

TEXT OF TELEGRAM 85MANAGU006428

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FM AMEMBASSY MANAGUA
TO SECSTATE WASHDC IMMEDIATE 7366
INFO CONTAOORA COLLECTIVE
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USLO CARIBBEAN
RUEOSBA/24COMPW/001
USCINCLANT NORFOLK VA

UNCLAS SECTION 01 OF 06 MANAGUA 6428

ROME FOR EMBASSY VATICAN (INFO)

E.O. 12356: NA
TAGS: PHUM, PGOV, NU
SUBJECT: TEXTS OF LEGAL RIGHTS AND GUARANTEES SUSPENDED BY
SANDINISTAS OCTOBER 15

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1. THIS MESSAGE PROVIDES: THE TEXT OF THE OCTOBER 15
GON DECREE SUSPENDING 13 ARTICLES OF THE SANDINISTA "BILL
OF RIGHTS" (DERIVED FROM DECREE 52 OF AUGUST 21,
1979); AND THE TEXTS OF THE ARTICLES THAT WERE SUSPENDED
(INFORMAL ENGLISH TRANSLATION AND SPANISH TEXT).

2. THE SUBSTANTIVE TEXT OF THE OCTOBER 15 DECREE
(NO NUMBER ANNOUNCED IN THE PRESS) FOLLOWS.

PAGE NO. 1

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BEGIN TEXT:

-- ARTICLE 1: IN ALL THE NATIONAL TERRITORY THE RIGHTS AND GUARANTEES CONTAINED IN THE ARTICLES 8, 11, 13, 15, 17, SECOND PARAGRAPH, 18, 20, 21, 23, 24, 31, 32, AND 50 OF DECREE NUMBER 52 OF AUGUST 21, 1979, AND ITS AMENDMENTS ARE SUSPENDED.

-- ARTICLE 2: THE PRESENT SUSPENSION OF RIGHTS AND GUARANTEES IS FOR ONE YEAR.

-- ARTICLE 3: THE PRESENT DECREE REPEALS DECREE NUMBER 79 OF APRIL 19, 1985, AND WILL ENTER INTO FORCE UPON COMMUNICATION IN ANY MEDIUM OF PUBLICATION, WITHOUT PREJUDICE TO ITS LATER PUBLICATION IN THE OFFICIAL DAILY "LA GACETA." END TEXT

3. THE TEXTS OF THE 13 ARTICLES SUSPENDED BY THE ABOVE QUOTED DECREE FOLLOW (INFORMAL TRANSLATION):

-- ARTICLE 8: EVERY INDIVIDUAL HAS THE RIGHT TO PERSONAL LIBERTY AND SECURITY. NO ONE WILL BE SUBMITTED TO ARBITRARY ARREST OR IMPRISONMENT, NOR BE DEPRIVED OF FREEDOM, EXCEPT IN CASES SPECIFIED BY LAW, AND WITH UNCLASSIFIED UNCLASSIFIED

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ARRANGEMENT FOR LEGAL PROCEEDINGS.

1. AN ARREST WILL ONLY BE EFFECTED BY VIRTUE OF A WRITTEN ORDER FROM A COMPETENT JUDGE OR OTHER AUTHORITIES AS AUTHORIZED UNDER THE LAW, EXCEPT IN THE CASE OF FLAGRANT OFFENSE.

2. ALL THOSE ARRESTED WILL HAVE THE RIGHT:

A) TO BE INFORMED AND NOTIFIED WITHOUT DELAY OF THE REASON FOR DETENTION AND THE ACCUSATION FOR WHICH DENOUNCED OR CHARGED.

B) TO BE BROUGHT BEFORE THE PROPER AUTHORITIES WITHIN 24 HOURS OR TO BE SET FREE;

C) TO SELF REPRESENTATION;

D) TO BE TREATED WITH RESPECT AS BECOMING INHERENT HUMAN DIGNITY.

E) TO REPARATIONS IN THE EVENT OF AN ILLEGAL ARREST OR IMPRISONMENT.

