children".

(Statement obtained by the Nicaraguan Standing Committee on Human Rights)

Murder of hospital staff and patients in Esteli, April 1979

On the night of 12 April, five doctors, a nurse and approximately 40 patients were murdered by National Guardsmen in the San Juan de Dios Hospital in Esteli. Among those who were killed were Dr. Eduardo Selva, Dr. Alejandro Davila Bolanos\*, director of the hospital, and nurse Clotilde Moreno. National Guardsmen who had just taken that sector of the city from the Sandinistas, entered the hospital and took away the doctors, the nurse and the patients, some with intravenous feeding bottles still attached to their arms, to be murdered.

(From an Amnesty International report)

Rape and murder in Managua, 3 May 1979

On 3 May National Guardsmen entered the homes of Juan Guillen and Julio Castillo in Managua. The wife of Juan Guillen, Aurobelia Gonzalez de Guillen and her 14 year old daughter were raped and

\* When working in the same hospital, he had been arrested in September 1978; once freed, he described the tortures to which he had been subjected and gave the names of his torturers, all members of the National Guard.

bayonnetted to death. Juan Guillen was taken outside and killed. A 14 year old son and two other children aged 7 and 4 managed to escape. Julio Castillo and his wife Wilma Gonzalez de Castillo (sister of Aurobelia Gonzalez) were both killed. Their 3 year old child was critically wounded. Another child escaped.

(From an Amnesty International Report)

## **Statute on the Rights of Nicaraguans**

The Junta of the Government of National Reconstruction of the Republic of Nicaragua, considering:

1. That the Somoza dictatorship's systematic disregard for the fundamental rights of the Nicaraguan people and for individual human rights led to acts of barbarism which outraged the conscience of humanity; and

2. That the basis for freedom, justice, and peace lies in the recognition and affirmation of fundamental human rights, both individual and collective, for which it is essential that these rights be protected by the revolutionary government;

Therefore in accordance with its vested authority decrees the following *Statute on the Rights of Nicaraguans*.

### **Title I: Rights of the People**

1. The Nicaraguan people has the right to free and full choice in determining its political status and providing for its own economic, social, and cultural development.

The state shall guarantee by law the direct participation of the people in the basic affairs of the country, on both a national and a local level.

2. To accomplish its goals, the Nicaraguan people has the right to freely dispose of its natural wealth and resources, without prejudicing those obligations incurred by international cooperation based on the principle of mutual benefit, solidarity, and international justice. In no case may the Nicaraguan people be deprived of its own means of subsistence.

## **Title II: Individual Civil and Political Rights**

3. All persons are equal before the law, and have the right to equal protection. There shall be no discrimination on the basis of birth, race, color, sex, language, religion, opinions, origin, economic position, or any other social condition.

It is the duty of the state to use all the means at its disposal to remove any obstacles which impede real equality of citizens and their participation in the political, economic, and social life of the country.

4. The state shall respect and guarantee the right recognized in this Title to all persons who are within its territory and subject to its jurisdiction. Foreigners shall not be able to intervene in the political affairs of the country.

5. The right to life is inviolable, and inherent in the human person. In Nicaragua there is no death penalty.

6. All persons have the right to respect for their physical, psychological, and moral integrity. Penalties shall not be imposed on anyone except the delinquent person.

No one shall be subjected to torture, nor to punishments or treatment which are cruel, inhuman, or degrading. It shall not be permitted to establish a punishment or punishments which, individually or together, last more than thirty years.

7. No one shall be subjected to servitude, nor constrained to carry out forced or obligatory labor. The law shall regulate obligatory labor and services that may be demanded by virtue of judicial decision. These include conditional freedom, military or civilian service, service imposed in cases of danger or disasters which threaten the lives or well-being of the community, as well as labor or service that is part of normal civic obligation.

8. Every individual has the right to personal freedom and personal security. No one may be subjected to arbitrary arrest or imprisonment, nor deprived of their freedom, except for legally established cause and in conformity with a legal proceeding. Consequently:

(1) Arrests may be carried out only under a written warrant from a competent judge or from the authorities expressly authorized by law, except in cases of *flagrante delicto*.

(2) All persons arrested shall have the right:

(a) To be informed and notified promptly of the reason for their arrest and of the accusation, denunciation, or charges against them;

(b) To be brought before the competent authority within twenty-four hours, or else set free;

(c) To submit a writ of *habeas corpus*;

(d) To be treated with the respect worthy of the inherent dignity of a human being;

(e) To obtain reparations in case of illegal arrest or imprisonment.

9. Persons awaiting trial shall be separated from convicted prisoners, and women from men, each receiving adequate treatment for their circumstances. Children may only be brought before Courts for Minors, and in no case shall be sent to common prisons. There shall be adaptation centers for them, under the auspices of the Ministry of Social Welfare.

10. The essential objective of the prison system shall be the reform and social rehabilitation of the convicts, seeking to incorporate them into the productive process.

11. All accused persons shall have the right, on an equal basis, to the following minimum guarantees:

(a) Not to be presumed guilty unless and until a formal sentence has been handed down against them;

(b) To be tried without delay by a competent tribunal. The judicial process must be public, although in some exceptional cases the press and the general public may be excluded from all or part of a trial for reasons of morality, public order, or national security;

(c) To be guaranteed the right to participate in the trial from the beginning;

(d) To be given the opportunity to really and effectively intervene in the proceedings, and to have adequate time and means to prepare their defense. If the defendant in his or her opening statement does not designate a defense counsel and is not an attorney, an official defense counsel shall be named immediately;

(e) To have a defense counsel named in cases where no counsel could be found after a public request was made;

(f) To intervene in the presentation and examination of all types of evidence before any verdict is handed down;

(g) Not to be forced to testify against himself or herself, nor to confess guilt;

(h) Not to have a prison sentence handed down against him or her unless all elements of the crime have been fully proven and a grave presumption of guilt exists; and to have the prison sentence handed down within ten days after the warrant for arrest;

(i) All persons found guilty of crimes have the right to appeal the verdict and sentence imposed on them to a higher court, as prescribed by law;

(j) Not to be tried again for a crime for which one has already been convicted or acquitted;

(k) Not to be removed from the judge having jurisdiction.

12. No one shall be convicted for acts or omissions that were not crimes under national or international law at the time they were committed. Nor shall any punishment be imposed which is more serious than the one applicable at the time of commission of the crime. If subsequent revisions of the law provide for the imposition of a lighter punishment than the one in effect at the time the crime was committed, the accused shall benefit from that revision.

None of the provisions of this article shall be construed as opposing the trial or conviction of a person for acts or omissions which at the time of commission were considered crimes according to the general principles of law recognized by the international community.

13. Trial by jury shall be provided for crimes specified by the law.

14. No one shall be imprisoned solely for the fact of being unable to fulfill an economic obligation, no matter how it may have been incurred.

15. All persons who are in Nicaraguan territory legally shall have the right to move about freely, and to freely choose their place of residence. Nicaraguans shall have the right to enter and leave the country freely.

16. The right to asylum in Nicaragua is guaranteed to any person being persecuted for fighting for the cause of

peace and justice, or for the recognition or extension of the human, civil, political, social, economic, and cultural rights of individuals or groups. If for any reason it is decided to expel an exile, he or she may never be sent to a country where he or she might be persecuted.

Extradition shall be regulated by the law and international treaties, and shall never be carried out in cases of political crimes or common crimes linked to political acts as determined by Nicaraguan standards. For the purposes of extradition, genocide shall not be considered a political crime.

17. Every human being has the right in Nicaragua to recognition of his or her judicial personality and capacity.

No person shall be obliged to do anything not required by law, nor prevented from doing anything not prohibited by law. Consequently, only on the basis of the law may personal or familial debts be imposed, except for the duties of conduct and abstention required by human solidarity, the duty to behave in a fraternal manner, respect for the rights and freedoms of others, and the need to satisfy the just demands of morality, public order, and general well-being in a democratic society, even when such duties are not expressly established by law.

18. No person shall be subjected to arbitrary or illegal interference in their private life, their family, their place of residence, their correspondence or communication, nor to attacks on their honor and reputation; all shall have the right to protection by the law in the case of such interference or attacks. In particular:

(1) A person's residence and all other private quarters are inviolable, and may only be searched on the written order of a competent judge, or to prevent the commission or concealment of crimes, or to avoid harm to persons or goods, subject to provisions of the law.

(2) Private documents and communications are inviolable. The law shall establish cases and procedures for the examination or confiscation of private documents, financial books, and related documents when it is indispensable to do so in order to clarify matters brought before courts of justice, or for fiscal purposes.