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TO SECSTATE WASHDC IMMEDIATE 7367
INFO CONTADORA COLLECTIVE
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ROME 'FOR EMBASSY VATICAN (INFO)

ARTICLE 11: ALL SUSPECTS HAVE THE RIGHT TO EQUAL
TREATMENT UNDER THE FOLLOWING GUARANTEES:

A) TO BE PRESUMED INNOCENT UNTIL PROVEN GULTY
IN CONFORMANCE WITH THE LAW:
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B) TO BE INFORMED WITHOUT DELAY, IN ONE'S OWN
LANGUAGE AND IN DETAIL, OF THE NATURE AND CAUSES OF
THE ACCUSATIONS;

C) TO BE TRIED, WITHOUT DELAY, BY A COMPETENT
TRIBUNAL. THE PENAL PROCESS SHALL BE PUBLIC,
BUT, IN SOME EXCEPTED CASES, THE PRESS AND GENERAL
PUBLIC MAY BE EXCLUDED COMPLETELY OR IN PART FROM
THE PROCEEDINGS BECAUSE OF MORAL, PUBLIC ORDER AND
NATIONAL SECURITY CONSIDERATIONS;

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D) TO HAVE COUNSEL FROM THE BEGINNING OF THE PROCEEDINGS;

E) TO HAVE TRUE AND EFFECTIVE COUNSEL IN THE PROCESS AND ALLOW ADEQUATE TIME AND METHODS FOR ONE'S DEFENSE. IF, IN THE FIRST INSTANCE THE ACCUSED DOES NOT DESIGNATE A DEFENDER AND IF HE IS NOT A LAWYER, A DEFENDER WILL BE APPOINTED FOR HIM.

F) IF, AFTER HAVING BEEN ORDERED TO APPEAR, THE APPOINTED DEFENDER IS NOT FOUND, ANOTHER WILL BE APPOINTED.

G) TO BE ASSISTED WITHOUT CHARGE BY AN INTERPRETER IF THE LANGUAGE EMPLOYED BY THE TRIBUNAL CANNOT BE UNDERSTOOD.

H) TO PARTICIPATE IN THE CONTRIBUTION TO AND CROSS-EXAMINATION OF ALL EVIDENCE BEFORE FINAL SENTENCING.

I) NOT TO BE OBLIGATED TO TESTIFY AGAINST ONE'S SELF.

J) NOT TO BE SENTENCED TO PRISON WITHOUT HAVING EXHAUSTED ALL REQUIREMENTS AS ALLOWED BY LAW AND THAT THIS BE ACCOMPLISHED DURING THE 10 DAYS FOLLOWING THE DETENTION DECREE.

K) THAT ALL PERSONS CONVICTED OF A CRIME HAVE THE RIGHT TO APPEAL THE CONVICTION AND SENTENCE TO A SUPERIOR TRIBUNAL IN CONFORMANCE OF THAT PRESCRIBED BY LAW.

L) NOT TO BE TRIED FOR THE SAME OFFENSE FOR WHICH
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ALREADY CONVICTED OR ACQUITTED.

M) NOT TO BE REMOVED FROM (THE JURISDICTION OF) A COMPETENT JUDGE.

ARTICLE 13: RIGHT TO TRIAL BY JURY IN CRIMES AS DETERMINED BY LAW.

ARTICLE 15: ALL PERSONS ABIDING LEGALLY IN NICARAGUAN TERRITORY WILL HAVE THE RIGHT TO MOVE ABOUT FREELY AND TO FREELY CHOOSE A PLACE OF RESIDENCE. NICARAGUANS WILL HAVE THE RIGHT TO ENTER AND LEAVE THE COUNTRY FREELY.

ARTICLE 17: ALL PERSONS IN NICARAGUA HAVE THE RIGHT OF RECOGNITION OF PERSONAL AND LEGAL CAPACITY. NO ONE SHALL BE FORCED TO COMMIT ANY UNLAWFUL ACT NOR BE PREVENTED FROM COMMITTING ANY LAWFUL ONE.

IN CONSEQUENCE, ONLY AS ALLOWED BY LAW SHALL PERSONAL OR PATRIMONIAL SERVICES BE IMPOSED BY HUMAN SOLIDARITY, THE DUTY TO CONDUCT ONE'S SELF FRATERNALLY, THE RESPECT OF RIGHTS AND LIBERTIES OF ALL AND THE NECESSITY TO SATISFY THE JUST MORAL DEMANDS OF PUBLIC ORDER, AND THE GENERAL WELL BEING IN A DEMOCRATIC SOCIETY, EVEN WHEN SAID DUTIES ARE NOT EXPRESSLY ESTABLISHED BY LAW.