19. No one may be subjected to coercive measures that might impair their freedom of thought, conscience, and

religion, nor their right to have or to adopt the religion or beliefs of their choice, nor their freedom to manifest those beliefs individually or collectively, in public or in private, through worship, celebration of rites, practice, or preaching.

20. Freedom of information is one of the fundamental principles of authentic democracy. Therefore, it cannot be subjugated, directly or indirectly, to the economic power of any group.

21. All persons have the right to freedom of expression; this right encompasses the freedom to seek, receive, and distribute information and ideas, whether orally, or in writing, in printed or artistic form, or by any other means chosen. The exercise of these freedoms brings with it duties and responsibilities, and consequently may be subject to certain necessary formalities, conditions, and restrictions specified by law:

(a) In the interest of national security and integrity, public safety, and the national economy;

(b) For the preservation of order and prevention of crime;

(c) For the protection of the health, moral well-being, or the dignity of persons and the reputations or the rights of others;

(d) To prevent the release of confidential information or to guarantee the authority and impartiality of the Judicial Power.

22. Any propaganda against peace, and any apology for national, racial, or religious intolerance, is prohibited.

23. The right of peaceful assembly is recognized. The right to demonstrate publicly shall be regulated by police ordinances.

24. All persons have the right to freely associate with others for legal purposes.

25. All citizens shall enjoy without restriction the following rights:

(a) To organize political parties or groups, or to belong to them;

(b) To participate in the direction of public affairs, directly or through freely elected representatives;

(c) To petition in writing, individually or collectively, to



any public functionary, official entity, or public power, and the right to obtain prompt resolution of such matters;

(d) To vote and to be elected, and to have generally equal access to public office.

26. All persons have the right to citizenship. No one shall be arbitrarily deprived of their citizenship, or of the right to change it.

27. Property, whether individual or collective, fulfills a social function. It may therefore be subject to restrictions in regard to ownership, benefit, use, and disposition, for reasons of security, public interest or utility, social interest, the national economy, national emergency or disaster, or for purposes of agrarian reform.

### **Title III: Individual Economic, Social, and Cultural Rights**

#### **Section I: Economic Rights**

28. The law, taking into account as necessary the rights involved and the national economy, shall determine to what extent the economic rights recognized in this statute shall be guaranteed to persons who are not Nicaraguans.

29. Work is a right and a social responsibility of the individual. It is the duty of the state to obtain full and productive employment for all Nicaraguans under conditions which guarantee the fundamental rights of the individual.

30. All persons have the right to enjoy equitable and satisfactory conditions of work, which should assure them, in particular:

(1) Remuneration which provides the worker with at least:

(a) A salary or wage equal to that paid for equal work under the same conditions of efficiency, and adequate to the social responsibilities of the worker, without discrimination for reasons of sex;

(b) Decent conditions of existence both for the worker and for his or her family.

(2) Health and safety on the job.

(3) Equal opportunity for all to be promoted to the

appropriate job classification, with no limitations other than time of service and capability.

(4) Rest, the enjoyment of free time, reasonable limitation of the hours of work, and periodic paid vacations that provide effective rest, as well as pay for holidays.

Nothing in this article shall be construed as authorizing employers to deny workers rights or guarantees they had previously obtained, on the pretext that they are not mentioned or are mentioned less prominently in this article.

## Section II: Social Rights

31. With the aim of promoting and protecting the economic and social interests of Nicaraguans, the following are guaranteed:

(1) The right to establish and promote popular, communal, neighborhood, rural, and other organizations, as well as labor or professional associations.

(2) The right to establish trade unions and to join them, subject only to the statutes of the unions themselves.

(3) The right of unions to form national federations or confederations, and the right of these to establish or affiliate to international trade union organizations.

(4) The right to establish and promote labor and production cooperatives.

32. The right to strike is recognized for all workers; it is to be exercised in conformity with the laws.

33. Every person has the right to social security; to gain satisfaction of the indispensable rights to dignity and to the full development of one's personality; to an adequate standard of living for oneself and one's family, which assures health, well-being—in particular food, clothing, shelter, medical assistance, and necessary social services; as well as social benefits in the event of unemployment, illness, maternity, physical handicap, loss of one's spouse, old age, death, orphanhood, occupational injury, or other cases of loss of one's means of subsistence.

34. The family is the natural unit of society and has the right to protection by the society and the state.

Marriage is based on the voluntary agreement of the woman and the man. In family relations there exists

absolute equality of rights and responsibilities between man and woman.