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FM AMEMBASSY MANAGUA
TO SECSTATE WASHDC IMMEDIATE 7368
INFO CONTADORA COLLECTIVE
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ROME FOR EMBASSY VATICAN (INFO)

ARTICLE 18, PARAGRAPH 2: PRIVATE DOCUMENTS AND COMMUNI-
CATIONS ARE INOLABLE. THE LAW WILL ESTABLISH CASES
AND RPCEEONGS FOR THE EXAMINATION OR SEIZURE OF PRIVATE
DOCUMENTS, ACCOUNTS AND THEIR ANNEXES WHEN THEY ARE
INOISPENSABLE IN ORDER TO CLARIFY MATTERS SUBMITTED FOR
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THE COMPREHENSION OF THE JUSTICE TRIBUNALS OR FOR
FISCAL MATOTIVES.

ARTICLE 20: FREEDOM OF INFORMATION IS ONE OF THE
FUNDAMENTAL PRINCIPLES OF AN AUTHENTIC DEMOCRACY. AS
SUCH, IT CANNOT BE SUBJECTD EITHER OIRECTLY OR
INDIRECTLY. TO THE ECONOMIC POWER OF ANY GROUP.

ARTICLE 21: EVERYONE SHALL HAVE THE RIGHT TO FREE

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EXPRESSION; SUCH RIGHT ENCOMPASSES THE RIGHT TO SEARCH FOR, RECEIVE AND DISSEMINATE INFORMATION AND IDEAS, ORALLY, IN WRITING OR IN PRINTED OR ARTISTIC FORM, OR IN ANY OTHER MEDIUM OF CHOICE. THE EXERCISE OF THESE FREEDOMS ENTAILS DUTIES AND RESPONSIBILITIES AND, CONSEQUENTLY, CAN BE SUBJECT TO CERTAIN FORMALITIES, CONDITIONS AND RESTRICTIONS ESTABLISHED BY LAW AS NECESSARY, SUCH AS:

- A) IN THE INTEREST OF NATIONAL SECURITY AND INTEGRITY, PUBLIC SAFETY AND THE NATIONAL ECONOMY;
- B) IN DEFENSE OF ORDER AND THE PREVENTION OF CRIME;
- C) IN PROTECTION OF HEALTH AND MORALS, PERSONAL DIGNITY AND REPUTATION OR RIGHTS OR OTHERS.
- D) IN PREVENTING THE DIVULGENCE OF CONFIDENTIAL INFORMATION OR TO GUARANTEE THE AUTHORITY AND IMPARTIALITY OF JUDICIAL POWER.

ARTICLE 23: THE RIGHT TO PEACEFUL ASSEMBLY IS RECOGNIZED. THE RIGHT OF PUBLIC DEMONSTRATION WILL BE REGULATED BY POLICE LAWS.

ARTICLE 24: ALL (PERSONS) SHALL BE ENDOWED WITH THE RIGHT OF FREE ASSOCIATION WITH OTHERS FOR LICIT PURPOSES.
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ARTICLE 31: WITH THE OBJECT OF PROMOTING, AND PROTECTION OF SOCIAL AND ECONOMIC INTERESTS OF NICARAGUANS, THE FOLLOWING RIGHTS ARE GUARANTEED:

- 1) TO FOUND AND PROMOTE POPULAR, COMMUNITY, NEIGHBORHOOD OR RURAL ORGANIZATIONS AND PROFESSIONAL ASSOCIATIONS.
- 2) OF UNIONS TO FORM FEDERATIONS AND NATIONAL CONFEDERATIONS, AND THE RIGHT OF THESE TO FORM INTERNATIONAL UNION ORGANIZATIONS OR TO AFFILIATE WITH THEM.
- 3) TO FOUND AND PROMOTE WORK AND PRODUCTION COOPERATIVES.

ARTICLE 32: RECOGNIZES THE RIGHT TO STRIKE FOR ALL WORKERS WHEN EXERCISED IN ACCORDANCE WITH THE LAW.