In the event of dissolution of a marriage the necessary protection of the children shall be assured.

Parents have the duty to be concerned with the education of their children, to prepare them for socially useful work, and to educate them as proper members of the society. Children are obligated to help and aid their parents.

35. Every child has the right, without any discrimination, to the means of protection that their condition as a minor requires, both on the part of the family as well as the society and the state.

Parents have the same responsibilities toward children born out of wedlock as toward children born within it. All personal characterizations with regard to the nature of one's filial legitimacy are prohibited. The right to investigate paternity is established.

36. The state shall adopt special measures for the protection and assistance of children and adolescents, without any discrimination for reasons of legitimacy or any other condition. Children and adolescents are to be protected against any kind of economic or social exploitation. Employment of children or adolescents in jobs that are damaging to their health or morals, that endanger life, or that can prejudice normal development or the schedule of mandatory schooling, is prohibited.

37. The state shall concede special protection to mothers during an adequate period of time before and after giving birth. During this period, mothers who work must be given time off with pay, and with adequate provision of social security.

The working mother shall have the right to have her minor children cared for by the state while she is at her place of work.

38. The state recognizes the fundamental right of Nicaraguans to be protected against hunger, and shall set forth programs for:

- (1) Infant nutrition.

- (2) Eradication of chronic malnutrition, assuring adequate availability of food and the equitable distribution thereof.

(3) Nutritional education, aimed at improving the diet through information about the principles of nutrition.

39. Nicaraguans have the right to enjoy the highest levels of physical and mental health. The state has an obligation to adopt measures to achieve:

(1) A reduction in mortality at birth and in infant mortality, as well as the healthy development of children.

(2) Improvement, in all aspects, of occupational health and of the environment.

(3) Prevention, treatment, and eradication of epidemic and endemic diseases, along with occupational and other ailments.

(4) Creation of conditions to assure everyone medical aid and services in the event of illness.

(5) Intensive and systematic development of sports through the creation of all types of facilities.

### Section III: Cultural Rights

40. (1) Every person has the right to an education.

(2) Primary and secondary instruction shall be free, obligatory, and accessible to all. Basic education must be promoted for those persons who have not received or finished their primary instruction. Secondary education shall include technical and professional instruction, with the aim of preparing every person for skilled work and providing to all an understanding of Nicaraguan reality. There shall be a close relationship between education and work.

Higher education must also be made equally available to all, based on the capabilities of each person, by the appropriate means and in particular through the continuing establishment of free instruction.

(3) The elimination of illiteracy is declared to be of social interest and is the responsibility of all Nicaraguans.

(4) The freedom of parents to choose for their children schools or colleges different from those established by the state shall be respected, so long as those institutions satisfy the minimum norms prescribed or approved by the state regarding teaching materials, and adhere strictly to the national educational plans.

The right of individuals or entities to establish and direct teaching institutions shall be respected, on the condition

they meet the requirements outlined in the preceding paragraph.

The state shall have supervision over all educational centers in the country. This supervision shall be carried out consistently so as to assure compliance with state educational policy and the national plans and programs of studies.

(5) The fees to be charged by private schools shall be approved by the state. In no case shall centers of learning be operated for profit.

(6) The state is obligated to guarantee meals at school, clothing, shoes, school supplies, and school books for all children who need them.

41. Academic freedom and freedom for research are guaranteed as essential principles of education in all spheres.

Educational, administrative, and economic autonomy are guaranteed to the National Autonomous University of Nicaragua (UNAN), in order that it may respond to the needs of the transformation of the country, within the national development plans. The state shall provide UNAN with the necessary economic support to develop a creative curriculum and scientific research adequate to the national reality.

42. In order to coordinate all higher education in the country, there shall be a National Council for Post-Secondary Education, comprising all the institutions on this level, and presided over by the Ministry of Education.

43. The National Autonomous University of Nicaragua shall be the only facility acting in the name of the state to decide on the recognition of diplomas and titles of higher education granted by foreign institutions. The law shall establish standards for the professional accreditation of Nicaraguan nationals and foreigners who have graduated from foreign institutions, on the basis of reciprocity in accordance with the international agreements regarding such matters.

44. The state shall take exclusive charge of the training of preschool and primary-school teachers. The training of teachers for secondary education shall also be a priority task of the state.

45. All persons have the right to participate in cultural life, and to enjoy the benefits of scientific progress and its

applications. The state shall respect the indispensable freedom for scientific research and creative activity. It shall guarantee protection of the moral and material interests of persons engaged in the production of scientific, literary, or artistic works.

46. The state shall have an obligation to adopt necessary measures for the preservation, development, and dissemination of science and culture, which should be oriented toward the full development of the human personality and its sense of dignity, the strengthening of respect for human rights, and the transformation of Nicaraguan society.

The historic, cultural, and artistic heritage of the nation shall be protected by the state by means of the necessary laws.

#### **Title IV: Final Dispositions**

47. No provision of this statute shall be construed as conceding to the state, to a group, or to an individual, any right to undertake and carry on activities or commit illegal acts which tend to suppress any of the rights and freedoms recognized herein, or restrict them more than stipulated herein.

Excepted are legal measures aimed at punishing crimes committed, or at the recovery of goods stolen or acquired illegally, under the dictatorial Somoza regime.

48. The exercise of the rights and freedoms of each person is inseparable from the fulfillment of his or her duties to the community.

49. In exceptional situations or cases of emergency which endanger the life or the stability of the nation, such as international or civil wars or the danger of the outbreak thereof; because of public disasters or wars; and for reasons of public order and security of the state, the Junta of the Government of National Reconstruction may adopt provisions which suspend, in part or all of the national territory, the rights and guarantees set forth in this statute. Such suspension may be imposed for a limited period of time, subject to extension in accordance with the prevailing situation in the country.

The provisions of this article do not authorize any

suspension of the rights and guarantees set forth in the following articles: Article 6; Article 7 in regard to servitude; Article 12, paragraph 1; Article 14; Article 17, paragraph 1; Article 19; and Article 26.

50. All persons whose rights or liberties, as recognized in this statute or in the Fundamental Statute promulgated July 20, 1979, have been violated, may seek legal redress in conformity with the law.

## **Title V: Temporary Dispositions**

51. For persons under investigation for crimes specified in the Penal Code and in international conventions, committed during the Somoza regime, the exercise of the rights and guarantees set forth in this statute is suspended for a period of sixty days beginning today.

This suspension does not affect the rights and guarantees listed in Article 49 of this statute.

52. This statute shall go into effect today, from the time of its publication by any means of collective communication, and shall also be published later in the official daily.

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Issued in the city of Managua on the twenty-first day of the month of August, 1979, *Year of National Liberation*.

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**ISBN 92 9037 001 4**



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## Human Rights in Guatemala

*A report of a mission by Donald T. Fox, New York attorney, published by the International Commission of Jurists, Geneva, September 1979, 66 pp. Available in english or spanish. Swiss Francs 4 or US\$ 2.50, plus postage.*

Mr Fox's report outlines the historical, social and economic factors which have resulted in "a large area of institutionalised exploitation and injustice"; gives an account of the prevailing violence by right and left wing forces, the greater part being by military and clandestine para-military forces acting in the "narrowly perceived economic interests" of dominant groups; and commends the recent proposals of the National Council of Economic Planning for a development strategy to achieve a just and stable social peace.

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## The Trial of Macias in Equatorial Guinea

*Report of an observer mission by Dr Alejandro Artucio, legal officer of the International Commission of Jurists, published by the International Commission of Jurists and the International University Exchange Fund, Geneva, December 1979, 70 pp. Available in english or spanish. Swiss Francs 4 or US\$ 2.50, plus postage.*

The report includes a description of the nature of the repression under Macías and the economic and social conditions of the country resulting from it. Criticisms are made of certain legal aspects of the trial, but the observer found most of the charges fully proved.

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## How to Make the Convention against Torture Effective

*Second edition published by the International Commission of Jurists and the Swiss Committee against Torture, Geneva, 1980, 60 pp. Swiss Francs 3, plus postage (25% reduction for orders of 10 or more). Available in English, French or Spanish*

This pamphlet argues the case for an Optional Protocol to the proposed Convention against Torture now under consideration by the UN Commission on Human Rights. It contains in full the text of the Draft Optional Protocol and the original texts of the Swedish Draft Convention and the International Association of Penal Law's Draft Convention. The Draft Optional Protocol proposes a regular system of visits by delegates of an international committee to any place of interrogation, detention or imprisonment in a member state. The advantages of this procedure over other means of implementation are explained.

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## ICJ Newsletter

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