ARTICLE 50: ALL PERSONS WHOSE RIGHTS AND LIBERTIES, AS RECOGNIZED IN THE PRESENT STATUTE OR IN THE FUNDAMENTAL STATUTE PROMULGATED THE 20TH OF JULY 1979, HAVE BEEN VIOLATED, SHALL HAVE RECOURSE TO THE PROTECTION OF THE CONFORMITY OF THE LAW. END INFORMAL TRANSLATION

4. SPANISH TEXTS OF THE ARTICLES SUSPENDED BY GON DECREEE OF OCTOBER QT FOLLOW:

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BEGIN SPANISH TEXT.

ARTO. 8: TODO INDIVIDUO TIENE DERECHO A LA LIBERTAD
INDIVIDUAL Y A LA SEGURIDAD PERSONAL. NADIE
PODRA SER SOMETIDO A DETENCION OPRISION ARBITRARIA.
NI SER PRIVADO DE SE LIBERTAD, SALVO POR CAUSAS
FIJADAS POR LA LEY Y CON ARREGLO A UN PROCEDIMIENTO
LEGAL.

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FM AMEMBASSY MANAGUA
TO SECSTATE WASHDC IMMEDIATE 7369
INFO CONTADORA COLLECTIVE
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ROME FOR EMBASSY VATICAN (INFO)

EN CONSECUENCIA:

1. LA DETENCION SOLO PODRA EFECTUARSE EN VIRTUD
DE MANDAMIENTO ESCRITO DE JUEZ COMPETENTE O DE LAS
AUTORIDADES QUE EXPRESAMENTE FACULTE LALEY, SALVA EN
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CASO DE FLAGRANTE DELITO.

2. TODO DETENIDO TENDRA DERECHO:
(A) A SER INFORMADO Y NOTIFICADO, SIN DEMORA,
DEL MOTIVO DE SU DETENCION Y DE LA ACUSACION, DENUNCIA
O CARGO EN SUE CONTRA:
(B) A SER LLEVADO DENTRO DEL PLAZO DE 24 HORAS ANTE
AUTORIDAD COMPETENTE, O SER PUESTO EN LIBERTAD;
(C) A INTERPONER EL RECURSO DE EXHIBISION PERSONAL;
(D) A SER TRATADO CON EL RESPETO DEBIDO A LA

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DIGNIDAD INHERENTE AL SER HUMANO;

(E) A OBTENER REPARACION EN CASO DE SER ILEGALMENTE DETENIDO O PRESO.

ARTO. 11: TODO INDICIADO TIENE DERECHO EN IGUALDAD DE CONDICIONES A LAS SIGUIENTES GARANTIAS MINIMAS:

(A) A QUE SE PRESUMA SU INOCENCIA MIENTRAS REO SE PRUEBE SU CULPABILIDAD CONFORME A LA LEY;

(B) A SER INFORMADO SIN DEMORA, EN UN IDIOMA QUE COMPRENDA Y EN FORMA DETALLADA, DE LA NATURALEZA Y CAUSAS DE LA ACUSACION FORMULADA CON EL;

(C) A SER JUZGADO SIN DILACIONES POR TRIBUNAL COMPETENTE. EL PROCESO PENAL DEBE SER PUBLICO, PERD, EN ALGUNOS CASOS DE EXCEPCION, LA PRENSA O EL PUBLICO EN GENERAL PODRAN SER EXCLUIDOS DE LA TOTALIDAD O PARTE DE LOS JUICIOS POR CONSIDERACIONES DE MORAL, ORDEN PUBLICO O SEGURIDAD NACIONAL;

(D) A QUE SE GARANTICE SU INTERVENCION DESDE EL INICIO DEL PROCESO;

(E) A QUE SE LE DE VERDADERA Y EFECTIVA INTERVENCION EN EL PROCESO Y A DISPONER DEL TIEMPO Y MEDIOS ADECUADOS PARA SU DEFENSA. CUANDO EN LA PRIMERA INTERVENCION EL REO NO DESIGNA DEFENSOR Y NO SEA ABOGADO, SE LE NOMBRARA INMEDIATAMENTE DEFENSOR DE OFICIO;

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(F) A QUE EN CASO DE QUE NO SE LE ENCUENTRE. PREVIO LLAMAMIENTO POR EDICTO SE LE NOMBRA DEFENSOR DE OFICIO;

(G) A SER ASISTIDO GRATUITAMENTE POR UN INTERPRETE, SI NO COMPRENDE O NO HABLA EL IDIOMA EMPLEADO POR EL TRIBUNAL;

(H) A INTERVENIR EN LA APORTACION Y RECEPCION DE CUALQUIER CLASE DE PRUEBA ANTES DE LA CONDENA DEFINITIVA;

(I) A NO SER OBLIGADO A DECLARAR CONTRA SI MISMO NI A CONFESARSE CULPABLE;

(J) A QUE NO SE LE DECRETE AUTO DE PRISION SIN HABER REUNIDO TODOS LOS EXTREMOS EXIGIDOS POR LA LEY Y A QUE ESTE AUTO SEA DICTADO DENTRO DE LOS DIEZ DIAS SIGUIENTES AL AUTO DE DETENCION;

(K) A QUE TODO PERSONA CULPABLE DE UN DELITO TENGA DERECHO A QUE EL FALLO CONDENATORIO Y LA PENA QUE SE LE HAYA IMPUESTO SEAN SOMETIDOS A UN TRIBUNAL SUPERIOR; CONFORME LO PRESCRIPTO POR LA LEY;

(L) A NO SER PROCESADO POR DELITO POR EL CUAL HAYA SIDO CONDENADO O ABSUELTO POR SENTENCIA FIRME;

(LL) A NO SER SUSTRAIIDO DE SU JUEZ COMPETENTE.

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INFO CONTADORA COLLECTIVE
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ROME FOR EMBASSY VATICAN (INFO)

ARTO. 13: SE ESTABLECE EL JUICIO POR JURADO EN LOS
DELITOS QUE LA LEY DETERMINE.

ARTO. 15: TODA PERSONA QUE SE HALLE LEGALMENTE EN EL
TERRITORIO NICARAGUENSE TENDRA DERECHO A CIRCULAR LIBRE-
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MENTE Y A ESCOGER LIBREMENTE SU RESIDENCIA. LOS NICARA-
GUENES TENDRAN DRECHO A ENTRAR Y SALIR LIBREMENTE
DEL PAISM

ARTO. 17: TODO SER HUMANO TIENE DERECHO EN NICARAGUA AL
RECONOCIMIENTO DE SU PERSONALIDAD Y CAPACIDAD JURIDICA.
NINGUNA PERSONA ESTARA OBLIGADO A HACER LO QUE LA LEY
NO MANDA NI IMPEIDA DE HACER LO QUE ELLA NO PROHIBA.
EN CONSECUENCIA, SOLO CON BASE EN LA LEY PODRIAN IMPONERSE

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PRESTACIONES PERSONALES O PATRIOMONIALES, SALVO LOS DEBERES DE CONDUCTA Y ABSTENCION IMPUESTOS POR LA SOLIDARIDAD HUMANA, EL DEBER DE COMPORTARSE FRATERNALMENTE, EL RESPETO DE LOS DERECHOS Y LIBERTADES DE LOS DEMAS, Y LA NECESIDAD DE SATISFACER LAS JUSTAS EXIGENCIAS DE LA MORAL, DEL ORDEN PUBLICO Y DEL BIENESTAR GENERAL EN UNA SOCIEDAD DEMOCRATICA, AUN CUANDO DICHOS DEBERES NO ESTEN EXPRESAMENTE ESTABLECIDOS POR LA LEY.

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ARTO. 18: (PARAFO 2); LOS DOCUMENTOS PRIVADO Y LAS COMUNICACIONES SON INVOLABLES. AL LEY FIJARA LOS CASOS Y PROCEDIMIENTOS PARA EL EXAMEN O SECUESTRO DE DOCUMENTOS PRIVADOS, LIBROS CONTABLES Y SUS ANEXOS, CUANDO ELLO SEA INDISPENSABLE PARA ESCLARECER ASUNTOS SOMETIDOS AL CONOCIMIENTO DE LOS TRIBUNALES DE JUSTICIA O POR MOTIVOS FISCALES.

ARTO. 20: LA LIBERTAD DE INFORMACION ES UNA DE LOS PRINCIPIOS FUNDAMENTALES DE LA AUTENTICA DEMOCRACIA. POR LO TANTO, NO PUEDE ESTAR SOMETIDA, NI DIRECTA NI INDIRECTAMENTE, AL PODER ECONOMICO DE NINGUN GRUPO.

ARTO. 21: TODO PRESONA TIENE DERECHO A LA LIBERTAD DE EXPRESION, ESTE DERECHO COMPRENOE LA LIBERTAD DE BUSCAR,
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RECIBIR Y OIFUNDIR INFORMACIONES E IDEAS, YA SEA ORALMENTE, POR ESCRITO O EN FORMA IMPRESA O ARTISTICA, O POR CUALQUIER OTRO PROCEDIMIENTO DE SU SELCCION. EL EJERCICIO DE ESTAS LIBERTADES ENTRANA DEBERES Y RESPONSABILIDADES Y, POR CONSIGUIENTE, PUEOE ESTAR SUJETO A CIERTAS FORMALIDADES Y CONDICIONES Y RESTRICCIONES FIJADAS POR LA LEY, Y QUE SEAN NECESARIAS:

(A) EN INTERES DE LA SEGURIDAD Y LA INTEGRIDAD NACIONALES, LA SEGURIDAD PUBLICA Y LA ECONOMIA NACIONAL;
(B) LA DEFENSA DEL ORDEN Y LA PREVENCION DEL DELITO;
(C) LA PROTECCION DE LA SALUD O LA MORAL, LA DIGNIDAD DE LAS PERSONAS Y LA REPUTACION O LOS DERECHOS DE OTROS;
(D) PARA IMPEDIR LA DIVULGACION DE INFORMACIONES CONIDENCIALES O PARA GARANTIZAR LA AUTORIOAD Y LA IMPARIALIDAO DEL PODER JUDICIAL.

ARTO: 23: SE RECONOCE EL DERECHO DE REUNION PACIFICA. EL DERECHO DE MANIFESTACION PUBLICA SE REGUALRA POR LAS LEYES DE POLICIA.

DECLASIFIED

ARTO. 24: TODA PERSONA TIENE DERECHO DE ASOCIARSE LIBERMENTE CON OTRAS PARA FINES LICITOS.

ARTO: 31: CON EL OBJETO DE PROMOVER Y PROTEGER LOS INTERESES ECONOMICOS Y SOCIALES DE LOS NICARAGUENSES, SE GARANTIZA:

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- (1) EL DERECHO A FUNDAR Y PROMOVER ORGANIZACIONES
POPULARES, COMUNALES, DE BARRIO, RURALES, ETC; Y ASOCIACIONES
GREMIALES O PROFESIONALES.
(2) EL DERECHO DE LOS SINDICATOS A FORMAR FEDERA-

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FM AMEMBASSY MANAGUA
TO SECSTATE WASHDC IMMEDIATE 7371
INFO CONTADORA COLLECTIVE
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AMEMBASSY THE HAGUE
AMEMBASSY VIENNA
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RUSBA/24COMPW/DOI
USCINCLANT NORFOLK VA

UNCLAS SECTION 06 OF 06 MANAGUA 6428

ROME FOR EMBASSY VATICAN (INFO)

CIONES O CONFEDERACIONES NACIONALES Y EL DE ESTAS A
FUNDR ORGANIZACIONES SINDICALES INTERNACIONALES OR
AFILIARSE A LAS MISMAS.

(3) EL DERECHO A FUNDAR Y PROMOVER COOPERATIVAS
DE TRABAJO Y PRODUCCION.

UNCLASSIFIED
UNCLASSIFIED

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DECLASSIFIED

ARTO. 50: TODA PERSONA CUYOS DERECHO O LIBERTADES
RECONOCIDOS EN EL PRESENTE ESTATUTO O EN EL ESTATUTO
FUNDAMENTAL PROMULGADO EL DIA 20 DE JULIO DE 1979,
HAYAN SIDO VIOLADOS, PODRA INTERPONER UN RECURSO DE
AMPARO DE CONFORMIDAD CON LA LEY. ENO SPA ISH TEXT.
BERGOLO